



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Land Use Services**  
FROM CONCEPT TO CONSTRUCTION

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**Date:** March 9, 2015  
**To:** Interested Person  
**From:** Kathy Harnden, Land Use Services  
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## **NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has **approved** a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision, including the written response to the approval criteria and to public comments received on this application, are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

### **CASE FILE NUMBER: LU 14-221077 EN**

#### **GENERAL INFORMATION**

**Applicant:** NW Engineers / Attn: Matt Newman  
3409 NW John Olsen Pl / Hillsboro, OR 97124

**Owners:** David and Sara Eder  
9320 SW Lehman St / Tigard, OR 97223

**Contractor:** Jeremy Osterholm / Oстерcraft Homes Inc  
PO Box 66259 / Portland, OR 97290

**Site Address:** 11422 SW 27TH AVE  
**Legal Description:** BLOCK 1 LOT 4, STREAMSIDE  
**Tax Account No.:** R801400260  
**State ID No.:** 1S1E32AD 01800  
**Quarter Section:** 4126  
**Neighborhood:** Arnold Creek, contact Liz Marantz at 503-823-3161.  
**Business District:** None  
**District Coalition:** Southwest Neighborhoods INC., contact Leonard Gard at 503-823-4592.

**Plan District:** None  
**Other Designations:** Southwest Hills Resource Protection Plan, Site 121; Potential Landslide Hazard Area; Steep Slopes of 20 percent or more; and Wildfire Hazard Area

**Zoning:** Residential 10,000 (R10) with the Environmental Conservation (c) overlay

**Case Type:** Environmental (EN)  
**Procedure:** Type II, an administrative decision with appeal to the Hearings Officer.

**Proposal:** The owners propose to construct a single dwelling residence on this vacant, 8,686 square-foot property. The site is very steep with slopes of approximately 27 percent. The temporary disturbance area, due to the significant amount of grading that will be necessary to

construct a house on the site, will be approximately 6,537 square feet, and the proposed permanent disturbance area will be about 3,600 square feet. Proposed development includes the excavated area for the proposed house footings and retaining walls, with decks, stairs, covered porch, and driveway, as well as an existing French drain along the east property boundary. The house foundation will be “stair-stepped” up the slope to the east. In order to construct the house, a large area to the south and east must be excavated for the required footings, and retaining walls are necessary to preserve excavated slopes. Excavated material will be used to re-fill areas behind the new retaining wall on the south and east sides of the house, recreating the existing topography outside the retaining walls.

Of the 10 mature trees on the site, eight, with diameters ranging from 6 to 31 inches, will be removed due to excavation necessary for the house construction. Two 8-inch cedars will be preserved near the northeast corner of the site. As mitigation for permanent impacts to the Conservation zone and the removal of native trees and shrubs, the applicant proposes to plant 25 native trees and 36 native shrubs on the site.

**Relevant Approval Criteria:**

To be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are found in:

**33.430.250.E – Other development in the Environmental Conservation zone or within the Transition Area only**

**FACTS**

**Site and Vicinity:** The site is located in SW Portland, east of the intersection of I-5 and Barbur Boulevard, and about 1,100 feet north of SW Stephenson Street. The site and vicinity are not heavily forested due to subdivision development west of the site, and a large 2.4 acre site adjacent to the rear that is developed with a large house, outbuildings and cleared land. This site is one of the few remaining undeveloped properties along SW 27<sup>th</sup> between SW Palatine and SW Vacuna Streets. The entire neighborhood is developed with large houses on steep slopes, with paved streets and sidewalks. North and west of SW 27<sup>th</sup> Avenue, the area is developed with a series of cul-de-sac developments. However, the few trees on the subject site are the remnants of a much larger forested area that once existed in the area, parts of which remain farther to the east and west in draws that contain drainages. The only remaining undeveloped properties in the area lie in drainages east and west of the site where larger, forested lots remain around the drainages.

The site and surrounding area are located in a Potential Landslide Hazard area.

**Zoning:** The site is zoned Single Dwelling Residential 10,000 (R10), with the Environmental Conservation (c) overlay (see zoning on Exhibit B). The R10 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 6,000 square feet.

**Environmental overlay zones** protect environmental resources and functional values that have been identified by the City as providing benefits to the public. The environmental regulations encourage flexibility and innovation in site planning and provide for development that is carefully designed to be sensitive to the site’s protected resources. They protect the most important environmental features and resources while allowing environmentally sensitive urban development where resources are less sensitive. The purpose of this land use review is to ensure compliance with the regulations of the environmental zones.

**Land Use History:** City records indicate that the site was included in a conditional use Planned Unit Development in 1993.

**Agency and Neighborhood Review:** A “Notice of Proposal in Your Neighborhood” was mailed **November 19, 2014**. The following Bureaus have responded with no issues or concerns:

- 1. Agency Review:** Several Bureaus and agencies have responded to this proposal. Please see Exhibits E.1 through E.5 for details. The comments are addressed under the appropriate criteria for review of the proposal, where they are applicable.
- 2. Neighborhood Review:** The Arnold Creek Neighborhood Association responded with concerns regarding the size of the disturbance area and the choice of mitigation tree species selected by the applicant. These comments are addressed under the applicable criteria below for the proposal review.

**Site Description:** This site is located on the east side of SW 27<sup>th</sup> Avenue and has steep slopes of approximately 27 percent that slope up from the street, from northwest to southeast. The site is steepest from the street level inward about 20 feet, and then slightly flattens out above that. It contains 13 large trees, including maples, cedars and Douglas fir, varying in size from 6 inches to 31 inches. The site also contains an approximately 80-foot-long French drain that is used by the owners of the adjacent property to the south. This drain runs along the top, or east property boundary, and will remain on the site. Outfall from this drain is apparently tight-lined in a drain pipe from the northeast corner of the site down to the street where an existing pipe outlet is located in the curb.

In addition to the French drain, the site also contains landscaping, a rock landscape wall, and a rock footpath, all of which are connected with the property adjacent to the south. The landscape wall and path will be removed, but the French drain and drainpipe, with a surface area of approximately 220 square feet, will remain and are included in the permanent disturbance area calculations.

**Infrastructure:**

Sanitary and Stormwater: BES states that a public 8-inch concrete, gravity sanitary sewer, located in SW 27<sup>th</sup> Avenue, can serve the sanitary disposal needs of this project. There is also a 12-inch concrete public storm-only sewer located in SW 27<sup>th</sup> Avenue, available to receive discharge from the site. The applicant proposes to treat stormwater in an engineered flow-through planter at the front of the proposed house, adjacent to the driveway. Treated water will flow through a 4" ABS pipe to connect to the storm line in SW 27<sup>th</sup>. See Exhibit E.1 for details.

Transportation: Portland Transportation notes the recommended frontage improvement standards are not met for the subject property frontage. However, a Public Works Alternative Review approved a request to waive dedication requirements and allow construction of a 0-6-1 pedestrian corridor that is consistent with the existing improvements along this segment of SW 27<sup>th</sup>. See Exhibit E.2 for details.

Water: The Portland Water Bureau notes that there is an existing water service from a 12-inch DI water main in SW 27<sup>th</sup> Avenue. This service may potentially be used to provide water to the proposed new single dwelling at this location. City code will require any new building construction that will need water, to have a water service/meter installed within the public right-of-way and within the specific property boundary/frontage. A Water Bureau review for fixture count must be completed at the time of submittal of the building permit. See Exhibit E.3 for details.

**Environmental Resources:** The application of the environmental overlay zones is based on detailed studies that have been carried out within ten separate areas of the City. Environmental resources and functional values present in environmental zones are described in environmental inventory reports for these study areas.

The project area is mapped as Site #121 in the Arnold Creek Headwaters area within the *Fanno Creek and Tributaries Conservation Plan*. Forests in the area are second growth "conifer topping hardwoods," approximately 100 to 120 years old, with a 60:40 deciduous to coniferous composition. Hydric soils are also extensive in the area indicating possible wetlands, although none have been identified on the subject site.

**Impact Analysis:** The following outlines the development alternatives that were considered by the applicant and addresses the proposed construction management plan.

Development Alternatives: The applicant went through several iterations of the site plan while submitting plans for a building permit. When it became obvious that an Environmental Review would be required due to the size of the impact in the Environmental Zone, the applicant submitted an environmental review application. The most recent plan submittal shows a total temporary disturbance area of approximately 6,600 square feet, and a permanent disturbance area of approximately 3,610 square feet. The house will be set back from the street by about 15 feet for several reasons. There is an existing 8-foot wide public utility easement adjacent to a 6-foot public sidewalk, and the area closest to the street is also the steepest part of the site. Locating the house any closer than proposed would result in far more grading and total disturbance area on the site, all of which is located within the resource area of the environmental conservation zone.

The applicant submitted a Stormwater Management Report, prepared by NW Engineers and a geotechnical engineering report prepared by Geotechnics, LLC, which included a statement by the engineer to the effect that trying to locate the proposed structure any closer to the road would have adverse impacts on the retaining wall (i.e., increase its size) which is required in order to develop this steep site.

The house, with decks, stairs, walkways, covered porches, storm planter, driveway, and retaining walls, will cover about 2,566 square feet. The existing French drain, retaining wall, driveway and planter add another 1,044 square feet for a total of approximately 3,610 square feet of permanent developed disturbance area proposed for the site. The house will be stair-stepped up the hill to the east to reduce the amount of required excavation. The south and east slopes will be excavated to install the house footings, and then back-filled to match existing contours.

Fill soils were found on the site during geotechnical explorations of the site. These “undocumented fill soils” are not structural fill, and therefore are unsuitable for foundation support, and must be removed. However, the geotechnical report found that the “site slopes are stable and will not become unstable as a result of construction.” The applicant’s proposal was prepared by a team of civil and geotechnical engineers.

## **ZONING CODE APPROVAL CRITERIA**

### **33.430.250 Approval Criteria for Environmental Review**

**An environmental review application will be approved if the review body finds that the applicant has shown that all of the applicable approval criteria are met. When environmental review is required because a proposal does not meet one or more of the development standards of Section 33.430.140 through .190, then the approval criteria will only be applied to the aspect of the proposal that does not meet the development standard or standards.**

**Findings:** The proposal does not meet Zoning Code Standards 33.430.140.A, H and I, which, respectively, limit the maximum disturbance area in the R10 zone to 5,000 square feet; limits the temporary disturbance area around a structure to 10 feet; and requires 90 percent vegetation cover in the temporary disturbance area within one year, in order to avoid a land use review. The proposal exceeds the temporary and permanent disturbance area limits due to the very steep slopes on the site. Where it is not practicable for a proposal to meet these standards, the Zoning Code allows development if it is found to be approvable through Environmental Review.

The approval criteria applicable to the proposed residence are found in Section 33.430.250.E. The applicant has provided findings for these approval criteria. In some instances, where necessary to ensure the approval criteria can be met, BDS Land Use Services staff has added conditions.

**33.430.250.E. Other development in the Environmental Conservation zone or within the Transition Area only. In Environmental Conservation zones or for development within the Transition Area only, the applicant's impact evaluation must demonstrate that all of the following are met:**

**E.1. Proposed development minimizes the loss of resources and functional values, consistent with allowing those uses generally permitted or allowed in the base zone without a land use review;**

**E.2. Proposed development locations, designs, and construction methods are less detrimental to identified resources and functional values than other practicable and significantly different alternatives;**

**E.3. There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed;**

**Findings:** The applicant's alternatives analysis and construction management plan were previously described in this report. Typically, a proposed house in the environmental zone must be located as close to the street as possible. Due to the site's steepness, however, the applicant's engineers (Geotechnics, LLC and NW Engineers) stated that ". . . (based on) a review by both the civil engineer and the geotechnical engineer, it is not practical to move the dwelling closer to the front lot line" as it would have "an adverse impact on the necessary retaining wall," that would "not actually reduce the disturbance area."

Further, the engineering team's analysis determined that, "the proposed location is the best practical and economic location." There are two reasons for this determination: 1) the very steep slope at the street level, which then flattens out slightly farther up-slope; and 2) the location of an existing 8-foot public utility easement across the front, or west side of the property, which forces development to locate farther up-slope. Geotechnics LLC, made a number of recommendations for house construction on this steep slope including removal of some existing fill material. In addition, the foundation footings for the house extend southward beyond the walls of the house in order to provide stability on this steep slope. Excavated soil from the footings area will be replaced following construction. Therefore, the house cannot be moved further to the south to protect more trees along the north property line.

The northeast corner of the site contains two 8-inch cedar trees that will be preserved on the site. The remaining eleven trees, which vary in size from 6 to 28 inches, are located either within the excavation area, or large portions of their root zones will be impacted by the required excavation. The only areas not impacted by the proposed development include an approximately 12 to 30-foot wide area along the top/east end of the site, and a 10 to 13-foot wide area along the north side of the property. These areas will be protected from excavation by placement of chain link construction fencing.

As noted above, after development of the site, approximately 6,328 square feet of the 8,686 square-foot site area, or about 41 percent of the site, will be permanently impacted by the proposal. Due to the significant site constraints caused by the site's steep slopes as well as the existing utility easement and French drain, the proposed development has minimized the loss of resources and functional values on the site by proposing a relatively modest house footprint and utilizing retaining walls to reduce impacts. Undisturbed areas will be protected by construction fencing, and the proposed location, design and construction methods appear to have minimized the loss of resources and functional values to the extent practicable and still have a moderately sized home on the site.

In addition, a large portion of the south and east sides of the site will be excavated and the soil replaced following installation of the retaining wall. All disturbed soil areas on the site must be planted with a native grass/forb seed mixture to stabilize soils. Required shrubs and trees discussed below in the mitigation findings must also be planted in these disturbed areas. Only native species may be planted on this site because the entire site lies within the resource area of the Environmental zone.

To ensure that the house is constructed in accordance with the recommendations contained in the submitted geotechnical reports, a condition is required that these recommendations be followed during site preparation and house construction. Conditions for installing tree protection fencing as well as fencing to delineate excavation limits are required to protect areas that are to remain undisturbed by construction activity. With these conditions, these criteria will be met.

**E.4. The mitigation plan demonstrates that all significant detrimental impacts on resources and functional values will be compensated for;**

**Findings:** All but two of the existing trees on the site will be removed for construction of the proposed development, including four 10 to 28-inch diameter maples, three 6 to 10-inch cedars, and one 31-inch fir. Typically, some of these trees would be required to be preserved. However, due to the steepness of the site, the tree locations, and the geotechnical report requiring significant excavation, preservation of any of the larger trees, and most of the smaller ones, is problematic. For example, trees 8, 9 and 10 along the north property line, appear preservable. Due to the deep cut that will occur for the house foundation however, their root zones will likely be impacted which could impact their stability and create a potential hazard in the future. Tree instability could affect both the subject site and the adjacent house at 11414 SW 27<sup>th</sup> Avenue.

The applicant proposes preserving 16 inches of cedar trees from the existing 181 tree inches on the site, and supplied a revised arborist report that confirms these two trees can be preserved, provided they are protected with “4-foot high orange plastic mesh fencing with T-posts.” However, due to the amount of excavation required to develop this site, sturdier fencing should be required. Therefore, these two trees must be protected with six-foot tall metal construction fencing placed along the root protection zone as identified by the arborist and shown on the applicant’s Construction Management Plan, and as modified by staff.

The applicant provided a mitigation plan that, in addition to preserving two 8-inch cedar trees, includes planting 25 native trees and 36 native shrubs. This quantity of replacement trees and shrubs is consistent with Table 430-3 of the Environmental Chapter of the Zoning Code (33.430), yet given the size of the lot and the required excavation area, may be too many plants for the available square footage. Also, the applicant proposes to plant 11 Pacific Yew trees in a habitat area that has few to no Yew trees, as well as 3 Black Hawthorne trees that also are not typically found in this area. Yew trees survive better in more humid areas, next to creeks or on north-facing slopes, and are extremely slow growing, taking over one-hundred years to mature. This site is a south-facing slope with no streams.

In addition to the yews, 9 Cascara and 2 Western red cedars are proposed to be planted. The mitigation plan includes only two shrub species with a total of 36 plants. The site is losing 181 inches of mature native trees and an unknown quantity of native shrubs. The development area is relatively large due to excavation of the steep slope. Consequently, there is not enough room on the site to plant 25 large trees, as well as 36 shrubs.

It is important that this disturbed environment be rehabilitated as quickly as possible. Therefore the requested Pacific Yew trees are not a preferred selection for mitigation on this site due to their extremely slow growth rate, although a few would be acceptable. Typically, conifers would be the preferred species to revegetate the site. Because so much of the site will be disturbed, however due to the amount of excavation required for the house development on this steep slope, there is not much room left over for large trees to grow and thrive. Therefore, smaller tree species and fewer numbers of them would survive better and be more appropriate for this site.

Due to the small planting area left on the site following excavation, the number of trees should be reduced by approximately half to 13 and additional shrub species should be planted that require less space than larger trees. In addition, trees to be planted should be relatively small, due to the small planting area. Bitter cherry, Western flowering dogwood and Cascara are more appropriate for this site than the yews and cedars proposed by the applicant.

The Arnold Creek Neighborhood Association requested that “Indian Plum, Elderberry and Snowberry shrubs be included in the mitigation plan to “better preserve and enhance the ecological functions which environmental zone regulations are intended to protect.” Other shrubs that might also do well in this habitat area include: shiny-leaf spirea, Douglas spirea, kinnikinnick, Red current, baldhip rose, and thimbleberry.

The required shrub list, therefore, must include a minimum of four each of Indian Plum, Elderberry and Snowberry for at least 12 of the required 36 shrubs. At least three other shrub species must be selected from the list shown on the Mitigation plan, with a minimum of 4 plants from each species, or 12 shrubs, for a total of 24 shrubs with at least 6 species represented. To complete the requirement for 36 shrubs, the additional required 15 shrubs must be selected by the owner and may include additional plants from the species listed above, or other site-appropriate species found in the Portland Plant List.

All shrubs to be planted must be a minimum size of one gallon or the equivalent in ball and burlap. All trees to be planted must be a minimum of 0.5 inch in diameter. Replacement trees and shrubs must be planted in a random, more natural pattern in order to reflect a more natural setting, and may be grouped in clusters of 2 to 4 plants. The planting area includes the area shown on Exhibit C.4.

In addition, all disturbed soil areas on the site must be planted with a native grass/forb seed mixture to stabilize soils following construction.

Zoning Code Section 33.248.060 requires the following for all landscaped areas: Plans must be drawn to scale and show type, size, number, and placement of materials. Materials must be identified with both their scientific and common names.

With conditions that require planting 13 mitigation trees and 36 shrubs on this site that include the requirements listed above, seeding all exposed disturbance areas with a native grass/forb groundcover mix, preserving two existing 8-inch diameter Western red cedars with a minimum 8-foot radius root protection zones as described in the arborist report (Exhibit A.6), and maintaining and monitoring the mitigation plants for a minimum of two years to ensure survivability, the mitigation criteria will be met.

Monitoring and Maintenance:

The Zoning Code requires that mitigation shrubs and trees will survive until maturity. Monitoring and maintenance of the plantings for a period of two years will address this requirement and demonstrate that it is met.

The Portland Zoning Code (33.248.090) stipulates that 100 percent of the mitigation plants must survive; i.e., all plants that die must be replaced in kind. Therefore, 100 percent of the planted trees will be required to survive the two-year monitoring period, or be replaced. Counting individual shrubs and groundcovers is difficult and often inaccurate. A common measure of shrub and ground cover survival is the measured spatial coverage of planted native species. Maintaining shrub and groundcover survival so that 80 percent of the planted areas are covered by native vegetation is a comparable standard to ensure survival of the shrub and groundcover plantings. Limiting intrusion into planted areas by invasive species, as well as providing water during the dry summer months, for the first few years, will also help to ensure survival of the mitigation plantings. Documentation of these monitoring and maintenance practices should be included in an annual monitoring report to the City of Portland to demonstrate success of the mitigation plan.

*With conditions for the specific mitigation and monitoring requirements listed above, these criteria can be met.*

**5. Mitigation will occur within the same watershed as the proposed use or development and within the Portland city limits except when the purpose of the mitigation could be better provided elsewhere; and**

- 6. The applicant owns the mitigation site; possesses a legal instrument that is approved by the City (such as an easement or deed restriction) sufficient to carry out and ensure the success of the mitigation program; or can demonstrate legal authority to acquire property through eminent domain.**

**Findings:** Mitigation will be conducted on the same site as the proposed use or development, and the applicant owns the proposed on-site mitigation area. To ensure that the mitigation plants are installed and maintained as required above, a condition of approval is required. *These criteria are met.*

## DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

## CONCLUSIONS

The applicant proposes to construct a single dwelling on a site with very steep slopes of approximately 20 percent. Because of the steep slope, excavation is required that will impact more area than would a similar development on flat ground. The existence of a 220 square-foot French drain across the top of the site added permanent disturbance area to the proposal. Also, because of the steepness of the site and an existing public utility easement, the house needed to be pushed further back onto the site instead of being located near or at the public right of way line, and retaining walls are required. These requirements would be necessary for any development proposed for the site. With the installation of the required mitigation plants, however, the site will continue to function as a transition area to the more forested area behind the site.

## ADMINISTRATIVE DECISION

**Approval** of an Environmental Review for:

- Construction of a single dwelling residence with driveway, utilities, and stormwater management facilities, including preservation of two 8-inch cedar trees;

within the Environmental Conservation overlay zone, and in substantial conformance with Exhibits C.2, C.3, and C.4, as modified, signed, and dated by the City of Portland Bureau of Development Services on **March 3, 2015**. Approval is subject to the following conditions:

- A. All Permits: A BDS building permit is required.** Copies of the stamped Exhibits C.2 through C.4, from LU 14-221077 EN and the Conditions of Approval listed below shall be included within all plan sets submitted for permits (building, grading, Site Development, erosion control, etc.). These exhibits shall be included on a sheet that is the same size as the plans submitted for the permit and shall include the following statement, **"Any field changes shall be in substantial conformance with approved Exhibits C.2 through C.4."**

In addition, the mitigation plan must be drawn to scale and show the location, type, size and number of required plantings.

- B. Temporary construction fencing** shall be installed according to Section 33.248.068 (Tree Protection Requirements), except as noted below. Temporary construction fencing shall be placed along the Disturbance Area line for the approved development, as depicted on Exhibit C.3 Construction Management Plan, or as required by inspection staff during the plan review and/or inspection stages and is subject to the following conditions:

1. No mechanized construction vehicles are permitted outside of the approved "Disturbance Area Limits" delineated by the temporary construction fence. All planting



work, invasive vegetation removal, and other work to be done outside the Disturbance Area shall be conducted using hand held equipment.

2. Tree protection fencing must be installed prior to any grading on the site, and shall be installed along the root protection zones of the two 8-inch cedar trees to be preserved in the northeast corner of the site, or a minimum of 8 feet from the base of each tree. The fence shall be 6-foot tall chain-link and be secured with 8-foot metal posts driven into the ground. Any required encroachment into the specified root protection zones may only occur under the supervision of a certified arborist.
3. All disturbed soil areas on the site must be planted with a native grass/forb seed mixture to stabilize soils following construction.
4. All construction shall be in conformance with GeoTechnics "Geotechnical Report" dated August 12, 2013 or as updated, and be approved by the Bureau of Development Services Site Development division.

**C. A minimum of 13 native trees and 36 shrubs** from the Portland Plant List, described below, shall be planted in substantial conformance with Exhibit C.4, Mitigation Plan, as modified by staff, as follows:

1. Mitigation plantings shall be installed between October 1 and March 31 (the planting season).
2. Prior to installing required mitigation plantings, all non-native invasive plants shall be removed from the entire site. All mitigation trees, shrubs and groundcovers shall be marked in the field by a tag attached to the top of the plant for easy identification by the City Inspector. All tape shall be a contrasting color that is easily seen and identified.
3. The required 13 mitigation trees shall be a minimum of 0.5 inch in diameter and shall be planted in conformance with Exhibit C.4.
4. The 36 one-gallon mitigation shrubs shall be planted throughout the site as follows:
  - 4 each of Indian Plum, Elderberry and Snowberry for a minimum of 12 plants;
  - 12 native shrubs including at least 3 species selected from the following list: shiny-leaf spirea, Douglas spirea, Red current, baldhip rose, kinnikinnick and thimbleberry;
  - 12 additional native shrubs of any native species listed in the Portland Plant List, including species listed above, shall be selected by the owners.
5. All exposed disturbance areas must be seeded with a native grass/forb groundcover mix.
6. Mitigation trees and shrubs shall be planted in a random pattern distributed throughout the site. Trees and shrubs may be planted in small groups or clusters, which must also be disbursed throughout the site.
7. The planting area on C.4 must be seeded with a native grass/forb mix with species listed on the Portland Plant List.
8. After installing the required mitigation plantings, the applicant shall request inspection of Permanent Erosion Control Measures (IVR 210) by the Bureau of Development Services, who will confirm that all required mitigation plantings have been installed. A letter of certification from the landscape professional or designer of record may be requested by the Bureau of Development Services to document that the plantings have been installed according to the approved plans.

**D. An inspection of Permanent Erosion Control Measures shall be required** to document installation of the required mitigation plantings.

1. The **Permanent Erosion Control Measures** inspection (IVR 210) shall not be approved until the required mitigation plantings have been installed (as described in Condition C above); or
2. If the **Permanent Erosion Control Measures** inspection (IVR 210) occurs outside the planting season (as described in Condition C above), then the Permanent Erosion Control Measures inspection may be approved prior to installation of the required mitigation plantings – if the applicant obtains a separate **Zoning Permit** for the purpose of ensuring an inspection of the required mitigation plantings by March 31 of the following year.

**E. The landowner or the landscape professional or designer of record shall monitor the required plantings** for a minimum of two years to ensure survival and replacement as described below. The land owner is responsible for protecting and maintaining the mitigation area beyond the designated two-year monitoring period. The landowner shall:

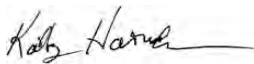
1. Provide a minimum of two letters (to serve as monitoring and maintenance reports) to the Land Use Services Division of the Bureau of Development Services (Attention: Environmental Review LU 14-221077 EN) containing the monitoring information described below. Submit the first letter within 12 months following approval of the Permanent Erosion Control Inspection of the required mitigation plantings. Submit a second letter 12 months following the date of the first monitoring letter. Monitoring letters shall contain the following information:
  - a. A count of the number of planted trees that have died. One replacement tree must be planted for each dead tree.
  - b. The percent coverage of native shrubs and ground covers. If less than 80 percent of the mitigation planting area is covered with native shrubs or plants at the time of the annual count, additional shrubs and plants shall be planted to reach 80 percent cover (replacement must occur within one planting season).
  - c. A list of replacement plants that were installed. Replacement plantings must occur within one planting season.
  - d. Photographs of the mitigation area and a site plan, in conformance with approved Exhibit C.4 Mitigation Plan, showing the location and direction of photos.
  - e. A description of the method used and the frequency for watering mitigation trees, shrubs, and plantings for the first two summers after planting. All irrigation systems shall be temporary and above-ground.
  - f. An estimate of percent cover of invasive species (English ivy, Himalayan blackberry, reed canary grass, teasel, clematis) within 10 feet of all plantings. Invasive species must not exceed 20 percent cover during the monitoring period.

**F. Failure to comply with** any of these conditions may result in the City's reconsideration of this land use approval pursuant to Portland Zoning Code Section 33.700.040 and /or enforcement of these conditions in any manner authorized by law.

**Note:** In addition to the requirements of the Zoning Code, all uses and development must comply with other applicable City, regional, state and federal regulations.

This decision applies to only the City's environmental regulations. Activities which the City regulates through PCC 33.430 may also be regulated by other agencies. In cases of overlapping City, Special District, Regional, State, or Federal regulations, the more stringent regulations will control. City approval does not imply approval by other agencies.

**Staff Planner: Kathy Harnden**

Decision rendered by:  on March 4, 2015  
By authority of the Director of the Bureau of Development Services

**Decision mailed:** March 9, 2015

**About this Decision.** This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on October 3, 2014, and was determined to be complete on **November 17, 2014**.

*Zoning Code Section 33.700.080* states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on November 17, 2014.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant twice requested the 120-day review period to be extended, for a total of 6 weeks. Unless further extended by the applicant, **the 120 days will expire on: April 28, 2015**.

**Some of the information contained in this report was provided by the applicant.**

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

**Conditions of Approval.** If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

**Appealing this decision.** This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on March 23, 2015** at 1900 SW Fourth Ave. Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5<sup>th</sup> floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional

information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.portlandonline.com](http://www.portlandonline.com).

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**Recording the final decision.**

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **March 24, 2015 – (the first business day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034  
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

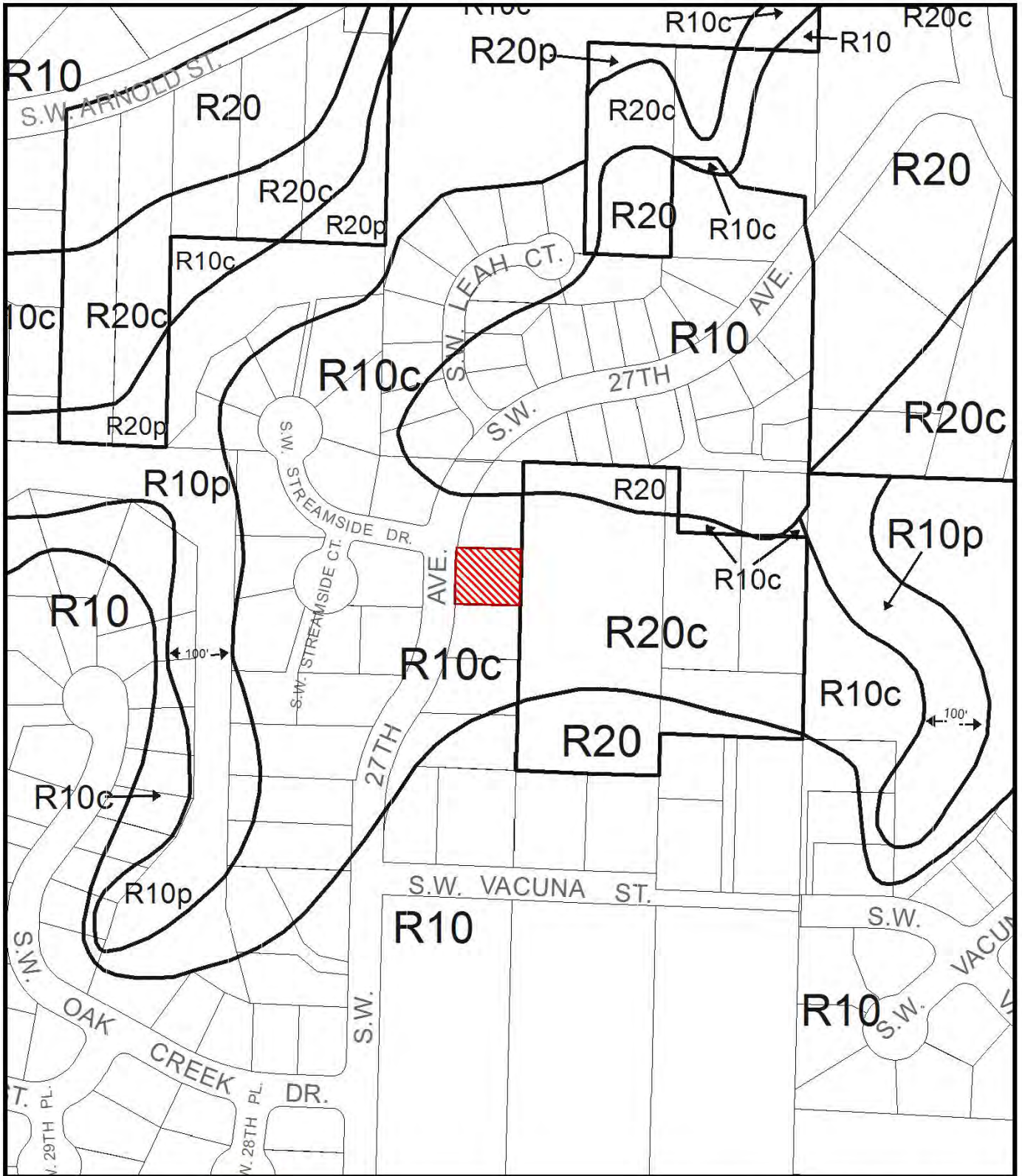
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Narrative dated 10/02/14
  - 2. Revised Narrative/Applicant's Statement dated 10/30/14
  - 3. Geotechnical Report dated 8/12/13
  - 4. Stormwater Management Report dated 12/26/14
  - 5. Tree Report (2/09/14)
  - 6. Revised Tree Report (10/06/14)
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Existing Conditions
  - 2.a Proposed Development
  - 2.b Tree Removal
  - 3.a Construction Management (attached)
  - 3.b Grading Sections
  - 4. Mitigation (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1.a Bureau of Environmental Services
  - 1.b Bureau of Environmental Services Addendum
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Site Development Review Section of BDS
  - 5. Life/Safety
- F. Correspondence:
  - 1. Arnold Creek Neighborhood Assn., Elizabeth Marantz, representative
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter 10/16/14
  - 3. Comment Letters e-mailed to applicant 12/8/14
  - 4. NW Engineers' 12/8/14email to extend review for 5 weeks
  - 5. NW Engineers' 1/27/15email to extend review for 1 week
  - 6. NW Engineers' email to extend review through March 13, 2015

**The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).**



# ZONING



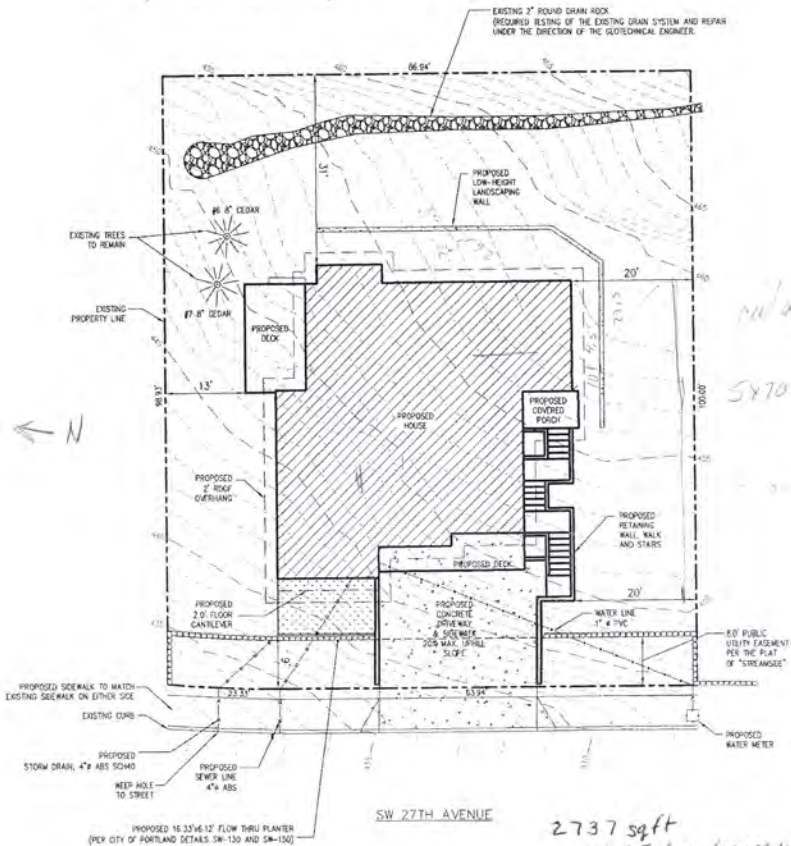
Site



NORTH

File No. LU 14-221077 EN  
 1/4 Section 4126  
 Scale 1 inch = 200 feet  
 State\_Id 1S1E32AD 1800  
 Exhibit B (Oct 08, 2014)

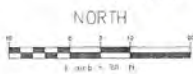
# Proposed Development



2737 sqft  
 51 SF Landscape Wall  
 196 SF Retaining Wall  
 696 SF Driveway  


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 3,580 SF Total Permanent Disturbance Area



MASSIE HOME DESIGN BUILDING COVERAGE	
HOUSE	1,948.3 sq.ft.
DECK (FRONT & BACK)	295.6 sq.ft.
COVERED PORCH, STAIRS AND RETAINING WALL	240 sq.ft.
CANTILEVER PORCH	34 sq.ft.
<b>TOTAL FOOTPRINT/COVERAGE AREA</b>	<b>2,517 sq.ft.</b>
<i>+ system area roof</i>	<i>230</i>
	<b>2,747</b>

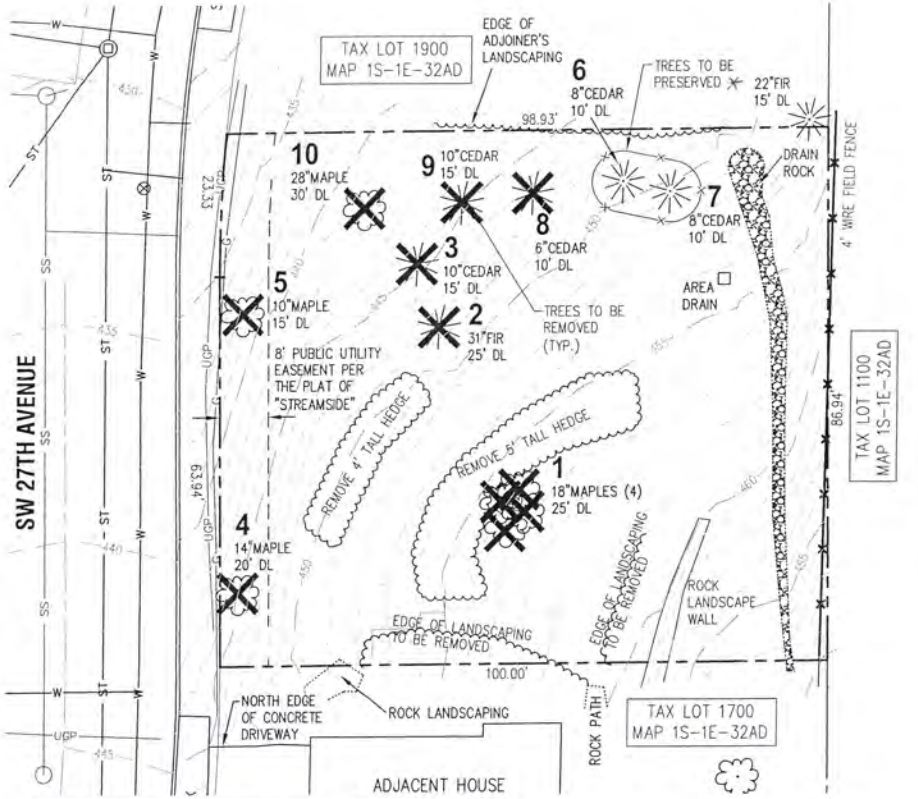
DATE: 02/17/2015

DESIGNED BY:  
**DAVID & SARA EDER**  
 9320 SW LEHMAN STREET  
 TIGARD, OR

**NW ENGINEERS**  
 Engineering & Planning  
 3408 NW John Olson Place  
 Hillsboro, OR 97124  
 503.601.4402 503.601.4402 fax

DRAWING TITLE:  
**PROPOSED DEVELOPMENT PLAN**  
 EDER RESIDENCE IN THE  
 ENVIRONMENTAL ZONE R10c  
 TAX MAP 151E 32AD, TAX LOT 1800

JOB NO.:  
**N0306**  
 DRAWING NO.:  
 2 of 4



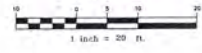
**TREES TO BE REMOVED AND REPLACEMENT PLANTINGS**

TREE ID	action	diameter	replacement species	replacement species (tree)	replacement species (shrub)
1	Remove	(4) 18"	4	12	CASCADA (Western arbutus) PACIFIC VIEW (Amelanchier alnifolia) SALAL (Gaultheria shallon)
2	Remove	31"	7	12	STARS TREESIDE (Taxus douglasii) PACIFIC VIEW (Taxus douglasii) BLACK HAWKWOOD (Corylus douglasii var. douglasii) WESTERN SEROTACEOUS (Amelanchier alnifolia)
3	Remove	10"	2	—	—
4	Remove	14"	1	3	—
5	Remove	10"	2	—	—
6	Remove	8"	2	—	—
7	Remove	10"	4	—	—
8	Remove	10"	5	8	PACIFIC VIEW (Taxus douglasii) SALAL (Gaultheria shallon) WESTERN SEROTACEOUS (Amelanchier alnifolia)
9	Remove	10"	—	—	—
10	Remove	28"	—	—	—
<b>TREES TO REMAIN</b>					
6	Preserve	8"	—	—	—
7	Preserve	8"	—	—	—

Replacement trees should be at least one inch in diameter, shrubs must be at least 2 gallon container or equivalent in ball and burlap.

See page #1 of 4, Proposed Mitigation Plan for proposed tree and shrub locations.

\* 6' high chain link fences driven 8" into ground shall be placed at the root protection zone 8' from trees prior to any grading on the site.



PREPARED FOR:  
**DAVID & SARA EDER**  
 9320 SW LEHMAN STREET  
 TIGARD, OR

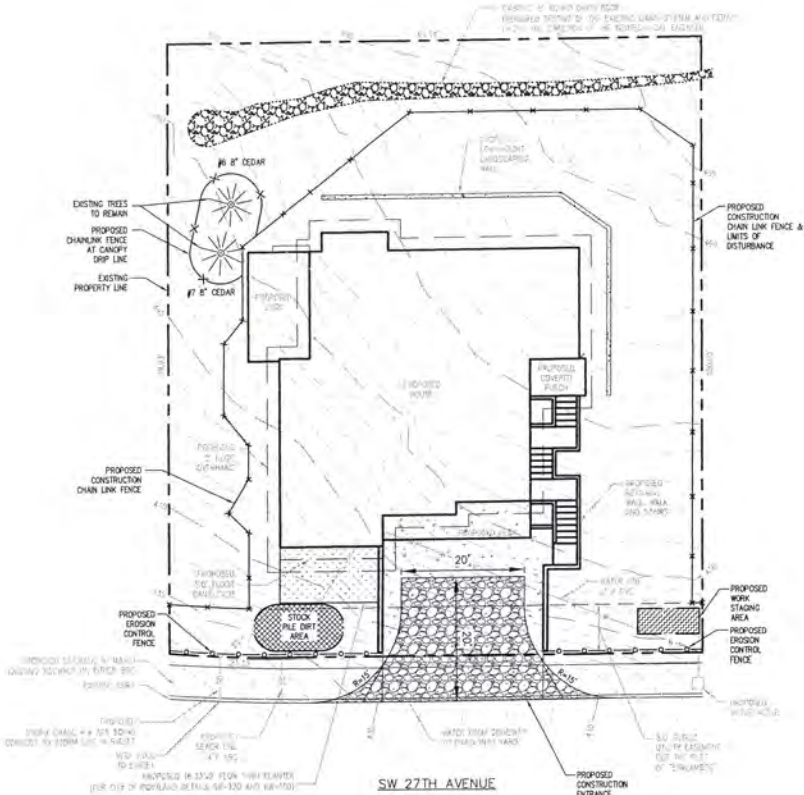
**ENGINEERS**  
 Engineering & Planning  
 3400 New Japan Drive Place  
 Medford, OR 97504  
 503 801 4432 503 601 4402 Fax

DRAWING TITLE:  
**EXISTING CONDITIONS AND TREE REMOVAL PLAN**  
 EDER RESIDENCE IN THE ENVIRONMENTAL ZONE R10c  
 TAX MAP 151E 32AD, TAX LOT 1800

DRAWING NO.:  
 1 of 4

JOB NO.:  
**N0306**





SW 27TH AVENUE



SITE DISTURBANCE/EXCAVATION AREA:	6,317 SQ.FT.
AREA OF EXISTING 2" ROUND DRAIN ROCK:	220 SQ.FT. +
<b>*TOTAL DISTURBANCE/EXCAVATION AREA:</b>	<b>6,537 SQ.FT.</b>
* PER MASSIE HOME DESIGN	

APPROXIMATE AMOUNT OF SOIL TO BE EXCAVATED SOIL:	420 CUBIC YARDS
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- NOTES:**
1. SEE CITY OF PORTLAND 'EROSION CONTROL MANUAL' FOR ADDITIONAL INFORMATION AND DETAILS.
  2. EXCAVATED MATERIAL WILL BE HAULED OFF-SITE TO AN APPROVED SITE.

DATE: 10/23/2014

PREPARED FOR

**DAVID & SARA EDER**  
 9320 SW LEHMAN STREET  
 TIGARD, OR

**NW ENGINEERS**

Engineering & Planning

3405 NW 40th Street  
 Portland, OR 97224  
 503 601 4403 503 601 4402 fax

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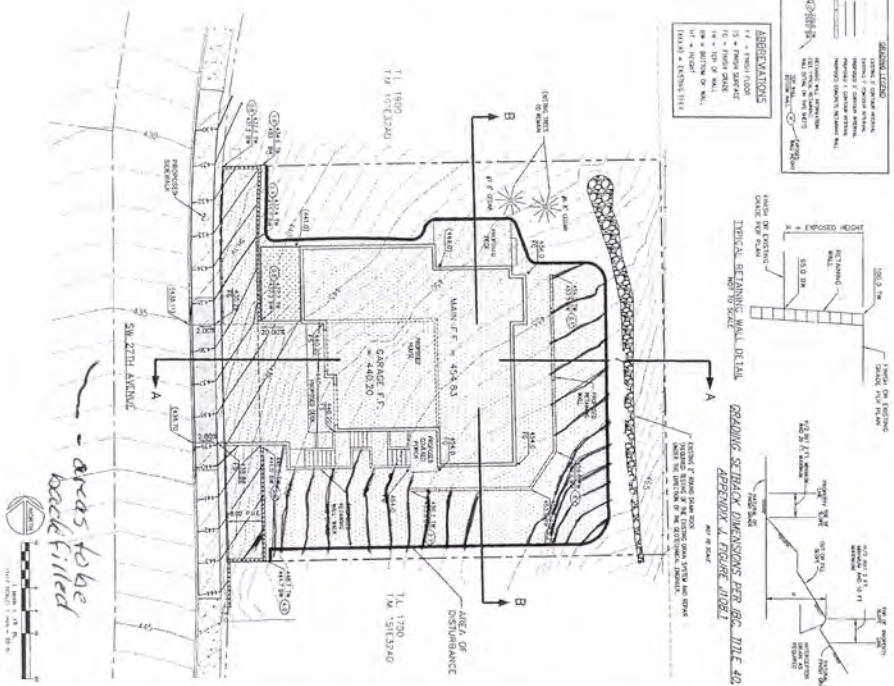
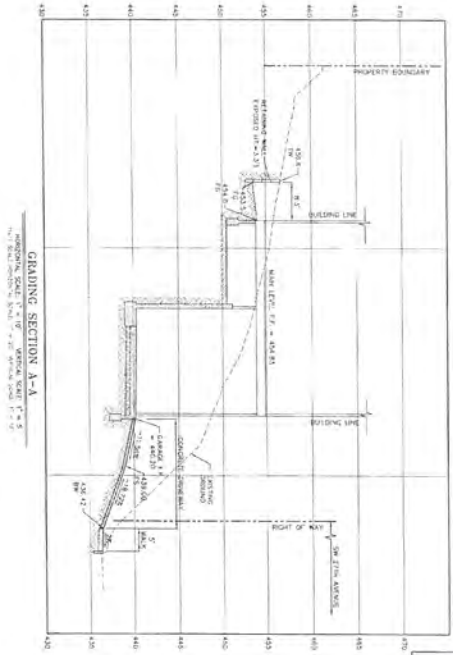
**CONSTRUCTION MANAGEMENT PLAN**  
 EDER RESIDENCE IN THE  
 ENVIRONMENTAL ZONE R10c  
 TAX MAP 151E 32AD, TAX LOT 1800

JOB NO.

**N0306**

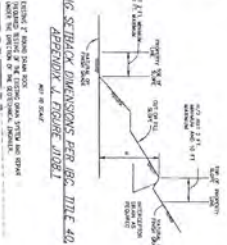
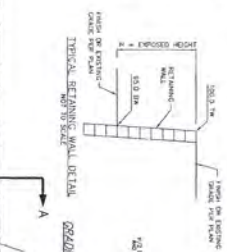
DRAWING NO.

3 of 4



**GENERAL NOTES**

1. ALL DIMENSIONS ARE UNLESS OTHERWISE NOTED.
2. ALL FINISH GRADES ARE UNLESS OTHERWISE NOTED.
3. ALL EXISTING DIMENSIONS ARE UNLESS OTHERWISE NOTED.
4. ALL DIMENSIONS ARE UNLESS OTHERWISE NOTED.
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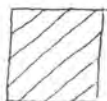
GRD1 <b>1</b>	DESIGNED			
	DRAWN			
	REVIEWED			
	SUBMITTED			

**EDER RESIDENCE IN THE ENVIRONMENTAL ZONE R10C N0306**  
 GRADING PLAN AND GRADING SECTIONS EXHIBIT

FOR: DAVID & SARA EDER  
 9320 SW LENOX STREET  
 TIGARD, OREGON 97223  
 SITE: 555E 3540  
 3800  
 PORTLAND, OREGON

**ENGINEERS**  
 Engineering & Planning  
 500 SW 10th Street  
 Portland, OR 97204  
 503.221.4422

# Planting Area



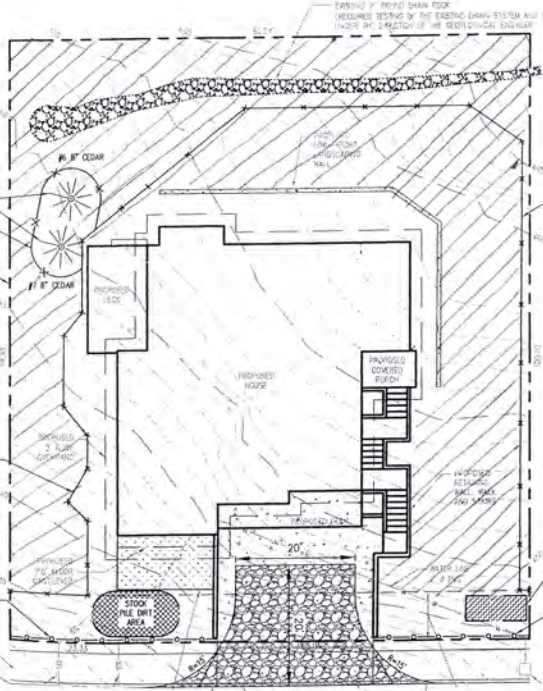
at 8 feet from  
frank.

EXISTING TREES TO REMAIN  
PROPOSED CHAIN LINK FENCE AT DRAINAGE SW-1/4-1/4  
EXISTING PROPERTY LINE

PROPOSED CONSTRUCTION CHAIN LINK FENCE

PROPOSED GROUND CONTROL FENCE

PROPOSED SIDEWALK AT MAIN EXISTING SIDEWALK TO STREET SW-1/4-1/4



# Mitigation Plan

## Trees

- 2 Western red cedar
- 2 Pacific yew
- 3 Cascara
- 3 Bitter cherry
- 3 Western Flowering Dogwood

## 13 Trees

## Shrubs

- 4 Indian Plum
- 4 Elderberry
- 4 Snowberry

+ 12 Selected from the following list:

- shiny-leaf spirea
- Douglas spirea
- Kinnikinnick
- Red currant
- Bald hip Rose
- Thimble berry

SW 27TH AVENUE

PROPOSED CONSTRUCTION ENTRANCE



The owner to select:  
12 additional native shrubs selected from the Portland Plant List

- For a total of 36 shrubs
- Shrubs may be clustered
- Shrubs & trees to be planted randomly throughout the site; Not in rows