



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

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**Date:** August 14, 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 15-118445 EV**

#### **GENERAL INFORMATION**

**Applicant:** James Nitta  
11731 SE Lexington St  
Portland, OR 97266-5935

**Site Address:** 11731 SE LEXINGTON ST

**Legal Description:** BLOCK 5 LOT 5, ECHO HTS  
**Tax Account No.:** R234401140  
**State ID No.:** 1S2E22DA 04200  
**Quarter Section:** 3842  
**Neighborhood:** Pleasant Valley, contact Karen Hubbard at 503-760-3670.  
**Business District:** None  
**District Coalition:** East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

**Plan District:** Johnson Creek Basin - South  
**Other Designations:** Johnson Creek Basin - Boring Lava Domes, Resource Site 30e - Cedar Creek; Potential Landslide Hazard Area

**Zoning:** Residential 10 (R10) with the Environmental Conservation (c) overlay.  
**Case Type:** Environmental Violation – EV  
**Procedure:** Type II, an administrative decision with appeal to the Hearings Officer

**Proposal:** This land use review is required to correct a violation of the environmental chapter of the Portland Zoning Code (see City Code Compliance file #15-101279CC). One 36-inch Douglas fir tree and one 18-inch trunk from a multi-trunk Big Leaf maple, both native species, were cut down within the resource area of the Environmental Conservation zone on the above described property without the required authorization from the City. A clump of three trees with diameters less than 6 inches was also cut down next to the street in the environmental transition area. Removal of trees in the Environmental zone must meet Environmental exemptions and standards, or be approved through Environmental Review.

The applicant stated that the house was vacant at the time of the tree cutting, and that he neither removed the trees, nor had them removed, and the person(s) who cut the trees remains unknown. Property owners are responsible for “development” such as tree cutting on their properties, even if they did not authorize the removal.

To remove native trees in the environmental zone without prior review and approval is a violation of the Environmental Chapter of the Zoning Code (Ch. 33.430). Therefore the owners have applied for an environmental violation review for the unauthorized tree cutting.

To mitigate the loss of native trees in the Environmental Conservation Zone, the applicant proposes to plant 12 native trees and 12 native shrubs. Proposed replacement trees and shrubs include 5 Big Leaf maple, 7 Douglas fir, 6 red-osier dogwood and 6 red elderberry.

**Relevant Approval Criteria:**

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

- **33.430.250.G – Corrections to violations,**  
The criteria of Section 33.430.250 G require that the violation first be examined in light of the criteria (33.430.250 A through F) that normally would have applied to the activity had a permit been applied for. The approval criteria which would have been applied to environmental review for tree removal in the Environmental Conservation overlay zone are found in:
- **33.430.250.E – Other development in the Environmental Conservation zone or within the Transition Area only**  
If any of the applicable criteria from 33.430.250 E cannot be met, then all of the criteria under Section G must be met, including G.2.a which requires no permanent loss of any type of resource or functional value (removal of the unpermitted development). If all of the criteria from Section E can be met, the development can be permitted to remain.

## ANALYSIS

**Site and Vicinity:** The site is located on the northern side of SE Lexington Street. A row of houses borders the south side of the street, at the bottom of the hill below the Willamette National Cemetery. East of the site is a fully developed subdivision with numerous cul-de-sacs entering from both SE Lexington on the south side and SE Flavel on the north side.

The western half of the approximately 21,600 square-foot site contains a house, driveway and an approximately 5,300 square-foot grass yard behind the house and a small portion of forested area outside the environmental zone. The far eastern portion of the site contains a forested area composed mostly of deciduous trees as well as a few conifers. The understory is composed primarily of invasive English ivy and some blackberry. A stream, which begins up the hill to the east at the edge of the Willamette National Cemetery, crosses under SE Lexington Street through an 18-inch storm-only pipe that extends approximately 40 feet onto the extreme right side of the property. The stream daylights on the site for about 27 feet along the east property boundary before it crosses onto the adjacent property to the east. After the stream leaves the neighboring property, it enters another stormwater pipe which eventually daylights north of SE Flavel, and remains above ground for the remainder of its journey to Johnson Creek, about a half mile to the north.

The resource area is approximately 2,900 square feet of the 6,800 square foot environmental zone of the site. The remaining environmental area is composed of transition area, which forms a buffer around the resource area. The resource area on this site is focused on the stream and its riparian area. South of the site and SE Lexington, the stream and riparian area are located in the environmental protection zone.

**Zoning:** This site is zoned R10 (Residential 10,000) with the Environmental Conservation (c)

overlay zone (see Exhibit B, Zoning). The R10 zone is a low density residential zone, which allows development of single dwelling units at density of one unit for every 10,000 square feet of net site area.

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.

**Environmental Resources:** The application of the environmental overlay zones is based on detailed studies that have been carried out within eight 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 site is mapped within the Boring Lava Domes; Supplement to the Johnson Creek Basin Protection Plan as Site 30e – Cedar Creek Watershed. Resources in this area include: Cedar Creek and its tributaries, other streams, habitat areas, and forested upland areas, especially the steep forested slopes. The stream on this site is generated from runoff from the Willamette National Cemetery to the south which flows down through a draw to SE Lexington where it flows into a culvert. The culvert extends onto the property for about 48 feet along the east property boundary, before the stream daylight. It flows as surface water for about 27 feet as it meanders east and crosses the east property boundary onto the neighboring site. There, it continues as surface flow for about 68 feet to a property northeast of the site where it again enters a culvert.

In addition to the stream, there are several conifers and native deciduous trees on the site as well as on the site to the east, creating a small riparian area adjacent to the short stream segment on these two properties. The riparian area also contains numerous native trees, mostly big leaf maple and a few Douglas fir and Western red cedars. Most of the trees on the site and much of the ground within the riparian area are covered in English ivy.

**Land Use History:** City records indicate there are no prior land use reviews for this site.

**Agency and Neighborhood Review:** A "Notice of Proposal in Your Neighborhood" was mailed **May 27, 2015**. The following Bureaus have responded with no issues or concerns:

- 1. Agency Review:** The Bureau of Environmental Services supports the mitigation plan required through the Environmental Chapter of the Zoning Code, but noted that mitigation plantings must be located so that they will not impede flow conveyance of the drainageway. See Exhibit E.1 for additional details.
- 2. Neighborhood Review:** One neighbor responded with concerns regarding the number of trees that might be installed on the site that could have negative impacts on both the subject site and on neighbors' open areas that are forested, but are outside the environmental zone.

## 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 approval criteria which apply to the corrections to environmental violations are found in Section **33.430.250.G, Corrections to violations**. This section requires that the unpermitted activities first be reviewed according to the applicable Environmental Review

criteria that would have been assessed in the City's standard (pre-development) land use review process. Removal of trees from the Environmental Conservation overlay zone must be assessed against the approval criteria listed in **Section 33.430.250.E. - Other Development in Environmental Conservation zones**. If these criteria cannot be met by the violation activities, then all of the criteria in **33.430.250 G** (G.1 through G.2.c.) must be shown to be met.

The applicant has provided findings for the approval criteria listed above and BDS Land Use Review staff has amended the findings, and added conditions where necessary to meet the approval criteria.

**Title 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:**

- 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;**

**Findings:** One 36-inch Douglas fir tree and one eight-inch trunk from a multiple-trunk Big Leaf maple, for a total diameter of approximately 44 inches, as well as several under-6-inch trees were cut down on the site by persons unknown.

Generally, tree removal is not allowed in the environmental zones unless there is proposed development that requires it. Native trees may also be removed from environmentally zoned sites when they pose a hazard, provided their removal is approved through land uses review. On this site, however, the purpose of the tree removal remains unknown. Although a house is located on the site, it was not inhabited at the time of the tree removal, as the owner does not live in the neighborhood, and the removed tree locations would not have improved or created views from the house. In addition, the trees appeared to be healthy, so there did not appear to be a hazard to structures in the area. Smaller trees that were cut in the right of way were chipped at the site. The large trees that were cut were removed from the site.

This tree removal neither minimized the loss of resources or functional values, nor was it an activity that would have been permitted in the base zone without a land use review for tree removal. Therefore, because the tree removal does not meet this criterion, conditions are required to minimize the effects of their removal.

When trees are removed from the environmental zones, they must be replaced per the requirements of Table 430-3 of the Portland Zoning Code. Typically, native trees larger than 30 inches in diameter must be replaced with at least 7 native trees and 12 native shrubs that must be planted within the environmental resource area on the site. Native trees between 12 and 20 inches in diameter must be replaced with at least 3 trees, or 1 tree and 3 shrubs, for a total of 8 trees and 15 shrubs to be replanted in the resource area of the environmental zone.

The applicant proposed planting 12 trees (7 Douglas fir and 5 Big Leaf maples), as well as 6 each of red-osier dogwood and red elderberry shrubs within both the transition area and the resource area along the creek channel as mitigation for the tree loss. The proposed number of trees exceeds the minimum requirement of eight trees, and the placement of the plants in the transition area is not allowed as mitigation for impacts in the resource area. In addition, the proposed firs and maples will become crowded as they grow because of the relatively small planting area. Also, a nearby neighbor requested that smaller trees be planted so as to not block morning sunlight any more than what already occurs from the existing trees on the subject site.

Although replacement trees and shrubs must be planted in the resource area, the applicant's site plans show trees to be planted in the transition area because the resource area is too small to provide sufficient growing room on this site. Staff concurs with the neighbor that smaller trees and shrubs should be planted instead of the proposed fir and maple trees which will grow to be too big for the resource area. Therefore, fewer and smaller native trees species should be

planted that will fit into the resource area and do well in its shady, moist environment. Both Western flowering dogwood and Cascara meet these criteria. Six trees, with three of each species, must be planted in the resource area,.

The applicant proposed planting twelve shrubs, including red elderberry (*Sambucus racemosa*) and a red-twig dogwood shrub (*Cornus stolonifera*) that is not a Portland native, as mitigation plants. *Cornus sericea ssp. sericea* (Red-osier dogwood) is a native dogwood that can be planted in the environmental zone.

In addition to the red elderberry and Red-osier dogwood, other native shrubs appropriate for the site include hazelnut (*Corylus cornuta*) and Salal (*Gaultheria shallon*). At least three of each of these four species must be planted for a total of 12 native shrubs. All mitigation plants must be planted in the resource area only of the environmental zone.

To ensure that replacement plants will grow and thrive, invasive species must first be removed from the planting area. English ivy covers the ground and the remaining trees on the site, but must be removed from the entire resource area. In addition, the installed plants must be watered on a regular basis and dead plants must be replaced for a period of one year following planting.

Therefore, with conditions that invasive species are removed from the planting area prior to installing new native vegetation; that 6 native trees including a minimum of 3 each of Western flowering dogwood and Cascara, as well as three each of the four shrubs described above, and for requiring that a Zoning Permit be obtained for the remediation planting prior to installation, this criterion will be met.

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

**Findings:** Native trees were removed from the resource area of the Environmental Conservation zone on the site without prior review and approval. A 36-inch Douglas fir and an 18-inch trunk from a multiple-trunk big leaf maple were cut down and removed from the site without authorization from the City. The reason for their removal remains unclear as the property owner does not live on the site; the house on the site is currently vacant; and the owner states that he did not cut or remove the trees or have them cut and removed. The tree removal does not appear to have impacted other native vegetation on the site.

The cut trees must be replaced in accordance with the Table 430-3 of the *Portland Zoning Code*. The applicant has provided a revegetation plan which staff has altered to meet the conditions outlined above.

There will not be any construction activity on the site. Hand held tools must be used to dig planting holes and remove ivy. With a condition that only hand tools be used to remove ivy and to excavate planting holes for the trees, shrubs, and groundcovers, this criterion will be met.

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

**Findings:** Because this is a violation case due to removal of 2 native trees from the Environmental Conservation zone, it does not appear that detrimental impacts occurred to other areas or to native vegetation such as native shrubs and forbs on the site. However, replanting the area using hand-held tools will limit any potential impacts, and the planting area is dictated by the small location of the environmental zone on the site and by the location of the tree removal.

To ensure that there will be no further impacts to resources and functional values on the site when the mitigation plants are installed, the applicant must install silt fencing downhill of the planting areas prior to installing the remediation plants. In addition, the planting area of the

site, as indicated on Exhibit C.2 must be cleared of non-native and/or invasive species prior to installing the required mitigation plants. This area must remain weed free for a period of two years until the plants become well established. With these conditions, this criterion will be met.

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

**Findings:** The applicant proposed planting 12 native trees and 12 native shrubs as mitigation for the unauthorized removal of the 36-inch Douglas fir and Big Leaf maple trees. The proposed replacement species included 5 Big Leaf maple and 7 Douglas fir trees. As noted previously in this report however, there is not enough room in the resource area of the environmental zone on this site for such large trees. Therefore smaller trees would be better suited for this small, shady site. Appropriate tree species include Western flowering dogwood and Cascara trees. At least three trees of each species must be planted on the site for a total of six trees.

The applicant also proposed planting shrubs and groundcovers, including: *Cornus stolonifera* (red-twig dogwood) and *Sambucus racemosa* (red elderberry). As noted above, *Cornus stolonifera* is not a Portland native, so it must be replaced with Red-osier dogwood (*Cornus sericea ssp. sericea*). The red elderberry is a native. Two other shrub species must be planted to create additional diversity on the site. Because of the site's size limitations, hazelnut (*Corylus cornuta*) and Salal (*Gaultheria shallon*) would be good choices for this small area. A minimum of 3 plants from each of these three species, for a total of 12 shrubs, must be planted.

Further, a native grass/forb seed mix for shady sites must be planted. This groundcover seed mix must be seeded at a rate of 1 pound per 5,000 square feet of planting area in order to create a significant groundcover within the riparian area.

Remediation plants must survive for a minimum of 2 years, which requires maintenance of the planting area through continued weed and invasive plant removal, as well as regular irrigation.

With conditions for the above planting and maintenance requirements, this criterion will 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**

**Findings:** The mitigation will occur on the same site as the violation occurred, and therefore, within the same watershed. The site is located within City limits. Therefore, this criterion is met.

**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:** The applicant owns the land where the violation occurred, which is the same land where the mitigation will occur, and therefore has legal authority to implement the required mitigation on the site.

**G. Corrections to violations.** For corrections to violations of this Chapter, the application must meet all applicable approval criteria stated in subsections A through F above, and paragraphs 1, 2.b and 2.c, below. If these criteria cannot be met, then the applicant's remediation plan must demonstrate that all of the following are met.

**1. The remediation is done in the same area as the violation; and**

**2. The remediation plan demonstrates that after its implementation there will be:**

- a. No permanent loss of any type of resource or functional value;**
- b. A significant improvement of at least one functional value; and**
- c. There will be minimal loss of resources and functional values during remediation until the full remediation program is established.**

**Findings:** As described above in Section E.2. – E.6, the remediation will occur on the same site and in the same area of the site as where the violation activity occurred.

Staff has revised the applicant's planting plan to provide more appropriate native trees, shrubs and groundcovers for the relatively small planting area, and has included conditions to implement the planting plan to ensure the plants' survival.

Where previously only two native tree species and invasive shrubs were located in the riparian area on the site, the requirement for invasive species removal and planting additional native tree, shrub and groundcover species will provide improved diversity of resource and functional values along the creek and provide additional wildlife habitat on the site.

Although removal of the 36-inch Douglas fir and the 18-inch Big Leaf maple was significant, the required 6 native trees representing two different species, as well as 12 shrubs representing four species along with a groundcover seed mix to be planted throughout the planting area, will significantly enhance this relatively small violation site so that not only will there not be a permanent loss of any resources or functional values, but that the site will be significantly enhanced by implementation of the planting plan.

With the conditions for installing and maintaining the mitigation plants described above, no permanent loss of resources or functional values will have occurred. With the revision of species to be planted, and with the inclusion of native groundcovers, the riparian resource along the creek will have improved significantly, and therefore, 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**

Through this environmental review, the applicant requested approval of a remediation plan for a zoning code violation which occurred within the environmental overlay zone. A large Douglas fir and one trunk from a three-trunk big leaf maple were removed from a riparian area adjacent to a small creek on the site for reasons unknown. The applicant provided a revegetation plan that included planting 7 Douglas fir and 5 Big Leaf maple trees that would not be able to fit within the available remediation area in the resource area of the site. Staff modified the plan by changing tree species to smaller native trees that will be more appropriate for the site, added native shrubs and groundcovers, and included conditions to ensure that impacted resources in the resource area of the site will be adequately replaced and enhanced.

The applicant's and staff findings show that the proposal, with the conditions listed below, meets the applicable criteria and should be approved.

## **ADMINISTRATIVE DECISION**

**Approval** of an Environmental Review to correct the unpermitted removal of a 36-inch Douglas fir and an 18-inch trunk of a three-trunk Big leaf maple from within the Environmental Conservation zone, in substantial conformance with Exhibits C.1 and C.2, as signed and dated

by the City of Portland, Bureau of Development Services on August 12, 2015. Approval is subject to the following conditions:

- A. A BDS Zoning Permit is required for inspection and approval of remediation plantings.** Copies of the stamped Exhibit C.2 from LU 15-118445 EV and Conditions of Approval listed below, shall be included within all plan sets submitted for permits (building, grading, Site Development, Zoning Permits, 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.1 and C.2."**
- B.** A total of 6 native trees, 12 native shrubs, and a native grass/forb groundcover seed mix for shady areas selected from the Portland Plant List or as described below shall be planted in substantial conformance with Exhibit C.2 Mitigation/Remediation Site Plan, using hand tools only:
1. Silt fencing shall be installed between the planting area and the stream's top of bank prior to any ground disturbing activity.
  2. Non-native invasive plants shall be removed from the mitigation planting area and from all areas within 10 feet of the planting area, using handheld equipment prior to installing required mitigation plantings.
  3. The 6 required native trees shall include three each of Western flowering dogwood and Cascara.
  4. The 12 required native shrubs shall include three each of the following: red elderberry (*Sambucus racemosa*), Red-osier dogwood (*Cornus sericea ssp. sericea*), hazelnut (*Corylus cornuta*), and Salal (*Gaultheria shallon*).
  5. Plantings shall be installed between October 1 and March 31 (the planting season).
  6. All mitigation and remediation shrubs and trees 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.
  7. 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.
- C. The land owner shall maintain the required plantings** for two years to ensure survival and replacement. The land owner is responsible for ongoing survival of required plantings during and beyond the designated two-year monitoring period. The landowner shall:
1. Obtain a Zoning Permit for a final inspection at the end of the 2-year maintenance and monitoring period. The permit must be finalized no later than 2 years from the final inspection for the installation of mitigation planting, for the purpose of ensuring that the required plantings remain. Any required plantings that have not survived must be replaced.
  2. The planting area must remain free of weeds and invasive species for a minimum period of two years following plant installation.
  3. The mitigation plants must receive regular irrigation following their installation.
- D.** 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.

**Staff Planner: Kathy Harnden**



**Decision rendered by:**  **on August 12, 2015**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: August 14, 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 February 19, 2015, and was determined to be complete on **May 26, 2015**.

*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 February 19, 2015.

*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 requested that the 120-day review period be extended for a period of 8 weeks. Unless further extended by the applicant, **the 120 days will expire on: November 17, 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 August 28, 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 **August 31, 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:

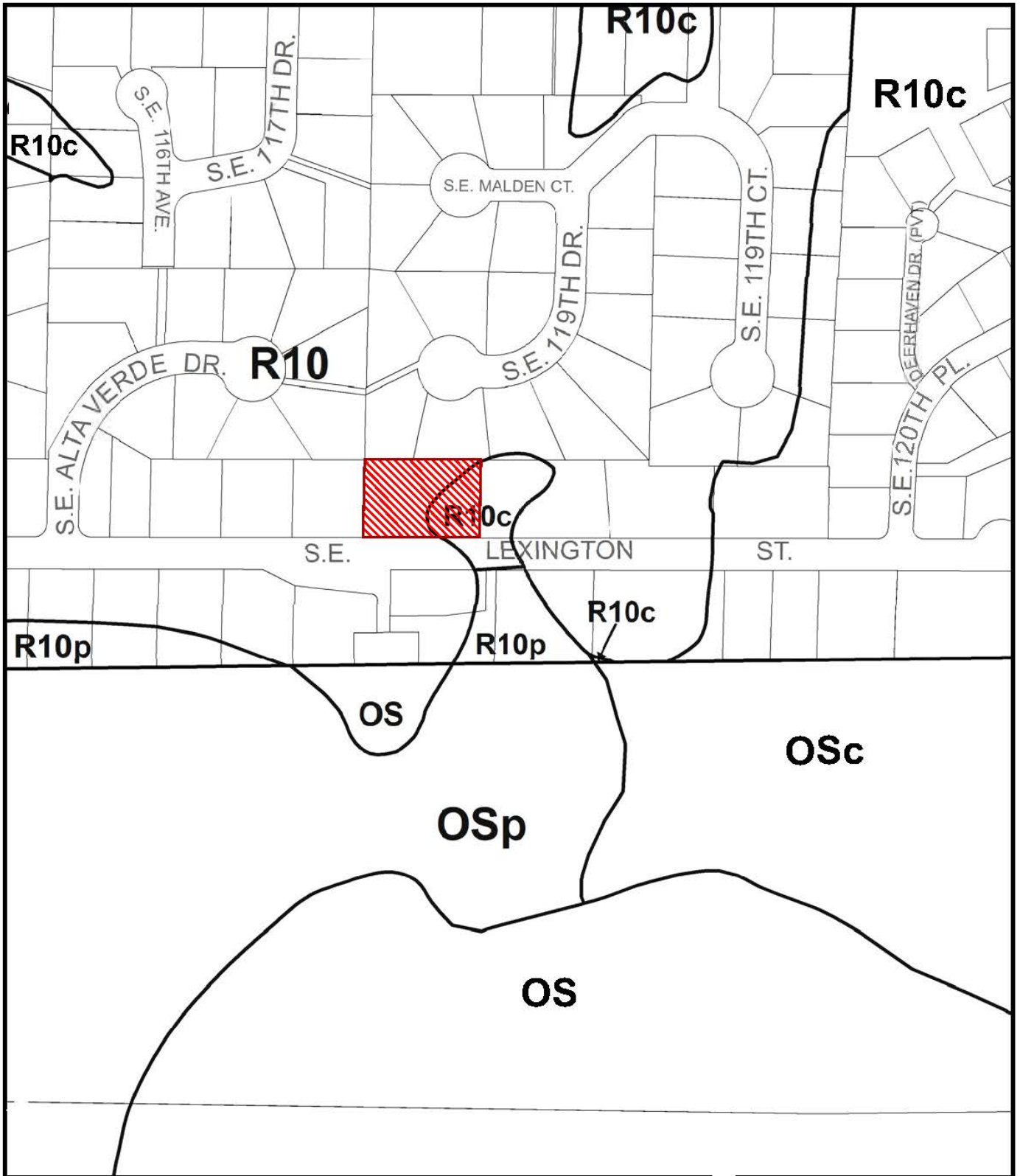
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. 1. Applicant's Statement
- 2. Applicant's Revised Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Existing Conditions Site Plan (with cut tree locations) (attached)
  - 2. Staff's Approved Mitigation/Remediation Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Water Bureau
- F. Correspondence:
  - 1. Mark Himes, 6/16/15, Remediation Plan contains too many trees for the site
- G. Other:
  - 1. Original LU Application
  - 2. LU Incomplete Letter
  - 3. Applicant's Review Period Extension Request
  - 4. Code Compliance Letter (CC 15-101279)
  - 5. Case No. 15-101279-CC Time Extension
  - 6. Site Photos

**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

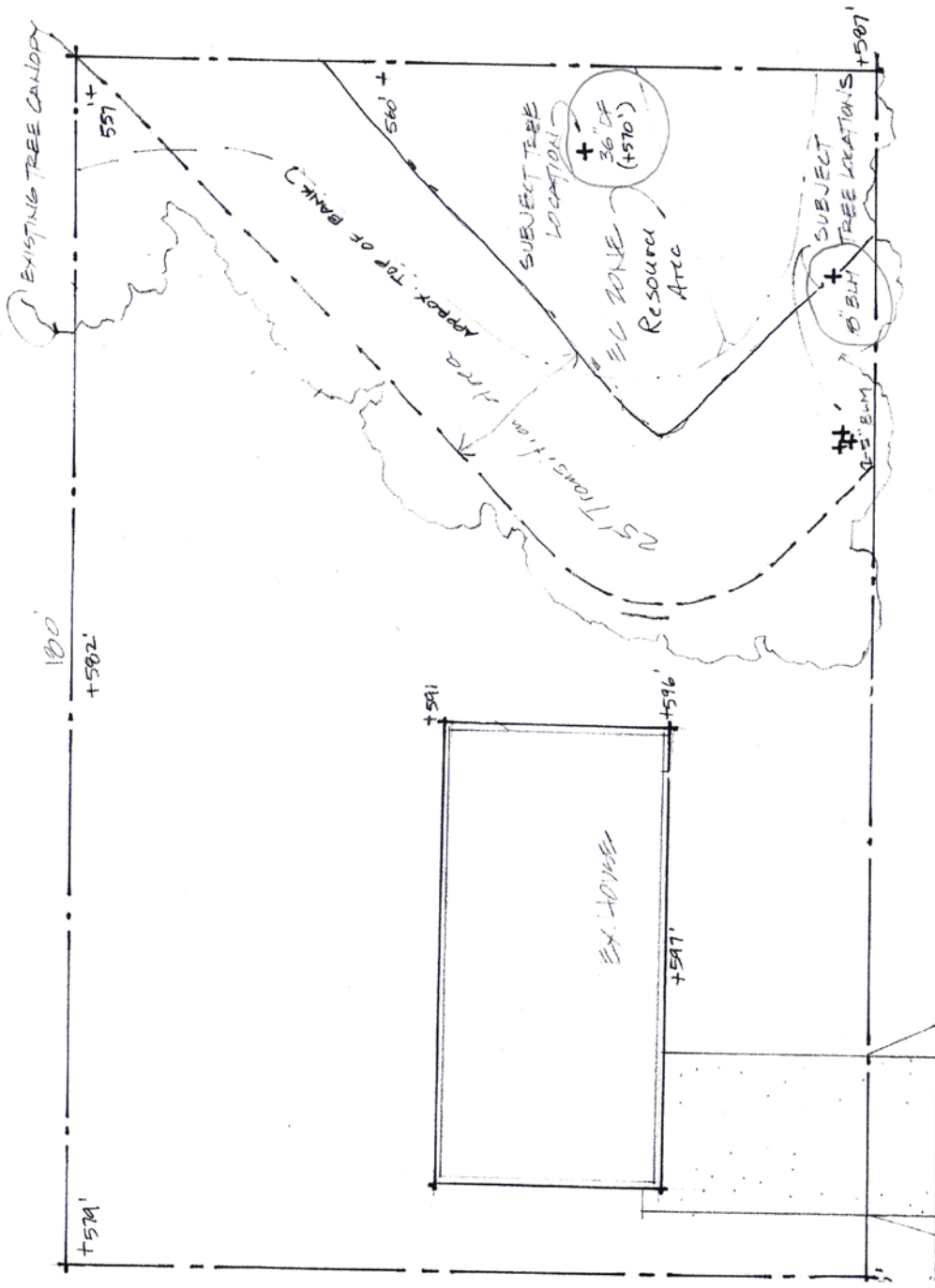


Site



This site lies within the:  
**JOHNSON CREEK BASIN PLAN DISTRICT**

File No. LU 15-118445 EV  
 1/4 Section 3842  
 Scale 1 inch = 200 feet  
 State\_Id 1S2E22DA 4200  
 Exhibit B (Feb 19, 2015)



TREES REMOVED

- (1) 36" CAL. PSEUDOTSUGA MENZIESII  
DOUGLAS FIR
- (3) ACER MACROPHYLLUM  
2' 5" 18" CAL. BIG LEAF MAPLE

1" = 20' N reduced

11731 SE LEXINGTON

PORTLAND, OR

LU 15-118445 EV

EXISTING CONDITIONS with cut tree locations

DESIGN RESOURCE GROUP  
MIKE GILLILAND LANDSCAPE ARCHITECT



Existing Conditions/  
Removed Tree Areas  
Exhibit C.1

# Mitigation Plan

## Mitigation Plants

### 6 Native Trees

- 2 Vine Maple
- 2 Western Flowering Dogwood
- 2 Casacara

### 12 Native Shrubs

- 3 Redosier dogwood (*Cornus sericea ssp sericea*)
- 3 Hazlenut
- 3 Salal
- 3 Red elderberry

- Non-native invasive plants shall be removed from the planting area prior to installing mitigation plants.
- All mitigation plants shall be planted in the "Planting Area" outlined on this page.

|  |
|--|
| <b>*Approved*</b>                      |
| <b>City of Portland</b>                |
| Bureau of Development Services         |
| Permit # <u>1415-118443 EX</u>         |
| Planner <u>K. Hadden</u>               |
| DOB <u>8/24/15</u>                     |
| Approved For Environmental Review only |
| DATE: 8/24/15                          |

