



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

Chloe Eudaly, Commissioner
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Date: April 13, 2017
To: Interested Person
From: Ethan Brown, Land Use Services
[503-823-7920/Ethan.Brown@portlandoregon.gov](mailto:Ethan.Brown@portlandoregon.gov)

NOTICE OF A TYPE II PROPOSAL IN YOUR NEIGHBORHOOD

Development has been proposed in your neighborhood. The proposed development requires a land use review. The proposal, review process, and information on how to respond to this notice are described below. A copy of the site plan and zoning map is attached. I am the staff person handling the case. Please call me if you have questions regarding this proposal. Please contact the applicant if you have questions regarding any future development on the site.

Because we must publish our decision within 28 days, **we need to receive your written comments by 5 p.m. on May 4, 2017**. Please mail or deliver your comments to the address at the bottom of the page, and include the Case File Number, LU 16-266356 EV, in your letter. It also is helpful to address your letter to me, Ethan Brown. You can also e-mail your comments to me at my e-mail address identified above.

CASE FILE NUMBER: LU 16-266356 EV

Applicant: Karen Karlsson, KLK Consulting, LLC
906 NW 23rd Ave
Portland, Oregon 97210

Owner: Inner City Properties, Inc. Portland Parks and Recreation
906 NW 23rd Ave 1120 SW 5th Ave.
Portland, OR 97210 Portland, OR 97204

Site Address: [2781 NW SUSSEX AVE](#)

Legal Description: LOT 85, BLYTHSWOOD; LOT 49, BLYTHSWOOD; LOT 39,
BLYTHSWOOD

Tax Account No.: R084301850, R084302040, R084303060

State ID No.: 1N1E29CB 02300, 1N1E29CB 02500, 1N1E29BC 01801

Quarter Section: 2725

Neighborhood: Northwest District, contact John Bradley at 503-313-7574.

District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

Plan District: Northwest Hills - Forest Park Subdistrict

Other Designations: *Northwest Hills Natural Areas Protection Plan (1991)* Site 86, Regulatory
Landslide Hazard Area

Zoning: Residential 2,000 (R2) with Environmental Conservation (c) overlay

Case Type: EV – Environmental Violation

Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant proposes to correct environmental zoning violations that occurred when seven native trees, totaling 106" diameter at breast height (dbh), were removed from the Environmental Conservation overlay area of this property. The tree removal activities in the Environmental Conservation overlay zones were conducted without the City's required environmental review.

The area disturbed by the tree removal covers approximately 274,275 square feet in the Environmental Conservation overlay zone. As mitigation for the tree removal and related disturbance area, the applicant proposes to pay toward restoration work in Forest Park, to be executed by Portland Parks and Recreation (PPR) as part of the *Restore Forest Park* initiative. This project is a long-term effort toward removing invasive plant species and replanting native plants.

The applicant proposes paying \$7,600 toward the *Restore Forest Park* project as mitigation for tree removal and ground disturbance on Lot 85:

- The applicant proposes paying \$6,900 to mitigate for tree removal in lieu of planting trees on site. The applicant claims that the standards for addressing a violation in the conservation overlay zone would typically require them to plant 23 trees of a 1" caliper each. The applicant proposes to pay for 23" of total tree diameter using the rate of \$300 per inch, which is the *Fee in Lieu of Planting* rate applied in other types of reviews outside the environmental zones.
- The applicant proposes to pay an additional \$700 for invasive species removal as mitigation for the ground disturbance, based on a calculation using PPR's estimated cost of removing invasives from forested areas.

While the entire area of the *Restore Forest Park* initiative is fairly broad and encompasses approximately 155 forested acres, the applicant proposes to focus related mitigation efforts on two publicly owned lots between NW St. Helens Rd and NW Gordon St. which are in close proximity to the site of the violation, and would be restored in 2018.

The violation site lies within the Environmental Conservation zone. Certain standards must be met to allow the work to occur by right. If the standards are not met, an Environmental Review is required. In this case, because native trees (non-exempt) were cut in the environmental conservation zone without authorization, an environmental violation was incurred on the site. This environmental review is required to help determine the impacts caused by the activity and the actions that must be taken to remedy the unauthorized tree removal from the resource area of the environmental conservation zone. Note that a similar review (LU 16-266341 EV) is also underway for related environmental violations on Lot 83 (2847 NW Sussex Ave).

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant 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 would have normally applied to the activity if a permit had been applied for. The approval criteria which would have been applied to environmental review of tree removal in the Environmental Conservation overlay zone are found in:

- **33.430.250 E Other Development in the Environmental Conservation zone**

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. If all of the criteria from Section E can be met, the development can be permitted to remain.

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. This application was submitted on October 28, 2016 and determined to be complete on March 31, 2017.

DECISION MAKING PROCESS

The Bureau of Development Services will make a decision on this proposal. We will consider your comments, and

- Approve the proposal.
- Approve the proposal with conditions.
- Deny the proposal.

The neighborhood association listed on the first page of this notice may take a position on this application. They may also schedule an open meeting prior to making their recommendation to the Bureau of Development Services. Please contact the person listed as the neighborhood contact to determine the time and date of this meeting.

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 extended at the request of the applicant.

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.

APPEAL PROCESS

If you disagree with the Bureau of Development Services administrative decision, you can appeal the decision to the Hearings Officer. This review body will hold a public hearing for the appeal. When the decision is mailed, the criteria used to make the decision and information on how to file an appeal will be included. If you do not send any comments, you can still appeal the decision. There is a 14-day deadline to file an appeal beginning on the day the decision is mailed. The reason for the appeal must be specifically defined in order for the review body to respond to the appeal. If an appeal is filed, you will be notified of the time and location of the appeal hearing.

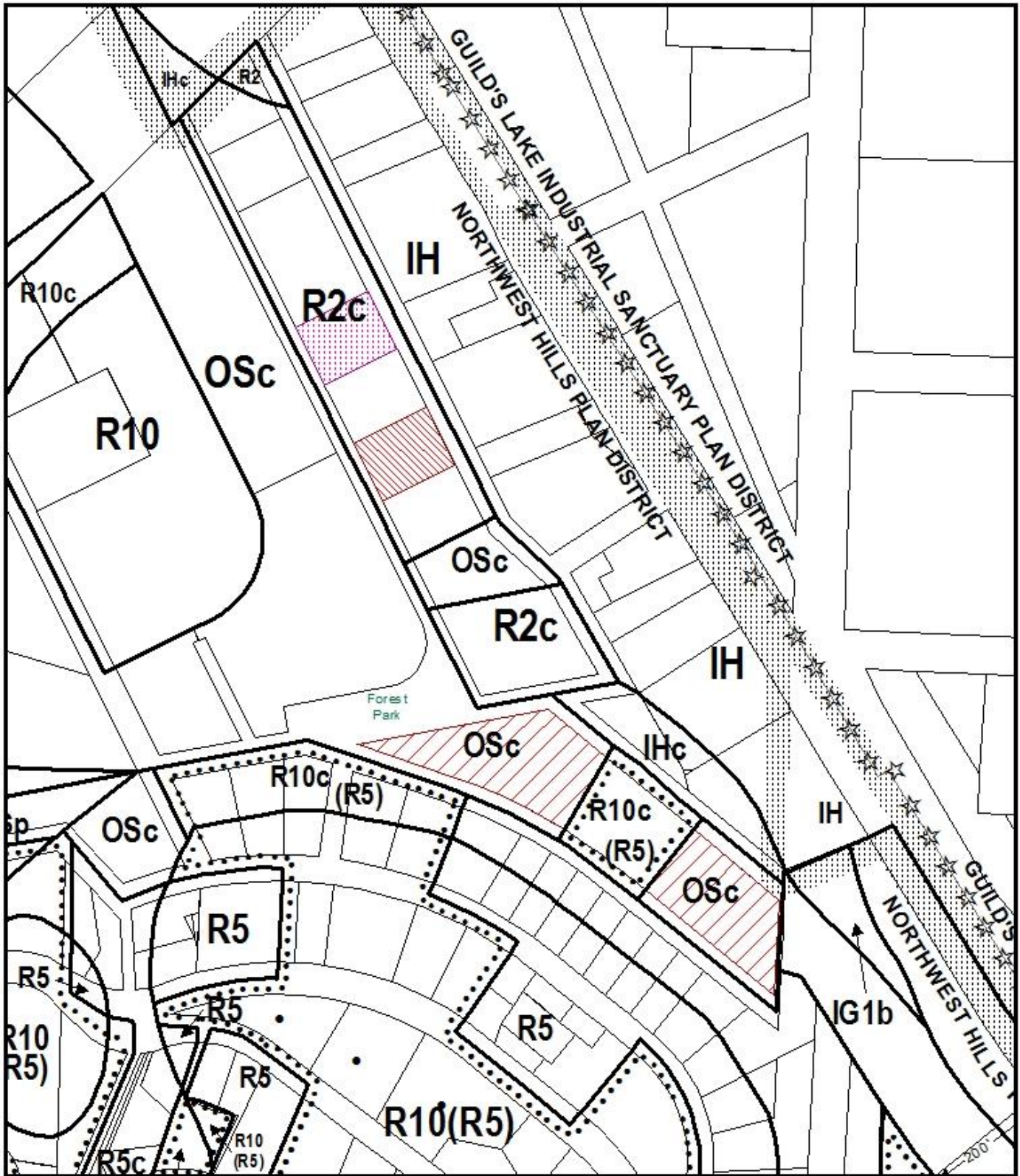
There is a fee charged for appeals. Recognized neighborhood associations may qualify for an appeal fee waiver.

APPEAL OF THE FINAL CITY DECISION

After an appeal hearing, the review body decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283. The phone number for LUBA is 1-503-373-1265. Issues that may provide the basis for an appeal to LUBA must be raised prior to the comment deadline or prior to the conclusion of the hearing if a local appeal is requested. If you do not raise an issue with enough specificity to give the Bureau of Development Services an opportunity to respond to it, that may also preclude an appeal to LUBA on that issue.

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).

Enclosures: Zoning Map | Site Plan



ZONING



This site lies within the:
 NORTHWEST HILLS PLAN DISTRICT
 FOREST PARK SUBDISTRICT

- Site
- Mitigation Site
- Recreational Trails
- Historic Landmark

File No.	LU 16-266356 EV
1/4 Section	2725
Scale	1 inch = 200 feet
State_Id	1N1E29BC 1803
Exhibit	B (Apr 11, 2017)

EXHIBIT E

 Snapshot



SITE PLAN LOT 85 - CONDITIONS AFTER VIOLATION

VICINITY MAP: 2781 NW SUSSEX AVE

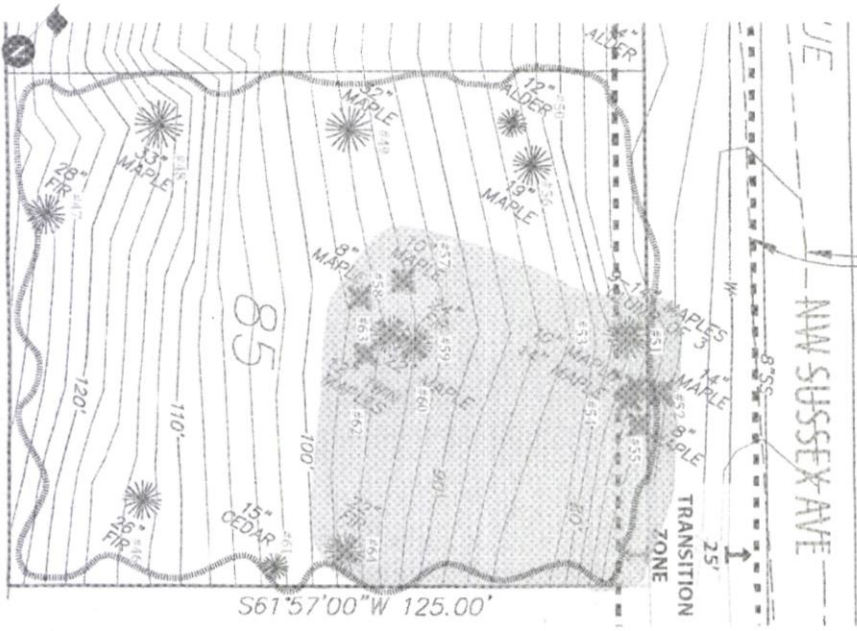
SITE PLAN LOT 85



NOT TO SCALE

The understory vegetation is heavily degraded and consists of a patchwork of invasive, dominant species. Invasive species include: Japanese Knotweed, Norway Spruce, and Norway Pine. These are also the most bulbous trees in the vegetation. Invasive species are also present in the understory, but they are not as dense as the dominant species. The understory vegetation is heavily degraded and consists of a patchwork of invasive, dominant species. Invasive species include: Japanese Knotweed, Norway Spruce, and Norway Pine. These are also the most bulbous trees in the vegetation. Invasive species are also present in the understory, but they are not as dense as the dominant species.

DISTRIBUTION AREA
 TOTAL = APPROX. 4,275 SF
 INVENTORY AREA = APPROX. 3,775 SF
 RESTORATION AREA = APPROX. 290 SF
 BORN = APPROX. 250 SF



SCALE: 1"=10'

Tree that Remain			
46	<i>Pinus strobus</i>	Douglas Fir	26"
47	<i>Pinus strobus</i>	Douglas Fir	28"
48	<i>Acer macrophyllum</i>	Maple	33"
49	<i>Acer macrophyllum</i>	Maple	32"
50	<i>Acer macrophyllum</i>	Alder	12"
56	<i>Acer macrophyllum</i>	Maple	56"
61	<i>Cedrus deodora</i>	Cedar	15"

Tree that were Cut			
51	<i>Acer macrophyllum</i>	Maple	51"
52	<i>Acer macrophyllum</i>	Maple	14"
53	<i>Acer macrophyllum</i>	Maple	10"
54	<i>Acer macrophyllum</i>	Maple	14"
55	<i>Acer macrophyllum</i>	Maple	8"
57	<i>Acer macrophyllum</i>	Maple	57"
58	<i>Acer macrophyllum</i>	Maple	8"
59	<i>Pseudotsuga menziesii</i>	Douglas Fir	24"
60	<i>Acer macrophyllum</i>	Maple (Horn)	12"
62	<i>Acer macrophyllum</i>	Maple (Horn)	12"
63	<i>Acer macrophyllum</i>	Maple	22"
64	<i>Pseudotsuga menziesii</i>	Douglas Fir	22"