



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

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www.portlandoregon.gov/bds

Date: January 3, 2018
To: Interested Person
From: Ethan Brown, Land Use Services
503-823-7920 / Ethan.Brown@portlandoregon.gov

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 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 17-152031 EV

GENERAL INFORMATION

Applicant/Owner: David and Sara Eder
11422 SW 27th Ave. | Portland, OR 97219-8947
Phone: 503-505-1657 | david.eder@thuemmeh-uhle-eder.com

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 503-823-4592.
Business District: None
District Coalition: Southwest Neighborhoods Inc., contact Sylvia Bogert at 503-823-4592.

Plan District: None
Other Designations: Site 121, Arnold Creek Headwaters – *Southwest Hills Resource Protection Plan*; Potential Landslide Hazard Area; Wildfire Hazard Area
Zoning: *Base Zone:* Residential 10,000 (R10)
Overlay Zones: Environmental Conservation (c)

Case Type: EV – Environmental Violation Review
Procedure: Type II, an administrative decision with appeal to the Hearings Officer.
PROPOSAL:

The applicant proposes to correct environmental zoning violations that occurred when their landscaping contractor failed to install native mitigation plantings required by LU14-221077 EN, planting non-natives instead. In addition, the applicant proposes to retain and remediate for the environmental zoning violation that occurred from the unpermitted installation of a 113 square foot (SF) paver patio, a 348 SF synlawn turf/play area, 4 retaining wall sections, and 12 access steps, all installed directly outside of the permanent disturbance limits approved in the afore-mentioned land use decision.

The violation site lies entirely within the Environmental Conservation overlay 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 additional disturbance for a play area and paver patio was created within the Environmental Conservation overlay zone without authorization (and beyond the approved limits of the disturbance of the earlier environmental review for the house construction, LU 14-221077EN), 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 and possibly retain the unauthorized development within the resource area of the Environmental Conservation overlay zone.

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 the subject play area and paver patio 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 April 13, 2017 and determined to be complete on October 5, 2017.

ANALYSIS

Site and Vicinity: The project site is located in SW Portland, east of where Barbur Boulevard and I-5 intersect. The site and the surrounding developed single-family neighborhood are not heavily forested due to subdivision development that occurred in the 1990s. The site is backed to the east by a large 2.4-acre parcel developed with a single-family house, outbuildings, and cleared land used for agricultural purposes. The project site slopes steeply up from SW 27th Ave. and was almost entirely cleared of vegetation for the construction of the existing single-family house. 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 along drainages nearby, but not adjacent to, the project site.

Zoning: The zoning designation on the site includes Residential 10,000 (R10) base zone, with an Environmental Conservation (c) overlay zone (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. Newly created lots must have a minimum density of 1 lot per 10,000 square feet of site area. The regulations of this zone do not apply to this proposal; these provisions are not specifically addressed through this Environmental Review.

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 and remediate for unauthorized disturbance.

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

The project site is mapped within the *Southwest Hills Resource Protection Plan* as Site #121 – Arnold Creek Headwaters. Resources and functional values of concern within the resource site include upland coniferous/broadleaf deciduous forest, groundwater recharge, perennial creeks,

open space, wildlife habitat, fisheries, recreation and scenic resources. However, as discussed below, the project site has low habitat values and few, if not none, of these resources or functional values are currently present on the property.

The applicant evaluated the project site using the same categories scored in the resource protection plan, as follows:

Wildlife Habitat (Values):

- Water (Low) – No surface waters or wetlands were observed.
- Food (Low) – Mature vegetation is absent. Landscaping currently installed is dominated by non-natives and will not provide a significant food source when mature.
- Cover (Low) – Immature landscaping does not provide cover.
- Interspersion (Low-Medium) – The study area is not within a natural area but some do exist in the neighborhood, along Arnold Creek and its tributaries.
- Disturbance (High) – Disturbance is a result of residential development, human habitation, traffic along SW 27th Avenue, and invasive species.

In addition, on October 3, 2012, Portland City Council adopted the *Natural Resources Inventory Update (NRI)* as part of the factual basis for the update of the Comprehensive Plan (Ordinance No. 185657). This inventory provides new factual data about the location, extent, and relative quality of identified natural resource features in the City and County pockets. As shown in Exhibit G.3, no resources are identified on the project site in the *NRI* and the low to high value resources nearby do not align with the existing environmental overlay zoning applied in the neighborhood.

Land Use History: City records indicate that prior land use reviews include the following:

- **LU14-221077 EN:** Approval of an environmental review for the construction of a single dwelling residence with driveway, utilities, and stormwater management facilities.

Summary of Applicant's Statement: use at your discretion to further explain proposal and/or how they propose to mitigate for impacts or meet approval criteria.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **October 18, 2017**.

The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation Engineering and Development Review
- Water Bureau
- Fire Bureau
- Site Development Review Section of BDS
- Bureau of Parks, Forestry Division
- Life Safety Review Section of BDS

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on October 18, 2017. A total of two written responses have been received, one from the Neighborhood Association and one from a notified property owner in response to the proposal. In general, neither response was opposed to allowing the development to remain; however, they recommended adequate mitigation plantings and suggested off-site mitigation in addition to the proposed plantings. The applicant provided the following response to the suggestion: *If the City felt that we were unable to plant enough native plants on our property to address the disturbance area, we would be open to an off-site mitigation plan. However, we have added a significant number of native plants above and beyond the requirements. We'll leave the calculation up to the City. We appreciate the neighborhood associations comments. We did not intend to violate the City code. This has been a very expensive and stressful experience.* (Exhibit G.4)

Staff Response: BDS staff considered whether or not off-site mitigation would be necessary and feasible. However, given the small size of the permanent disturbance area and the lack of any near-term city-led habitat restoration projects within the same watershed, staff concluded that on-site mitigation and remediation would be sufficient to satisfy the relevant approval criteria, as described below.

ZONING CODE APPROVAL CRITERIA

33.430.250.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:

Findings: The approval criteria which would have been applied to an environmental review of the installation of the synlawn play area, retaining walls, steps, and paver patio include those found Section 33.430.250.E. If any of the criteria from Section 33.430.250.E cannot be met, with regards to the construction in the environmental zone, then all of the criteria under Section G must be met, including the criterion which requires removal of the unpermitted development.

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: This approval criterion requires that the applicant demonstrate their proposed development both 1) minimizes the loss of resources and functional values on the project site, and 2) be consistent with uses generally allowed in the base zone without a land use review.

Regarding 1), the applicant requests to keep the existing improvements in place. Removal of the improvements would have an adverse impact to the environment by potentially destabilizing the slope and returning the slope to its previous erosion-prone condition. Further, these improvements act as barrier to keep out Himalayan blackberry and English ivy from encroaching onto the applicant's property and taking over native plants. Ivy and Himalayan blackberry are pervasive on neighboring properties to the east and south and controlling the growth of these invasives on adjacent property is out of the applicant's control.

Regarding 2), the lot is used as a single-family residence. The base zone is low density Single Family Residential (R-10) and allows single-family residential as an outright permitted use, including the landscaping and hardscape improvements installed on the project site. The property will remain one single-family residence and allowing the improvements to remain will not change the intensity of the use as one residential dwelling unit.

Therefore, the proposal 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.

Therefore, this criterion is 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: This criterion requires the applicant to demonstrate that alternatives were considered and that there are no practicable alternatives that would be less detrimental to the identified resources and functional values. In this case, the applicant considered either removing the unpermitted development and regrading the slope, or retaining the existing improvements. Under either alternative, the applicant proposes to remove any non-native plants and replace them with native plantings, as well as increase the total quantity and diversity of native plantings on the site.

Leaving the unpermitted structures (patio, artificial turf and walls), provides some benefits from an environmental impact perspective; they increase the stability of the steep hill slope

behind the house and they create a barrier to colonization by Himalayan blackberry and English ivy. Discussions with the property owner indicate that, prior to construction of these features, they were not able to keep their parcel free from Himalayan blackberry because of how rapidly and persistently it spread from the thicket on the neighbor's property. This statement was supported by observations during a site visit in May 2017.

The removal of the majority of non-native plants and concentrating dense plantings of appropriate native species in the remaining pervious areas will provide a greater ecological benefit than removing the artificial turf and patio area because it will:

- 1) Avoid disturbing and destabilizing soil on the steep slope (also reducing the potential for downstream sedimentation and erosion impacts to neighboring property);
- 2) Provide ample areas of dense native landscaping, which may be preferred by wildlife; and
- 3) Concentrate landscaping in a smaller area while leaving in place features that are acting as a blackberry barrier, thereby making it more feasible for the owners to maintain the native planting areas free of invasive species.

Although the removal of the unpermitted development would result in a minor increase in area available for mitigation plantings, this approximately 566 square foot area would not substantially increase the quantity or quality of mitigation plantings. Rather, the removal and regrading work would potentially negatively impact the existing native plantings on-site.

This criterion is met.

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

Findings: This approval criterion requires the protection of resources outside of the proposed disturbance area from impacts related to the proposal, such as damage to vegetation, erosion of soils off the site, and downstream impacts to water quality and fish habitat from increased stormwater runoff and erosion off the site.

Because this is a violation case, it is already the case that there was a detrimental impact on resources outside of the areas designated to be left undisturbed in LU14-221077 EN for the previous construction of the house. However, a significant portion of the area occupied by the unpermitted development (the paver patio and stairs down to synlawn play area) is located within the area approved for temporary disturbance by the previous land use decision. In addition, the applicant will seek to minimize further disturbance by using only hand-held tools when removing invasive species and replanting native trees, shrubs, and groundcovers. Under the preferred alternative, no additional disturbance is proposed. Non-native plantings will be replaced with native plantings. In addition, there are no high value natural resources at or near the subject property, and retaining the existing development will eliminate the potential for downstream sedimentation impacts during the removal and regrading of the development.

For these reasons, *this criterion is met by the proposal.*

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

Findings: This criterion requires the applicant to assess unavoidable impacts and propose mitigation that is proportional to the impacts, as well as sufficient in character and quantity to replace lost resource functions and values. The proposed mitigation will offset approximately 566 square feet of permanent disturbance area for the unpermitted development, as well as remove and replace the non-native plants planted to unsuccessfully satisfy the conditions of LU14-221077 EN.

The applicant has provided a landscaping planting plan that shows that the undeveloped portions of the property will be planted with native plants (Exhibit C.1, Proposed Planting Plan). There are no high functioning resources near the property. No important natural resources were removed in construction of the house and improvements, as the lot was platted and left undeveloped for several years. Therefore, there were no significant

detrimental impacts that occurred and the proposal to plant native plants will improve the ecological function over current and past condition.

The mitigation plan will compensate for impacts at the site for the following reasons:

- The mitigation area (approximately 3,141 square feet) is more than five times the area of permanent disturbance.
- All available area on the subject property will be planted with native vegetation.
- The mitigation plantings will increase species diversity to improve wildlife habitat in areas that have minimal native vegetation.
- The plantings will provide assistance with pollution and nutrient retention and removal, sediment trapping and erosion control.
- Non-native and invasive species will be removed from the resource area.

The proposed Mitigation Plan will be installed and maintained under the regulations outlined in Section 33.248.040.A-D (Landscaping and Screening). A two-year monitoring period will be required to ensure survival of all proposed mitigation plantings. To confirm maintenance of the required plantings for the initial establishment period, the applicant will be required to have the plantings inspected two years after plantings are installed.

With conditions to ensure that plantings required for this Environmental Review are maintained and inspected, *this criterion 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 for significant detrimental impacts will be conducted on the same site as the environmental violation, and the applicant owns the proposed on-site mitigation area.

These criteria are met.

33.430.250 G. Corrections to Violations (continued)

For corrections to violations, the applicant must meet all the applicable approval criteria stated in 33.430.250.A-F above (only E applies to this proposal) and paragraphs 1, 2.b, and 2.c. below.

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

Findings: The applicant notes that remediation will occur on the same site as the environmental violation, adjacent to the area that was disturbed.

This criterion is met.

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

b. A significant improvement of a least one functional value; and

Findings: This criterion requires a remediation plan that not only compensates for the detrimental impact of the unpermitted work, but also leads to significant improvement of at least one functional value. This improvement is measured against the resource values that existed around the violation area prior to the violation. Essentially, with a correction to a violation, the end result must be an improvement to a resource or functional value that will exceed functional values present before the violation, rather than simply compensating for the functional values lost due to the violation.

The unpermitted work under review resulted in approximately 566 square feet of permanent disturbance (to remain). The applicant's mitigation plan will replant and enhance 3,141 square feet of the resource area on the subject property. Installation of densely planted

native landscaping areas, including trees, shrubs, and ground covers that produce barriers, cover, seeds, and flowers favored by native birds, wildlife and pollinators will create backyard habitat. Native plants will help to stabilize the soil, reduce the need for irrigation, and promote stormwater infiltration.

With conditions for maintenance of the required plantings, *this criterion is met.*

c. There will be minimal loss of resources and functional values during remediation until the full remediation program is established.

Findings: This criterion requires the applicant to protect remaining resources during construction through effective construction management; to install remediation plantings in a timely manner; and to verify the establishment of the full remediation plan following the maintenance period.

To demonstrate that the full remediation program does become established in a timely manner, the applicant must verify success of the remediation plan approved in this review. To document the success of the required plantings, the applicant will be required to obtain a Zoning Permit for inspection of the required plantings, and conduct maintenance in the form of watering, invasive species removal, and replacement of dying plants.

With the conditions to obtain a Zoning Permit, and for maintenance of required plantings; loss of resource functions and values will be minimized during remediation, and *this criterion can be 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 correct the environmental violation that occurred by the unauthorized installation of a synlawn play area, retaining walls, steps, and paver patio, as well as the replacement of non-native mitigation plantings with native plantings to satisfy the previous land use review, all within the Environmental Conservation overlay zone. The applicant proposes to retain all development and has proposed mitigation sufficient to compensate for the permanent disturbance resulting from the development. The applicants and the above findings have shown that the proposal meets the applicable approval criteria with conditions. Therefore, this proposal should be approved, subject to the following conditions.

ADMINISTRATIVE DECISION

Approval of an Environmental Review for:

- Retention of the constructed synlawn play area, retaining walls, steps, and paver patio; and
- Native mitigation plantings,

all within the Environmental Conservation overlay zone, and in substantial conformance with Exhibit C.1, as approved by the City of Portland Bureau of Development Services on **December 28, 2017**. Approval is subject to the following conditions:

- A. A BDS Zoning Permit is required for inspection of required mitigation plantings.** The Conditions of Approval listed below, shall be noted on appropriate plan sheets submitted for permits (building, Zoning, grading, Site Development, erosion control, etc.). Plans shall include the following statement, "**Any field changes shall be in substantial conformance with approved LU 17-152031 EV Exhibits C.1.**"
- B.** The applicant shall obtain a BDS Zoning Permit for approval and inspection of a mitigation plan for a total of 5 trees, 42 shrubs, 26 grasses, 64 perennials, and 218 groundcovers ground covers, all native and in substantial conformance with Exhibits C.1, Proposed Planting Plan. Any plant substitutions shall be selected from the *Portland Plant List*, and shall be substantially equivalent in size to the original plant.

1. Permit plans shall show:
 - a. The location of the trees, shrubs and ground covers required by this condition to be planted in the mitigation area and labeled as “new required landscaping”. The plans shall be to scale, and shall illustrate a naturalistic arrangement of plants and should include the location, species, quantity and size of plants to be planted.
 - b. The applicant shall indicate on the plans selection of either tagging plants for identification or accompanying the BDS inspector for an on-site inspection.
2. Plantings shall be installed between October 1 and March 31 (the planting season).
3. Prior to installing required mitigation plantings, non-native invasive plants shall be removed from all areas within 10 feet of mitigation plantings, using handheld equipment.
4. After installing the required mitigation plantings, the applicant shall request inspection of mitigation plantings and final the BDS Zoning Permit.
5. 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; or the applicant shall arrange to accompany the BDS inspector to the site to locate mitigation plantings for inspection. If tape is used it shall be a contrasting color that is easily seen and identified.

C. The land owner shall maintain the required plantings 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. After the 2-year initial establishment 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 applicant shall arrange to accompany the BDS inspector to the site to locate mitigation plantings for inspection. 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. All required landscaping shall be continuously maintained, by the land owner in a healthy manner, with no more than 15% cover by invasive species. Required plants that die shall be replaced in kind.

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: Ethan Brown

Decision rendered by:  **on December 28, 2017**

By authority of the Director of the Bureau of Development Services

Decision mailed: January 3, 2018

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 April 13, 2017, and was determined to be complete on October 5, 2017.

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 April 13, 2017.

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 52 days. Unless further extended by the applicant, **the 120 days will expire on: March 26, 2018.**

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 January 17, 2018** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **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.

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 will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **January 17, 2018** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

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

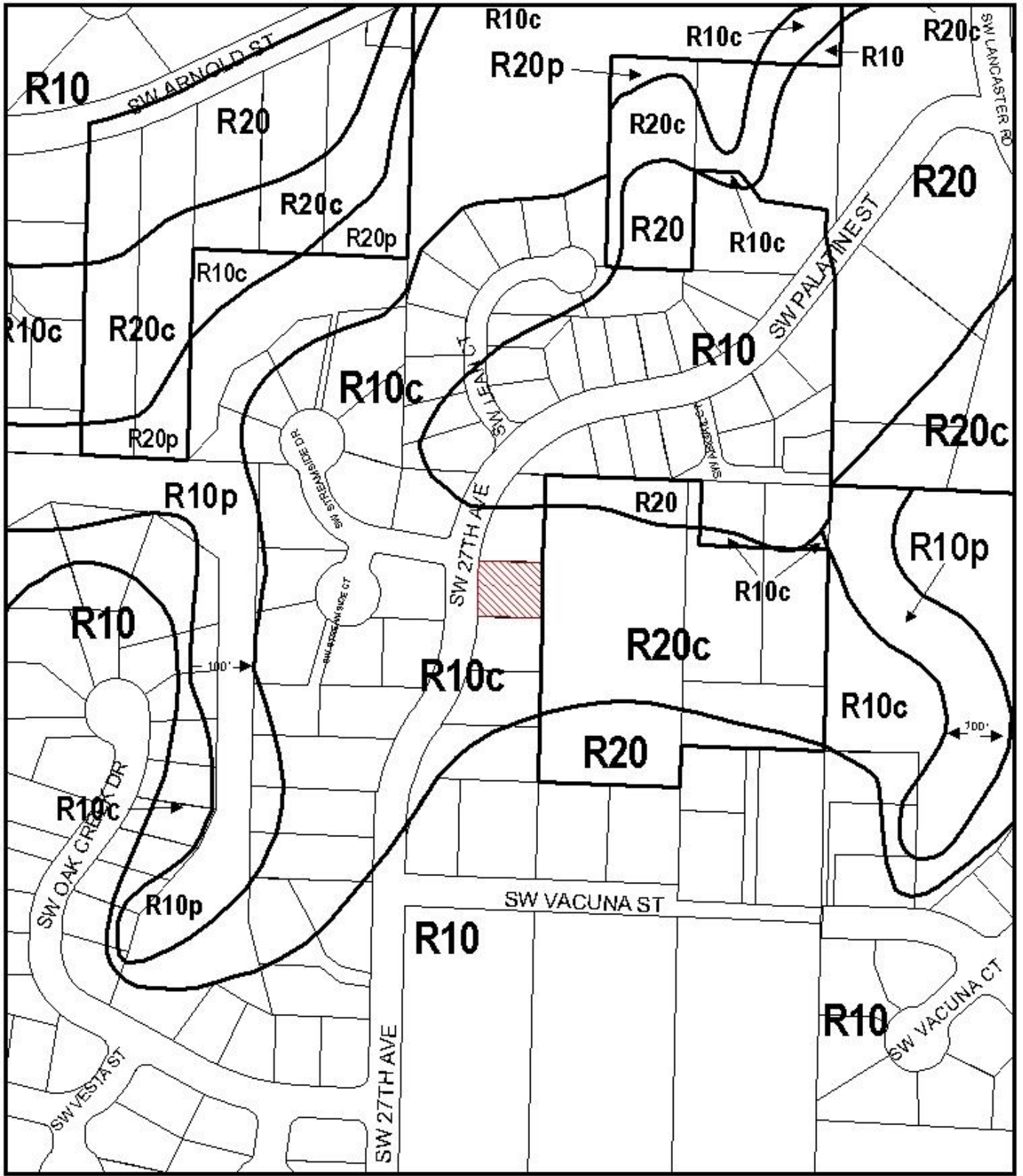
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Original Narrative
 2. Revised Narrative (October 7, 2017)
 3. Revised Narrative (November 1, 2017)
 4. Existing Native Plant List
 5. Proposed Native Plant List
 6. Draft site plans
 7. Approved Site Plans from LU 14-221077 EN
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Proposed Planting Plan (attached)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Bureau of Parks, Forestry Division
 7. Life Safety Review Section of BDS
- F. Correspondence:
 1. Elizabeth Marantz – Land Use Chair, Arnold Creek Neighborhood Association, November 6, 2017: Emphasizes requirements of previous land use review and suggests off-site mitigation
 2. Elizabeth Marantz, November 8, 2017: Provides recommendations for improvements to the mitigation planting plan to facilitate success and survival

G. Other:

1. Original LU Application
2. Incomplete Letter
3. *Natural Resources Inventory Update* habitat values around project site
4. Applicant's email response to ACNA comments (November 6, 2017)
5. Applicant's email response to neighbor comments (December 10, 2017)
6. 120-day Extension Request (November 21, 2017)
7. 120-day Extension Request (December 12, 2017)
8. 120-day Extension Request (December 21, 2017)

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



File No.	LU 17-152031 EV
1/4 Section	4126
Scale	1 inch = 200 feet
State_Id	1S1E32AD 1800
Exhibit	B (Apr 14, 2017)

