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

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Date: March 31, 2020

To: Interested Person

From: Morgan Steele, Land Use Services
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NOTICE OF A TYPE Ix 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 19-235503 EN

GENERAL INFORMATION

Applicant: George Lozovoy | Portland Parks and Recreation
1001 SW 5th Avenue, Suite 2200 | Portland, OR 97204
503.823.5595 | George.Lozovoy@portlandoregon.gov

Owner: Portland City of
1221 SW 4th Ave #130 | Portland OR 97204

Representative: Chris Hagerman | The Bookin Group LLC
1140 SW 11th Ave, Suite 500 | Portland, OR 97205

Site Address: Errol Heights Park: SE 45th Avenue & SE Harney Street

Legal Description: BLOCK 28 LOT 8-14, ERROL HTS; BLOCK 28 LOT 15, ERROL HTS; BLOCK 30 LOT 1-5 TL 2400, ERROL HTS; BLOCK 30 LOT 5 TL 2300, ERROL HTS; BLOCK 30 LOT 6-11, ERROL HTS; BLOCK 30 LOT 12-15, ERROL HTS; BLOCK 31 LOT 5-7, ERROL HTS; BLOCK 31 LOT 8&9, ERROL HTS; BLOCK 31 LOT 10-14, ERROL HTS; BLOCK 31 LOT 15&16, ERROL HTS; BLOCK 31 LOT 17-19 TL 2800, ERROL HTS; BLOCK 31 LOT 20 TL 2900, ERROL HTS; BLOCK 31 TL 3000, ERROL HTS; BLOCK 32 LOT 3-5 TL 1100, ERROL HTS; BLOCK 32 LOT 8 TL 1300, ERROL HTS; BLOCK 32 LOT 9 TL 3100, ERROL HTS; BLOCK 32 LOT 9 TL 1400, ERROL HTS; BLOCK 32 LOT 10, ERROL HTS; BLOCK 32 TL 3200, ERROL HTS; BLOCK 32&A TL 3400, ERROL HTS; LOT A TL 3300, ERROL HTS; E 123.26' OF BLOCK 33 EXC S 36.20', ERROL HTS; BLOCK 33-36 TL 4600, ERROL HTS; BLOCK 37, ERROL HTS; BLOCK 38&39 EXC PT IN ST, ERROL HTS; BLOCK 40, ERROL HTS; BLOCK 41, ERROL HTS; BLOCK 42 TL 400, ERROL HTS; BLOCK 42&43 TL 500, ERROL HTS

Tax Account No.: R255306540, R255306610, R255306890, R255306970, R255306980, R255307080, R255307160, R255307180, R255307190, R255307230, R255307240, R255307260, R255307270, R255307320, R255307370,

	R255307380, R255307390, R255307400, R255307410, R255307430, R255307480, R255307650, R255307720, R255307820, R255307840, R255307880, R255307920, R255307980, R255308040
State ID No.:	1S2E19CD 01900, 1S2E19CA 16900, 1S2E19CD 02400, 1S2E19CD 02300, 1S2E19CC 00200, 1S2E19CD 02500, 1S2E19CD 01700, 1S2E19CD 01800, 1S2E19CD 02600, 1S2E19CD 02700, 1S2E19CD 02800, 1S2E19CD 02900, 1S2E19CD 03000, 1S2E19CD 01100, 1S2E19CD 01300, 1S2E19CD 03100, 1S2E19CD 01400, 1S2E19CD 01500, 1S2E19CD 03200, 1S2E19CD 03400, 1S2E19CD 03300, 1S2E19CD 04400, 1S2E19CD 04600, 1S2E19CD 04700, 1S2E19CD 04900, 1S2E19CD 04800, 1S2E19CC 00300, 1S2E19CC 00400, 1S2E19CC 00500
Quarter Section:	3835
Neighborhood:	Brentwood-Darlington, contact bdlanduse@gmail.com.
Business District:	Woodstock Community Business Association, contact at http://www.woodstockbiz.com
District Coalition:	Southeast Uplift, contact Leah Fisher at 503-232-0010 x313
Plan District:	None
Other Designations:	100-Year Floodplain; Landslide Hazard Area; *Johnson Creek Basin Protection Plan* – Resource Site #7
Zoning:	*Base Zone:* Open Space (OS) *Overlay Zones:* Environmental Conservation (c), Environmental Protection (p)
Case Type:	EN – Environmental Review
Procedure:	Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:
The applicant, Portland Parks and Recreation, is proposing to redevelop Errol Heights Park located at SE 45th Avenue and SE 45th Harney Street in Southeast Portland. Portland Parks and Recreation is undertaking the proposed improvements to Errol Heights Park to 1) protect the site's natural resources; 2) restore and revegetate areas of the site that have been subject to extensive modification; and 3) provide accessible recreational opportunities that are needed in SE Portland.

The proposed improvements involve a hybrid approach, with new development in the upland area outside the Environmental Zones, including a Portland Loo, drywell, gravel paths, lighting, playgrounds, basketball court, skate spot, picnic areas, and a splash pad. Only a limited number of improvements will be within the resource area of the Environmental Zones in the lower park, including resurfacing and widening existing trails and replacing two existing bridges to provide greater park access, new trails to better connect the upper and lower parks, and gathering spaces at critical locations adjacent to the wetland habitat to provide for cultural and educational opportunities. These improvements will require the removal of 15 trees totaling 256 inches diameter breast height from within the Environmental Zones. To mitigate for these impacts, the applicant proposes to plant a total of 116 trees, 600 shrubs, and 117 groundcovers.

The site is within the City's Environmental Conservation and Environmental Protection overlay zones. 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, the resource enhancement will require native tree removal and the public recreational trail will exceed maximum width and length and require work below top-of-bank in addition to native tree removal and the placement of viewing areas within 30 feet of top-of-bank; therefore, Standards 33.430.170.C.3 and 33.430.190.B, .C, .D, and .E are not met by the proposal. For these reasons, an Environmental Review is required.

Relevant Approval Criteria:
In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are:

- **33.430.250.B Resource Enhancement Projects**
- **33.430.250.C Public Recreational Facilities**

ANALYSIS

Site and Vicinity: The 14.28-acre Errol Heights Park is located within the Brentwood-Darlington Neighborhood in southeast Portland. As an assemblage of properties acquired over time, the park's boundary is irregular in shape and encompasses both lowland properties adjacent to Errol Creek and upland lots formerly developed with residences. The site is bordered on the north by single-family residences on unimproved roadways. To the west, the park is bordered by SE 45th Avenue. Industrial uses predominate across SE Harney Drive to the south and southeast.

This small valley drops from an elevation of 160 feet at the north end of the park to 100 feet where Errol Creek is in the southern half of the site. Much of this elevation change occurs across a steep slope over 30 feet high that divides the upper park from the lower park. This slope is over-steepened in one area due to past illegal dumping of spoils down into the ravine. The lower park is flat with a combination of wetlands and ponds.

Errol Heights Park is the headwaters of Errol Creek. Groundwater emerges from a steep hollow in the northeast corner. This spring spills into the upper pond near the east bridge (Bridge #2). Below the bridge are a series of beaver ponds that have dammed water across the lower park flooding the once incised creek. The water exits the site through a culvert on SE 45th Avenue before connecting downstream to Johnson Creek. Several other smaller seasonal springs are present throughout the site and emerge and change location over time. One of the more consistent springs is located at the western bridge (Bridge #1).

The approximately 14 acres of natural area within Errol Heights Park has a history of human development including homes, roads, dumping, and pasture. Currently, the site contains wetlands, springs, and riparian areas, with deciduous and coniferous forest. 35 different species of trees are present within the park with the most common trees being bigleaf maple and black cottonwood. A significant number of the existing trees in the lower park have succumbed to beaver activity either through cutting or flooding inundation that results from damming. There are a significant number of snags and large woody debris throughout the lower park. Shrubs and smaller plants including invasive Himalayan blackberry, reed canary grass, giant horsetail, annual ryegrass, and Italian ryegrass are ubiquitous.

Zoning: The zoning designation on the project site includes the Open Space (OS) base zone with Environmental Conservation (c) and Environmental Protection (p) overlay zones (see zoning on Exhibit B).

The Open Space base zone is intended to preserve public and private open and natural areas to provide opportunities for outdoor recreation and a contrast to the built environment, preserve scenic qualities and the capacity and water quality of the stormwater drainage system, and to protect sensitive or fragile environmental areas. The new uses proposed within the OS base zone as part of this proposal are allowed by right and will be addressed at the time of permit 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.

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 *Johnson Creek Basin Protection Plan* as Resource Site #7. Resources identified in the Plan and specific to the subject site include fish and wildlife habitat, public park land, wetland, and scenic.

Impact Analysis and Mitigation Plan: The following discusses development alternatives that were considered by the applicant. The following additionally describes the proposed construction management plan, unavoidable impacts, and mitigation and monitoring proposal.

Planner Note: Impacts to the Environmental Zones will occur as a result of required right-of-way improvements to SE Harney Drive. These impacts include temporary and permanent disturbance in addition to tree removal. These improvements are a function of a Capital Improvement Project related to development in the vicinity of the park and are required by the Portland Bureau of Transportation. However, since the improvements will be occurring within an existing right-of-way used by automobile traffic, the work is exempt from environmental regulations per 33.430.080.D.2 and thus are not included as part of this review.

Development Alternatives: The applicant provided an in-depth alternatives analysis for all components of the public recreational facilities that did not meet standards and were thus subject to the alternatives analysis exercise required by the approval criteria (33.430.250.C.1). These analyses are included in the application case file (Exhibit A.2) and for the sake of brevity are summarized below.

Trail and Stair Connection from SE 45th Avenue
Three alternatives were explored for this section of trail that did not meet standards. The applicant's purpose was to provide access points from SE 45th Avenue to the existing park, one of which will be Americans with Disabilities Act (ADA) compliant. The design chosen for this section of trail/access was designed with accessibility in mind and the proposed placement was the least impactful in terms of disturbance. The selected alignment was chosen as it follows the grade to the greatest extent practicable resulting in smaller cuts and fewer impacted trees.

Switchback Trail Connection
The purpose of the switchback trail was to provide ADA access from the play area of the upper park to the main trail of the lower park. The trail was designed with ADA accessibility in mind, utilizing a switchback to allow all users to traverse the steep change in grade from the upper park to the lower park. Three alternatives were considered; however, the selected alternative provides the needed accessibility without extending the switchback too far to the east, creating more disturbance and impacts to trees. Further, the proposed elevated ramp design avoids placing built structures directing into the steep hillside, allowing the area in and around the switchback to be revegetated upon project completion.

Trail Expansion and Bridge Replacements
The expansion of the existing trail widths is the direct result of the project purpose of providing ADA accessibility throughout the park. The alternative selected for the trail expansion was the least impactful, keeping the trail at the width necessary (6-feet) to provide ADA accessibility. Moreover, three alternatives were explored for the two bridge replacements. Replacing the bridges in kind was ruled out as timber construction over waterbodies has a short lifespan and the current configuration does not meet the project purpose of being ADA compliant. Alternative locations for the bridges were explored; however, the proposed locations and designs for both bridges were selected based on being the least impactful to resources for both permanent and temporary disturbance while still meeting the project purpose.

Overlooks and Interpretive Facility
Three alternatives for the three outlooks and three alternatives for the interpretive facility were considered and provided by the applicant. In short, alternate locations and designs were considered for each outlook and the interpretive facility and what is proposed was found to be the least impactful out of all other practicable and significantly different alternatives.

Construction Management Plan: Construction access will be provided at multiple locations, aligning with the proposed entry points to the park off SE Tenino Drive and the cul-de-sac on SE Tenino Court as well as the trailhead location on SE 52nd Avenue. The multiple construction entrances will allow the contractor the flexibility to use the least-impactful method to reach different parts of the site, and in some cases to reach both ends of the bridges. When passing through the Environmental Zones, vehicular access by construction equipment and material delivery trucks will be isolated to the trail alignments. The primary construction access road, which follows the existing lower main trail is 10-feet wide to accommodate earth-moving dump trucks and the smallest practical construction equipment. The 10-foot wide road will continue to Bridge #1 to assist with its replacement. The proposed bridges will be delivered in smaller components and assembled onsite to mitigate the need for a crane or larger equipment.

Surface runoff primarily flows from the upper park through the Environmental Zones to the beaver ponds south of the lower trail. Straw wattles will be used on the downhill side of all temporary disturbance areas to capture sediment produced from construction activity. Straw wattles are proposed in lieu of sediment fence to avoid damaging adjacent trees that are slated to remain. Proposed grading areas exceeding 3H:1V slopes will be covered with jute or coir matting to stabilize the soil until new vegetation is established. In the upper park improvement areas, all new and existing stormwater inlets within 200 feet of the project site will be equipped with inlet protection.

Tree removal will be performed with controlled measures to avoid impacts to areas outside the area of disturbance. All existing trees to remain will be protected with construction fencing. Crane pads have been identified in open areas of the upper park to minimize additional tree removals.

Unavoidable Impacts: While the project is intended to enhance environmental resources on the site in addition to developing new and existing public recreational facilities some temporary impacts are anticipated. This project requires the removal of 15 trees totaling 256 inches diameter breast height (dbh) in addition to a total of 43,342 square feet of temporary disturbance and 21,656 square feet of permanent disturbance within the Environmental Zones.

Mitigation Plan: After construction, any disturbance will be mitigated through plantings of native vegetation throughout the park, which will provide long-term stabilization and other upland and riparian functions such as canopy diversity and stream shading, respectively. Areas disturbed by construction activities will be replanted with native vegetation appropriate to Errol Heights Park. Plantings will stabilize soils and provide habitat functions for local wildlife in addition to providing aesthetic functions in keeping with the park setting. All told, a total of 166 trees, 600 shrubs, and 117 groundcovers will be planted in temporary disturbance areas and throughout the park (within Environmental Zones) as mitigation for impacts.

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

- LUR 98-015446 AD (98-001400): Adjustment to reduce landscaping to zero feet – approved.
- LUR 07-113319 EN: Environmental Review for a wetland and stream restoration project – approved.
- LUR 07-166718 EN: Application for Environmental Review for resource enhancement project – void/withdrawn.
- LUR 07-169767 EN: Retroactive Environmental Review for stewardship and maintenance activities associated with Errol Creek and onsite wetlands – approved.
- LUR 16-131900 EN: Environmental Review for the removal of man-made structures in the Environmental Zones within Errol Heights Park – approved.

Agency Review: A Notice of Proposal in your Neighborhood was mailed on January 10, 2020. The following Bureaus have responded with no issues or concerns about the proposal:

• Water Bureau

The Bureau of Environmental Services responded with the following summary comment. Please see Exhibit E.1 for additional details.

BES does not object to approval of the environmental review application. For the purpose of this environmental review, BES focused on the portions of the proposal that are located in or near the environmental zones on this site but provided comments describing additional requirements related to improvements outside of the environmental zone that will apply at the time of permit review.

PBOT responded with the following comment. Please see Exhibit E.2 for additional details.

PBOT Development Review has no objection to approval of the proposed project. The applicant should be aware that recommendation for approval from PBOT Development Review staff does not include approval of the MOU between PBOT and Parks. The final approval of the MOU will be between Parks and PBOT Right-of-Way Acquisition group managed by Dave McEldowney. BES is also interested in being involved in the MOU since there are BES sanitary lines in the unimproved ROW. Frontage improvements on abutting rights-of-way will be constructed under a Local Improvement District (LID).

The Fire Bureau responded with the following comment. Please see Exhibit E.4 for additional details. Fire Bureau requirements must be met at the time of building permit.

This proposal appears to modify the existing street layout and fire hydrant layout. The Fire Bureau needs to ensure that adequate fire hydrant layout and access is met with these proposed changes.

The applicant shall provide information of what was existing roadway and existing fire hydrant layout and any modifications to these, for review and approval.

The Site Development Review Section responded with the following comment Please see Exhibit E.5 for additional details.

Site Development has no objection to the approval of this environmental review. At the time of building permit the items summarized below must be addressed.

1. Submitted drawings must show the extent of the 100-year flood hazard area based on the existing site grades and the base flood elevation provided above.

2. Volume calculations prepared by the civil engineer of record that demonstrate compliance with cut/fill balance requirements must be submitted.

The Bureau of Parks-Forestry Division responded with the following comment. Please see Exhibit E.6 for additional details.

Urban Forestry does not object to approval of the proposed development subject to the following conditions:

- *The project continues to work with Urban Forestry to meet their requirements for capital projects on city property, including final permitting before beginning work.*

The Life Safety Review Section of BDS responded with multiple comments. Specifically, items that will need to be addressed at the time of building permit. These detailed comments can be found in Exhibit E.7.

Planner Note: Urban Forestry Condition of Approval has been incorporated into the Conditions of Approval for this land use decision.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on January 10, 2020. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.430.250 Approval Criteria

An environmental review application will be approved if the review body finds that the applicant has shown that all 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.

B. Resource Enhancement Projects. In resource areas of environmental zones, resource enhancement projects will be approved if the applicant's impact evaluation demonstrates that all the following are met:

1. There will be no loss of total resource area;

Findings: There will be no loss of total resource area as all disturbance is temporary. In fact, the removal of historical development/fill in addition to temporary disturbance restoration will increase the total resource area onsite. Temporarily disturbed areas will be planted with native trees, shrubs, and ground covers, restoring lost resources and their functional values.

Since no loss of total resource area will occur as a result of this project, *this criterion is met.*

2. There will be no significant detrimental impact on any resources and functional values; and

Findings: Considering the entirety of the park's 14.28 acres of resources, project impacts on these resources and their functional values will be not be significant or detrimental and the overall project approach has been designed to minimize the construction footprint within the Environmental Zone.

The resource enhancement portion of this project proposes to remove past development from within the park namely a dilapidated garage foundation and large amounts of trash and debris from historical dumping. The removal of these items will accomplish two things: 1) allow for remediation of the Environmental Zones once development is removed and 2) provide a stable slope for new public trails once the historical dumping fill is removed and the hillside is returned to natural grade.

The applicant has provided a mitigation plan that proposes to restore these areas, outside of new public trails, with native plantings. These plantings will aid in bringing the affected areas back to their natural state in addition to contributing to a diverse forest system throughout the park.

Considering impacts will be minimized and offset by the planting of native vegetation to restore portions of the Environmental Zone affected by past development, *this criterion is met.*

3. There will be a significant improvement of at least one functional value.

Findings: Removing the garage and historical fill will allow these areas, outside of new public trails, to be restored with native plantings including trees, shrubs, and groundcovers. The addition of these plantings will improve the existing resources such as wildlife habitat and wetland, and by extension, their functional values.

The project revegetation plan includes reseeding disturbed areas with native grass seed and the planting of 166 trees, 600 shrubs and 117 groundcovers within the Environmental Zones throughout the project site. These actions will significantly enhance the existing upland forest that currently exists onsite, contributing to the improvement of functional values associated with the upland forest.

Based on the improvement of resources and their functional values, *this criterion is met.*

C. Public Recreational Facilities. In resource areas of environmental zones, public trails, rest points, public viewing areas, and interpretative facilities will be approved if the applicant's impact evaluation demonstrates that all the following are met:

1. **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 during the design of the proposal, and that there are no practicable alternatives that would be less detrimental to the identified resources and functional values.

   The applicant provided a detailed alternatives analysis that can be found in the application case file in Exhibit A.2, as well as described on page 4 of this report. As described above, the applicant considered multiple alternatives for all aspects of the proposed public recreational facilities that failed to meet development standards. Through this analysis, the applicant concluded that the Preferred Alternatives would have the least detrimental impact to resources onsite while still meeting the project purpose of providing ADA accessibility throughout the park.

   In general, the applicant explored alternative designs and locations for new trail connections, existing trails, bridge replacements, overlooks, and the interpretive facility. As presented in their alternatives analysis, the selected alternatives reduced impacts to the resource area and trees by utilizing designs and locations that best suited the steep topography and sensitive areas located onsite. In doing so, the applicant presented a proposal that both provided recreational opportunities for the public while keeping impacts to resources low.

   Based on the foregoing, *this criterion is met.*

2. **The public benefits of the proposal outweigh all significant detrimental impacts;**

   Findings: This criterion requires assessment of the public need for the proposed project and weighing that need against potential impacts to environmental resources at the site. The proposed improvements will not only provide more equitable access to the park in the form of ADA compliant trails but will also incorporate overlooks and interpretive facilities for the use and enjoyment of the public.

   The project will avoid significant detrimental impacts to the resources within the park. All aspects of the project have been designed and located to avoid both significant and detrimental impacts to onsite resources. Construction will utilize low-impact methods and existing access routes. The main staging area will be located outside of the Environmental Zone and BMPs will be utilized to prevent erosion of the soil from entering nearby wetlands.

   Although the project will result in approximately 21,656 square feet of permanent and 43,343 square feet of temporary disturbance in the resource area as well as the removal of 15 native trees, the project will provide equitable access to the park as well as new educational features. Further, mitigation consisting of the planting of 166 native trees and 600 native shrubs will be installed throughout the park once construction is complete. The relatively minor impacts to the resource area are far outweighed by the improvements to the public park.

   With conditions for the installation and maintenance of mitigation plantings, the anticipated impacts will be mitigated, and the equitable access provided to the public will outweigh those impacts, and *this criterion is met*.

3. **Areas disturbed during construction, that do not contain permanent development, will be restored with native vegetation that is similar to the vegetation existing on the site and found on the *Portland Plant List*; and**

   Findings: This criterion requires the applicant to replant temporary construction areas with suitable native vegetation. The applicant's proposed mitigation plan is described on page 5 of this report and shown graphically on Exhibit C.3 (Sheets L0.08, L8.A1, L8.B1, L8.C1, and L8.D1); it aims to restore temporary disturbance areas as well as mitigate for cut/removed

trees. Mitigation for disturbance in addition to the removal of 15 trees includes planting with 166 native trees, 600 shrubs, and 117 groundcovers.

Portland Parks & Recreation has chosen mitigation species that are both appropriate for the site and similar to existing vegetation. The selected species are natives found on the Portland Plant List and will contribute to the uplift of onsite resources and their functional values. However, the applicant is also proposing to remove a dead and hazardous 67-inch big leaf maple. To ensure this removed trees continues to contribute to the functional values at the site, the applicant will be required to leave all pieces of the removed tree onsite in the form of either large woody debris (LWD) or snags.

With conditions to ensure that the minimum number of replacement plantings are planted on the site, that remnants of the 67 inch big leaf maple are retained onsite as either snags or LWD, and that plantings required for this Environmental Review are installed, maintained and inspected, *this criterion can be met.*

4. **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 aquatic habitat from increased stormwater runoff and erosion off the site.

   Construction management techniques have been proposed by the applicant, described on page 5 of this report, to minimize impacts to identified resources and functional values designated to be left undisturbed. The construction techniques proposed include fiber rolls, rocked construction entrance, low-impact equipment, and access via existing trails.

   In addition to utilizing BMPs to protect natural resources, the applicant will also protect trees in the work area by installing tree protection fencing around the Root Protection Zones (RPZ), allowed encroachment area, or alternative RPZ as depicted on site plan drawings. The applicant has also identified measures (Exhibit A.5) to protect trees when RPZ encroachment over the allowed 25% is required for construction activities. The protection fencing will not be moved, removed or entered by equipment.

   This criterion is met by the proposal.

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 requirements of Title 11 can be met, and 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 resource enhancement in addition to new and upgraded public trail facilities within Errol Heights Park. All the construction activities will occur within the boundary of a delineated work area, which will localize impacts and protect other natural resources in the vicinity, specifically wetlands. Subject to conditions related to on-going maintenance activities for the proposed mitigation, the project is expected to result in improved upland forest habitat within the project area in addition to offering new and improved recreational facilities for the public. Therefore, the proposed resource enhancement and public recreational facilities project should be approved.

ADMINISTRATIVE DECISION

Approval of an Environmental Review for:

- Removal of 15 trees over 6 inches dbh;

- Removal of historical development (garage and unconsolidated fill);
- Widening of existing public trails and the installation of new public trail connections, including stairs and fencing;
- Replacement of two bridges;
- Stairway connection to existing trail;
- Four overlooks and an outdoor classroom interpretive facility; and
- 43,343 square feet of temporary disturbance and 21,656 square feet of permanent disturbance

all within the Environmental Conservation and Environmental Protection overlay zones, and in substantial conformance with Exhibits C.1 through C.3, as signed and approved by the City of Portland Bureau of Development Services on **March 26, 2020**. Approval is subject to the following conditions:

A. A BDS Zoning Permit is required for inspection of required mitigation plantings, and a separate BDS construction permit may be required for development. 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 19-235503 EN Exhibits C.1 through C.3."***

Building Permits shall not be issued until a BDS Zoning Permit is issued.

Building Permits shall not be finaled until the BDS Zoning Permit for inspection of mitigation plantings required in Condition E below is finaled.

B. Prior to issuance of a building permit for construction on the site, the applicant must show documentation they have received approval of the Urban Forestry Notice of Review and Permit.

C. Temporary, 4-foot high, bright orange construction fencing, or tree protection fencing, shall be placed along the Limits of Construction Disturbance line, as depicted on Exhibit C.3, Tree Protection & Removal Plan (Sheets L0.02, L2.A1, L2.B1, L2.C1, and L2.D1), to separate approved construction areas from areas to remain undisturbed.

1. No mechanized construction vehicles are permitted outside of the approved "Limits of Construction Disturbance" delineated by the temporary construction fence. All planting work, invasive vegetation removal, and other work to be done outside the Limits of Construction Disturbance, shall be conducted using handheld equipment.

D. All portions of the 67-inch big leaf maple proposed for removal must remain onsite in the form of either large woody debris or snags.

E. The applicant shall obtain a BDS Zoning Permit for approval of a mitigation plan for a total of 167 trees, 600 shrubs, and 117 groundcovers in substantial conformance with Exhibit C.3, Planting Plan (Sheets L0.08, L8.A1, L8.B1, L8.C1, and L8.D1). Any plant substitutions shall be selected from the *Portland Plant List* and shall be substantially equivalent in size to the original plant. Conifers must be replaced with conifers.

1. Permit plans shall show:
   a. Permit plans shall show the general 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 include a "typical," scalable planting layout for each planting zone, and shall illustrate a naturalistic arrangement of plants and should include a planting table listing the species, quantity, spacing and sizes 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. If plantings are installed prior to completion of construction, a temporary orange, 4-foot

high construction fence shall be placed to protect plantings from construction activities.

5. All mitigation and restoration 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.
6. After installing the required mitigation plantings, the applicant shall request inspection of mitigation plantings and final the BDS Zoning Permit.

F. The landowner shall maintain the required plantings to ensure survival and replacement. The landowner 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 finaled 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 landowner in a healthy manner, with no more than 15% cover by invasive species. Required plants that die shall be replaced in kind.

G. 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: Morgan Steele

Decision rendered by: _____ **on March 26, 2020**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 31, 2020

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 2, 2019, and was determined to be complete on January 7, 2020.

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 October 2, 2019.

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 did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: May 6, 2020.**

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.

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further information.

If you are interested in viewing information in the file, please contact the planner listed on the front of this decision. The planner can provide some information over the phone. Please note that due to COVID-19 and accessibility to files, only digital copies of material in the file are available for viewing. 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.

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 on or after April 1, 2020 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 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, permitees must demonstrate compliance with:

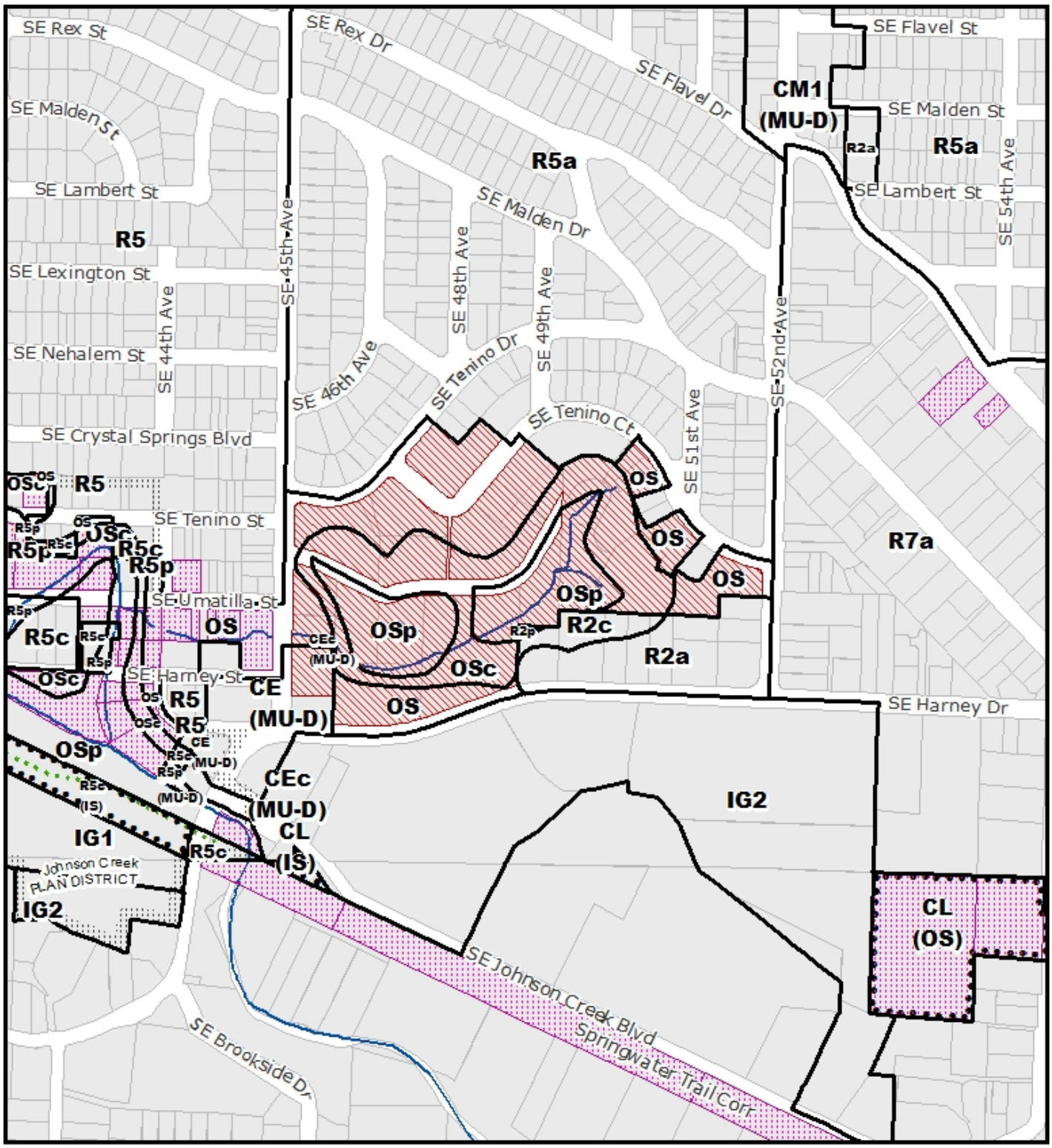
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code for the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

A. Applicant's Statement
   1. Original Narrative & Site Plans, October 2019
   2. Applicant's Revised Narrative, December 2019
   3. Stormwater Management Report, August 2019
   4. Geotechnical Investigation, September 2019
   5. Tree Plan
   6. Arborist Report, October & December 2019
   7. Urban Forestry Notice of Project Review
   8. PBOT Memorandum of Understanding & Easement for Rights-of-Way
   9. Applicant's Response to Incomplete Items
   10. Cut and Fill Calculations Memo, March 2020
B. Zoning Map (attached)
C. Plans/Drawings:
   1. Overall Proposed Development Site Plan (attached)
   2. Overall Planting Plan (attached)
   3. Bulk Site Plans
D. Notification information:
   1. Mailing list
   2. Mailed notice
E. Agency Responses:
   1. Bureau of Environmental Services
   2. Bureau of Transportation
   3. Water Bureau
   4. Fire Bureau
   5. Site Development Review Section of BDS
   6. Bureau of Parks, Forestry Division
   7. Life Safety
   8. Oregon Department of State Lands
F. Correspondence: None Received
G. Other:
   1. Original LU Application
   2. Incomplete Letter
   3. ODSL Wetland Land Use Notification

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

NORTH

Site

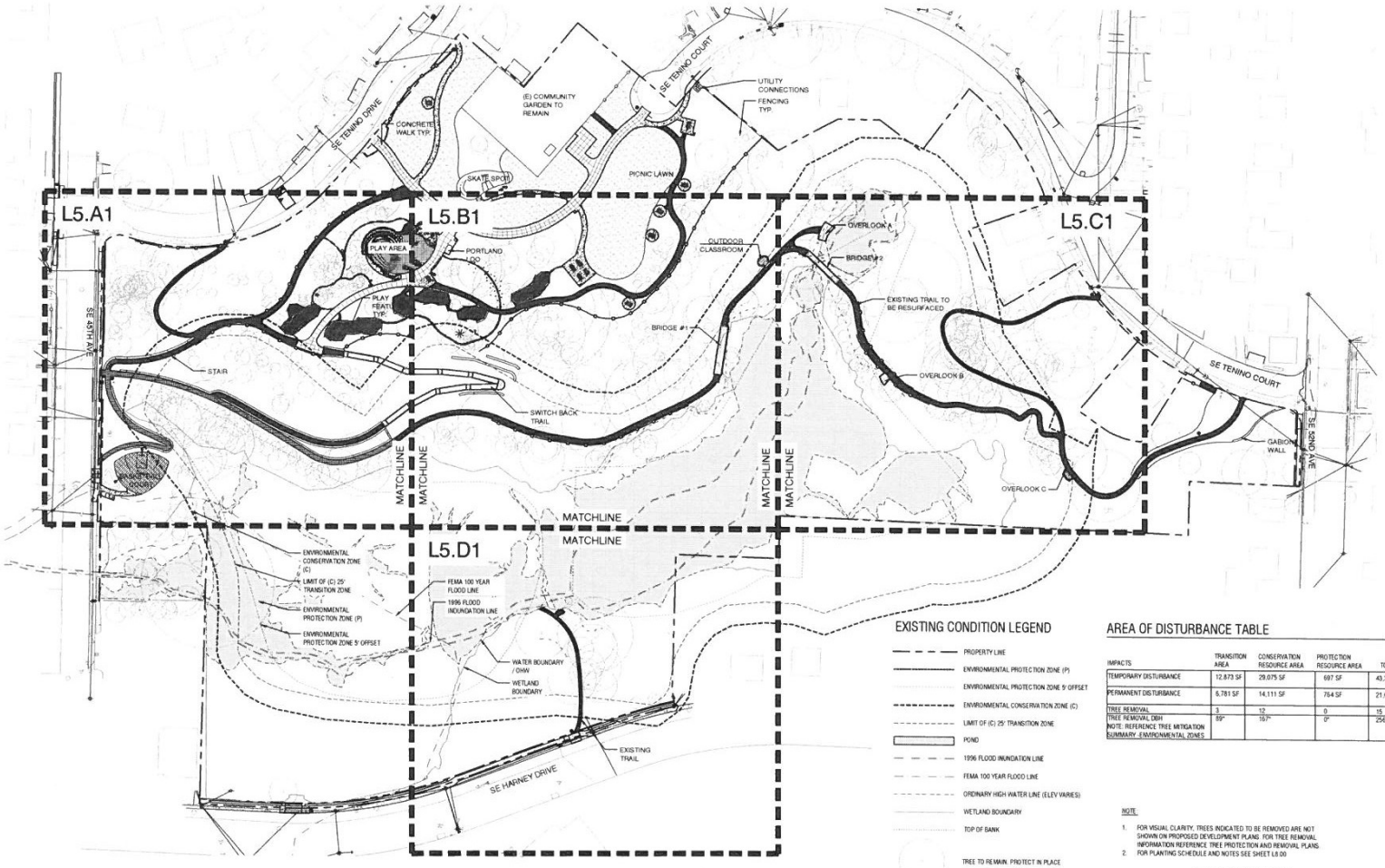
Also Owned Parcels

Stream

Recreational Trails

File No.	LU 19 - 235503 EN
1/4 Section	3835
Scale	1 inch = 400 feet
State ID	1S2E19CD 1900
Exhibit	B Oct 04, 2019

Approved
City of Portland - Bureau of Development Services
LU # 19-235503 EN
Planner SBellmer Date 3/26/20
* Approval for Environmental Review only. Not a building permit. Additional zoning requirements may apply.



1 OVERALL PROPOSED DEVELOPMENT SITE PLAN
SCALE: 1"= 60'-0"

EXISTING CONDITION LEGEND

- PROPERTY LINE
- ENVIRONMENTAL PROTECTION ZONE (P)
- ENVIRONMENTAL PROTECTION ZONE 5' OFFSET
- ENVIRONMENTAL CONSERVATION ZONE (C)
- LIMIT OF (C) 25' TRANSITION ZONE
- POND
- 1996 FLOOD INUNDATION LINE
- FEMA 100 YEAR FLOOD LINE
- ORDINARY HIGH WATER LINE (ELEV VARIES)
- WETLAND BOUNDARY
- TOP OF BANK
- TREE TO REMAIN. PROTECT IN PLACE

AREA OF DISTURBANCE TABLE

IMPACTS	TRANSITION AREA	CONSERVATION RESOURCE AREA	PROTECTION RESOURCE AREA	TOTAL
TEMPORARY DISTURBANCE	12,873 SF	29,875 SF	697 SF	43,342 SF
PERMANENT DISTURBANCE	6,781 SF	14,111 SF	764 SF	21,656 SF
TREE REMOVAL	3	12	0	15
TREE REMOVAL DBH	89"	167"	0"	256"
NOTE: REFERENCE TREE MITIGATION SUMMARY -ENVIRONMENTAL ZONES				

NOTE:
1. FOR VISUAL CLARITY, TREES INDICATED TO BE REMOVED ARE NOT SHOWN ON PROPOSED DEVELOPMENT PLANS. FOR TREE REMOVAL INFORMATION REFERENCE TREE PROTECTION AND REMOVAL PLANS.
2. FOR PLANTING SCHEDULE AND NOTES SEE SHEET L5.00

0 30' 60' 120'

KEY PLAN

NOTE:
SCALE INDICATED ON DRAWING IS CORRECT IF DRAWING BORDER IS 22" X 34".

PORTLAND PARKS & RECREATION
Healthy Parks, Healthy Portland

Mayer/Reed
Mayer/Reed, Inc.
319 SW Washington St.
Suite 820
Portland, Oregon 97204
503.223.5953

NOT FOR CONSTRUCTION

Portland Parks and Recreation
Nick Fish, Commissioner - Adena Long, Director

ERROL HEIGHTS PARK DEVELOPMENT PROJECT
Portland, Oregon

PROJECT MANAGER: GEORGE LOZOVOY
DRAWN BY: -
SECTION: LAND USE REVIEW
SCALE: AS SHOWN
DATE: 10/02/19

REVISIONS

DATE	DESCRIPTION	BY

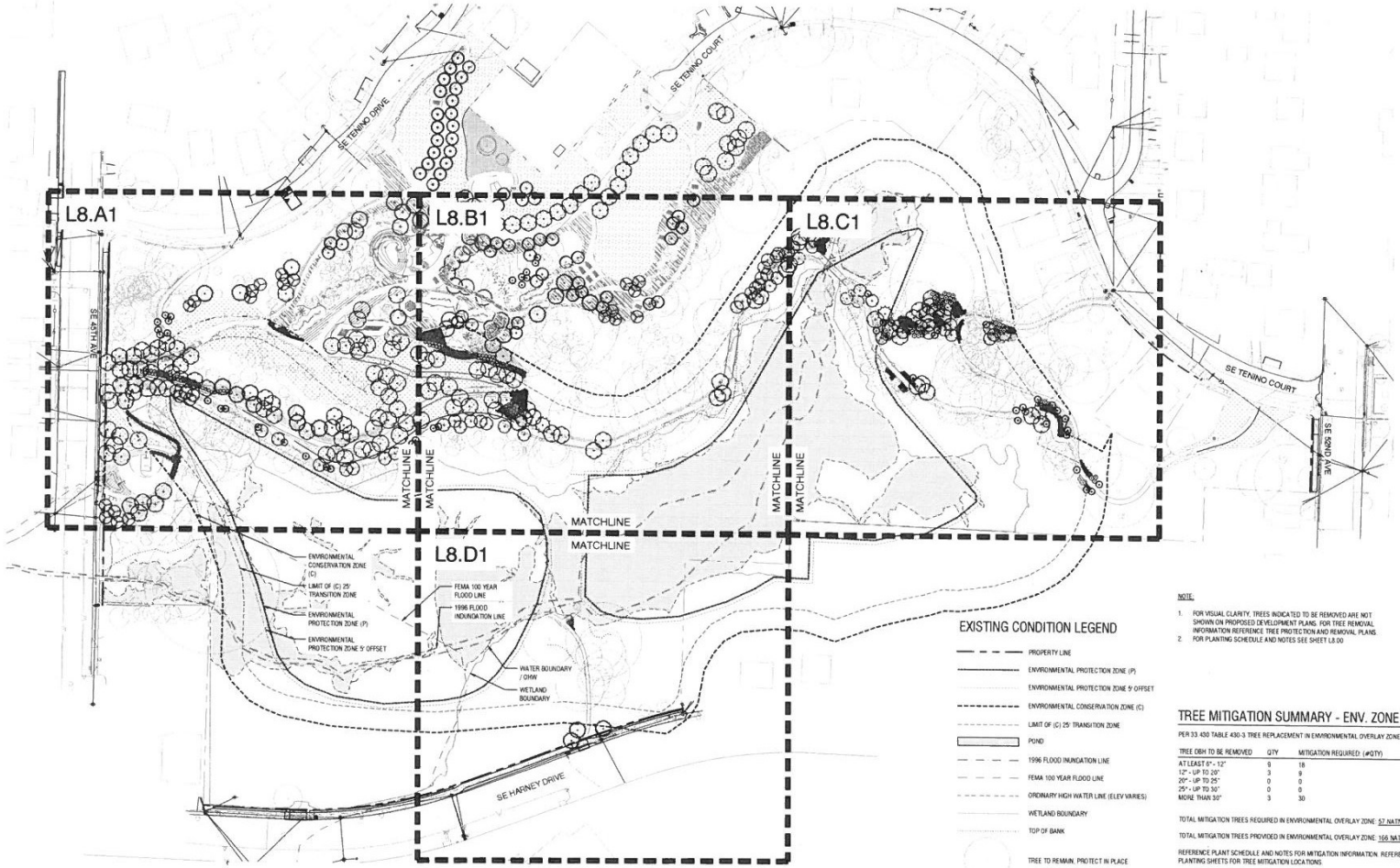
OVERALL PROPOSED DEVELOPMENT SITE PLAN

L0.05

PLOTTED ON: SDATES PLOTTED BY: SUSERNAMES PLOTTED FROM: MAYER/REED, INC.
DRAWING: SFILES

LU 19-235503 EN
Exhibit C.1

Approved
City of Portland - Bureau of Development Services
LU # 19-235503 EN
Planner [illegible] Date 3/26/20
* Approval for Environmental Review only. Not a building permit.
Additional zoning requirements may apply.



1 OVERALL PLANTING PLAN
SCALE 1"= 60'-0"

EXISTING CONDITION LEGEND

- PROPERTY LINE
- ENVIRONMENTAL PROTECTION ZONE (P)
- ENVIRONMENTAL PROTECTION ZONE 5' OFFSET
- ENVIRONMENTAL CONSERVATION ZONE (C)
- LIMIT OF (C) 25' TRANSITION ZONE
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NOTE:
1. FOR VISUAL CLARITY, TREES INDICATED TO BE REMOVED ARE NOT SHOWN ON PROPOSED DEVELOPMENT PLANS. FOR TREE REMOVAL INFORMATION REFERENCE TREE PROTECTION AND REMOVAL PLANS.
2. FOR PLANTING SCHEDULE AND NOTES SEE SHEET L9.00

TREE MITIGATION SUMMARY - ENV. ZONE ONLY

PER 33.430 TABLE 430-3 TREE REPLACEMENT IN ENVIRONMENTAL OVERLAY ZONE

TREE DBH TO BE REMOVED	QTY	MITIGATION REQUIRED (#QTY)
AT LEAST 6" - 12"	9	18
12" - UP TO 20"	3	9
20" - UP TO 25"	0	0
25" - UP TO 30"	0	0
MORE THAN 30"	3	30

TOTAL MITIGATION TREES REQUIRED IN ENVIRONMENTAL OVERLAY ZONE: 57 NATIVE TREES

TOTAL MITIGATION TREES PROVIDED IN ENVIRONMENTAL OVERLAY ZONE: 166 NATIVE TREES

REFERENCE PLANT SCHEDULE AND NOTES FOR MITIGATION INFORMATION. REFERENCE PLANTING SHEETS FOR TREE MITIGATION LOCATIONS.

0 30' 60' 120'

KEY PLAN

NOTE:
SCALE INDICATED ON DRAWING IS CORRECT IF DRAWING BORDER IS 22" X 34".

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ERROL HEIGHTS PARK
DEVELOPMENT PROJECT
Portland, Oregon

PROJECT MANAGER: GEORGE LOZOVOY
DRAWN BY: -
SECTION: LAND USE REVIEW
DATE: 10/02/19
SCALE: AS SHOWN

REVISIONS		
DATE	DESCRIPTION	BY

OVERALL PLANTING PLAN

L0.08

PLOTTED ON: SDATES PLOTTED BY: SUSERNAMES PLOTTED FROM: MAYER/REED, INC.
DRAWING: SFILES

LU 19-235503 EN

Exhibit C.2