



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

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Date: June 2, 2020
To: Interested Person
From: Timothy Novak, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision 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 20-111460 EN

GENERAL INFORMATION

Applicant: Daniel Boatman & Amy Dunning | Bureau of Environmental Services
1120 SW 5th Avenue, Room #1000 | Portland, OR 97204
503.823.7162 | Daniel.Boatman@portlandoregon.gov

Owner: Oregon Department of Transportation | Attn: James Bailey
9200 Lawnfield Road | Clackamas, OR 97015

Representative: Dana Devin-Clarke | Kennedy/Jenks Consultants
421 SW 6th Ave #1000 | Portland, OR 97204

Site Address: Right-of-Way near the intersection of SW Mitchell Street & SW 1st Avenue

Legal Description: N/A
Tax Account No.: N/A
State ID No.: N/A
Quarter Section: 3529

Neighborhood: South Portland contact Jim Gardner at contact@southportlandna.org
Business District: South Portland Business Association, contact info@southportlanddba.com.
District Coalition: Southwest Neighborhoods Inc., contact Sylvia Bogert at 503-823-4592.

Plan District: None
Other Designations: *Southwest Hills Resource Protection Plan* – Resource Site #114 and Site #115
Zoning: *Base Zones:* Residential 1,000 (R1), Residential 2,000 (R2)
Overlay Zone: Environmental Conservation (c)

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

Proposal:

The applicant, Bureau of Environmental Services, is seeking approval to rehabilitate a damaged 15-inch concrete sanitary sewer line that runs adjacent to Interstate 5 within Oregon Department of Transportation (ODOT) right-of-way in the Burlingame neighborhood of SW Portland. To rehabilitate this damaged pipe, a pipe bursting method will be used to install a new 18-inch high-density polyethylene (HDPE) pipe for a total of 272 feet. Pipe bursting is a trenchless method of pipe replacement that involves digging an access pit and inserting a bursting head into the existing sewer line. The bursting head breaks the old pipe apart and pulls the new pipe into place behind it. Additionally, a new 48-inch manhole will be installed over the crushed area of the pipe for future protection of this area and to provide maintenance access to the pipeline.

To access the damaged pipe area for repair, 12 trees, ranging from 3 to 20-inches diameter breast height (DBH) could be impacted and require removal. To mitigate for impact to these trees, the applicant is proposing to plant 40 trees and 425 shrubs with native species found on the *Portland Plant List*. The applicant is also proposing a combination of construction management techniques including erosion control devices and low-impact equipment to keep impacts to natural resources at a minimum.

A portion of this site is within the Environmental Conservation overlay zone. Applicable environmental standards must be met to allow the work to occur by right. For those standards that are not met, Environmental Review is required. In this case, the proposal requires the removal of trees over 12 inches diameter (DBH) and therefore Standard 33.430.150.E is not met by the proposal and the work must be approved through an Environmental Review.

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.A – Utilities**ANALYSIS**

Site and Vicinity: The site is located along the east side of Interstate 5 (I-5), approximately halfway between the Ross Island Bridge to the north and the “Terwilliger Curves” section of I-5 to the south. The highway is above the grade of the adjacent street to the east and the repair site that lies between the two, with the difference in elevation increasing significantly from the north end to the southern end of the project site.

The location of the collapsed pipe that is the center of repairs prompting this review, is at the south end of the project area. It is an unretained slope that is heavily wooded, overwhelmingly with native angiosperm (deciduous) species, particularly Bigleaf maple. Moving north the slope is replaced by a retaining wall to allow for SW 1st Avenue, which runs north from SW Mitchell Street 258 feet and serves five residential lots. All work to replace the pipe in this area will occur in the existing paved street.

Zoning: The zoning designation on the site includes the multi-dwelling base zones, with an Environmental Conservation ‘c’ zone overlay. (see zoning on Exhibit B).

Multi-Dwelling base zones R1 & R2. While the application is vested in the zoning in effect at the time of application, the zoning at the site was changed from R1 and R2 to RM1 and RM2 on March 1, 2020, when zoning amendments from the Better Housing By Design Project became effective. The current zoning is RM2 to the east and RM1 to the west. The old and new zoning designations are both medium-to-high density multi-dwelling development and intended to implement the comprehensive plan policies and designations for multi-dwelling housing in effect at the applicable time. The substance of this review is not affected by the change in the base zone designations as none of the applicable approval criteria vary or are informed by base zone designations.

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 *Southwest Hills Resource Protection Plan* and straddles the boundary (SW Mitchell St) between resource sites #114, *Terwilliger Parkway, Central*, and #115, *George Himes Park*.

Resource Site 114 is 455 acres and has a wildlife habitat score of 75. Resources at the site include wildlife habitat, forest, perennial and seasonal creeks, groundwater recharge, scenic, historic, cultural, recreational and open space. The habitat classification includes upland coniferous/broadleaf deciduous forest and riverine, upper perennial/intermittent streambeds. Most all of the site is west of I-5 and includes a large section of the SW Hills and Terwilliger Boulevard. Only the right-of-way is included in the resource site along the section of I-5 that includes the project area, with the abutting private lots outside of the 'c' overlay. As noted above, the project area lacks coniferous tree species and is physically separated from the rest of the resource area by I-5; according to City GIS data, none of the streams in the resource site that flow east, two of which appear to flow towards the vicinity of the project area, continue above ground once they approach I-5.

Resource Site 115 is 472 acres and has a wildlife habitat score of 69. The types of resources found at Resource Site 115 include wildlife habitat, forest, scenic, cultural, historical, recreation, seasonal and perennial creeks, wetland, groundwater recharge and open space. Like resource Site 114, the habitat classification of Site 115 includes upland coniferous/broadleaf deciduous forest and riverine, upper perennial/intermittent streambeds. Resource Site 115 is forested, has three seasonal streams, and has a 40 percent slope. This site has a large diversity of land uses. The resources are typically intermingled with developed residential areas or open space designated areas.

Similar to what is noted above for Resource Site 114, the portion of the project in Resource Site 115 lacks coniferous tree species and, with the exception of one undeveloped underpass, is physically disconnected from the rest of the resource area that lies west of I-5; according to City GIS data, none of the streams in the resource site that flow east, at least one of which appears to flow towards the vicinity of the project area, continue above ground once they approach I-5.

According to the applicant's narrative, based on a vegetation survey, the project area is comprised of mostly non-native groundcovers and shrubs, including English ivy, English holly, Laurel, Himalayan blackberry and Pea. The applicant's tree survey, as noted above, shows that native Bigleaf maple is the predominant tree in the project area.

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, mitigation, and monitoring proposal.

Development Alternatives:

Alternative #1 – No Build

No action would be taken with this alternative. The existing failed sewer line would not be replaced and residents served by the sewer line would not have functioning, reliable sewer

services. Such an option results in a health and safety hazard and is not considered a viable option.

Alternative #2 – Cured-in-place pipe.

In Alternative #2, the rehabilitation of the collapsed pipe occurs by trenchlessly installing a cured-in-place pipe (CIPP) liner. CIPP is installed by inserting the liner into the existing sewer line and then curing it. There are two sewer laterals connecting to the sewer main including the house at 34 SW Mitchell and the ODOT retaining wall subdrainage. The connection for 34 SW Mitchell is located within the transition area of the 'c' overlay, while the lateral for the ODOT subdrainage is located in the resource area of the 'c' overlay. Reconnection of the service lateral to 34 SW Mitchell would occur internally to the pipe using a cutter tool after the CIPP liner has cured. The ODOT subdrainage connects into the portion of the pipe that is crushed and would be reconnected into a newly installed manhole.

In order to line this pipe, the crushed portion and all areas where the pipe is no longer oval would need to be repaired prior to inserting the liner. This can only be accomplished by excavating over 40 linear feet of oval or misshapen pipe and replacing it with new pipe and/or a new manhole. To access the crushed pipe, 12 trees in the 'c' overlay would need to be removed, three of which exceed 12" in diameter. An additional drawback of this method is that installing a liner within the pipe reduces the hydraulic capacity and internal diameter of the sewer line to less than 15 inches, which according to the applicant, will result in inadequate sewer service into the future.

Alternative #3 – Pipe Burst (*Preferred Alternative*)

In Alternative #3, the rehabilitation of the collapsed pipe occurs trenchlessly via pipe bursting. This method is minimally invasive. The pipe will be accessed from a launch pit located outside of the environmental zone, installed above the upstream manhole. A bursting head will then burst the existing pipe from the launch pit to the downstream manhole where it is received pulling the new pipe along the existing alignment underground. The crushed portion of pipe requires replacement prior to pipe burst. This area will be repaired via open cut excavation and a new manhole installed for sewer access and future maintenance. The lateral conveying ODOT subdrainage will be reconnected to the new manhole partially located in the resource area. The lateral service connection at 34 SW Mitchell will need to be reconnected via open excavation in the transition area. The new 18-inch high-density polyethylene (HDPE) pipe will have the same outer diameter as the existing concrete pipe and therefore will have the same footprint. The internal diameter of HDPE is 16.18 inches, larger than that which would result from Alternative #2, providing greater hydraulic capacity.

Pipe bursting requires less open excavation than the CIPP option as only the crushed portion of pipe will require open trenching to repair. To access this area for repair, 1 tree larger than 12" in diameter in the resource area needs to be removed.

The applicant has noted that there is a possibility that additional collapsing of the pipe could occur during construction. If this occurs, it will require use of more open trenching to complete the project, which will necessitate the removal of three more trees 6" or greater in diameter. This review will evaluate the project based on removal of all four trees to ensure that approval of the proposal facilitates completion of the project, regardless of whether or not the project faces additional pipe collapse.

Construction Management Plan: The type and location of construction management techniques are listed and shown on Sheet C03 of the plan set. The impacts of the proposed sewer repair will occur in a narrow area to limit the temporary disturbance. In addition, the contractor will be limited to hand digging or using a walking excavator for trenching; no tracked equipment will be used for trenching work or stockpiling of soils. The contractor will place silt and temporary construction fences around the perimeter of the construction disturbance and access area for the duration of construction. Construction access areas will also utilize crushed rock as a surfacing material to prevent erosion. To the extent practical, all

vegetation outside the limit of disturbance will be protected. In addition, tree protection fencing will be placed as outlined on sheet C05 to protect all trees outside the immediate work zone.

Unavoidable Impacts: In total, up to four trees with a diameter of at least 6" may need to be removed to repair the collapsed pipe and install new piping and a new sewer manhole. At a minimum, one Big Leaf Maple (15" DBH) and two other trees with diameters of less than 6" in the resource area will require removal.

Nine additional trees are located within the work area and are designated for preservation. They could require removal during construction should the sewer pipe collapse further. Therefore, they will be considered removed for the purposes of this application. Of those trees that may need to be removed, two are big leaf maples with diameters of 16" and 20" and one is a 6" native plum. The remaining six trees that may have to be removed are less than 6" in diameter and don't require replacement per 33.430.150.E.

The total amount of permanent disturbance area is approximately 10 square feet, all at the location of the new manhole. Up to 5,080 square feet of temporary disturbance area is possible, 1,173 square feet of it in the resource area. All temporary disturbance area will be subject to replanting and mitigation once construction is complete.

Mitigation & Monitoring Plan: When construction activities are completed, the temporary disturbance areas will be revegetated; the number of trees to be planted is 40 and the number of shrubs to be planted is 425; all plants will be native and selected from the Portland Plant List. The number of shrubs proposed exceeds the minimum required to be planted in the resource area by 33.430.150.D, which is 353 shrubs. The number of trees proposed is almost four times that required by Table 430-3. The reason for the significantly larger number of shrubs than is otherwise required is two-fold: 1. The applicant anticipates up to 50% die-off of tree species and 20% die-off of shrub species. Overplanting allows the applicant to achieve the desired final plant density without having to irrigate. 2. The number of additional trees is mitigation for the removal of up-to-three trees with diameters of greater than 12" (the fourth tree can be removed by standard). To further mitigate for the impacts of the work and enhance the resources of the site, if additional excavation isn't required and the amount of temporary disturbance, particularly in the resource area, is able to be limited to less than what is being approved, the applicant has agreed to plant the transition area with any of the 425 shrubs that don't fit in the disturbed resource area; standards don't require replanting any shrubs in the transition area.

To confirm survival of the required plantings for the initial establishment period, the applicant will be required to have the plantings inspected upon planting and again, two years after plantings are installed.

Additionally, to accommodate all of the proposed plantings and enhance the mitigation efforts, the applicants will remove all nuisance species from the project area. By increasing the area of nuisance removal to include all area within 10-feet of the project boundary, the new, native plantings will be given better opportunity to establish themselves without undue competition. To improve overall habitat conditions at the site, the applicants propose to retain some of the downed wood on site, as allowed by safety and site conditions.

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

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **April 17, 2020**. The following Bureaus have responded with no issues or concerns:

- Portland Bureau of Transportation
- Water Bureau
- Fire Bureau
- Site Development Section of BDS

- Life Safety Section of BDS

The Bureau of Environmental Services responded with comments, but without objections or conditions. Please see Exhibit E.1 for additional details.

The Bureau of Parks-Forestry Division responded with the following comment: Title 11 requires the project to obtain approval through the Capital Improvements Project (CIP) process through Urban Forestry. Cooperation and Compliance with requirements of the CIP is recommended as a Condition of Approval. Please see Exhibit E.6 for additional details.

The Oregon Department of Transportation, Region 1 Development Review responded with comments regarding ODOT permits and agreements required to carry out the work in the Right-of-way of a state highway. Please see Exhibit E.8 for additional details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on April 17, 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 for Environmental Review

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.

Findings: The approval criteria which apply to the proposed work in the ROW for the replacement of the existing sewer line and addition of a manhole are found in Section 33.430.250.A.1 and A.3. The applicant has provided findings for these approval criteria and BDS Land Use Services staff have revised these findings or added conditions, where necessary to meet the approval criteria.

33.430.250.A. Public safety facilities, rights-of-way, driveways, walkways, outfalls, utilities, land divisions, Property Line Adjustments, Planned Developments, and Planned Unit Developments. Within the resource areas of environmental zones, the applicant's impact evaluation must demonstrate that all of the general criteria in Paragraph A.1 and the applicable specific criteria of Paragraphs A.2, 3, or 4, below, have been met:

A.1. General criteria for public safety facilities, rights-of-way, driveways, walkways, outfalls, utilities, land divisions, Property Line Adjustments, Planned Developments, and Planned Unit Developments;

- Proposed development locations, designs, and construction methods have the least significant detrimental impact to identified resources and functional values of other practicable and significantly different alternatives including alternatives outside the resource area of the environmental zone;

Findings: As described in the Alternatives Analysis section on page 4 of this report, the preferred pipe-bursting alternative is the least detrimental of the practicable and significantly different alternatives, including those outside the resource area of the 'c' overlay. The preferred method replaces the existing pipe in the same location with one that has an increased internal diameter capable of accommodating future increases in flow demand. The other practicable alternative, cured-in-place pipe, requires a minimum amount of temporary disturbance equal to the worst-case scenario under the preferred alternative. Additionally, it reduces the internal diameter of the pipe, creating the potential for the need to conduct a more extensive and impactful replacement in the future. The 'no action' alternative is not practicable, since the pipe has failed and repair/replacement is

necessary for needed sanitation for surrounding properties. Alternatives that relocate the pipe outside of the resource area were not considered, presumably because the cost to relocate existing connections would be prohibitive and the pipe would still be located, at best, in the transition area of the 'c' overlay and require substantially more excavation and result in substantially more negative impacts on the resources of the site than the considered alternatives, especially the preferred alternative. *Therefore, this criterion is met.*

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

Findings: As noted above on pages 4 and 5 in the 'Construction Management Plan' section of the Impacts Analysis, the applicant has proposed physical barriers (fencing) and construction techniques specifically intended to prevent disturbance and significant detrimental impacts beyond the limits of disturbance. Contractors will limit equipment for excavating and moving soils to walking excavators or hand tools. Silt fencing will be placed on the perimeter of construction activities to avoid erosion onto areas designated to be left undisturbed. Permanent erosion control will be achieved by seeding all exposed soils with a native groundcover seed mix. Orange construction fencing will be placed along the limits of disturbance to clearly communicate to workers the areas that are not to be accessed or disturbed. Tree protection fencing will further provide a physical barrier between work areas and resources to be protected. Its location has been established by Urban Forestry staff to ensure the protection of the maximum number of trees possible and includes an alternatives plan in the case that additional pipe collapsing is found and removal of the maximum number of trees approved by this review is required.

To ensure that the tree protection fencing is set in place at the proper location a condition of approval will require installation of the fence at location A (see exhibit C.5) to be inspected and approved by the Urban Forestry CIP inspector prior to any groundwork occurring at the site; and

Furthermore, if the initial excavation reveals that the pipe failure is more extensive and additional excavation is required, the condition will require that the Urban Forestry CIP inspector supervise relocation of the fence to location B (see exhibit C.5) before continuing with the remaining excavation.

Finally, a native groundcover seed mix will be used over all exposed soils to provide permanent erosion control. The applicant will submit documentation identifying the seed mix with their application for zoning permit.

With the above conditions, this criterion is met.

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

Findings: The total permanent disturbance area is less than 10 square feet, the size of the new manhole, which lies on the boundary between the resource and transition areas. The temporary disturbance area will be 1,173 square feet or less in the resource area and 3,897 square feet or less in the transition area.

As noted above on page 5 in the 'Mitigation and Monitoring Plan' section of the Impacts Analysis, the applicant has proposed mitigation and monitoring to compensate for the loss of three native trees with diameters greater than 12", which is the bulk of the detrimental impacts on resources and values resulting from this project and is the portion of the work that doesn't meet the standards of 33.430.150. Fortunately, there are other large trees in the stand at the site that can continue to provide the functions and resources of larger canopy Big leaf maples. Furthermore, while the trees being removed provide habitat, stabilize the slope, and help treat runoff, the understory is dominated by invasives, such as English ivy, English Laurel, and Himalayan blackberry. The applicant proposes removing all invasive species within 10 feet of the disturbance areas. Those areas will then be replanted with 40 native trees and 425 native shrubs; all species proposed are listed in the Portland

Plant List. Replacing invasive shrubs and groundcovers with native species will provide slope stability. Additionally, the new vegetation will enhance the diversity of the site's habitat and vegetative structure, providing new food sources and important mid and lower canopy habitat, which is more or less absent at present. Three of the four shrub species proposed produce berries known to serve in varying degrees as important food sources for native birds and mammals. The shrub selection includes vine maple, an arborescent shrub, tall Oregon grape, red elderberry, and snowberry.

In addition to removal of invasives and the planting of shrubs, the applicant will plant 40 trees from three different native species, two of whom are not currently present on the site. Big leaf maple, already present in large numbers, will be complemented by bitter cherry and ponderosa pine. Bitter cherry is a smaller deciduous tree that is an important food source for a variety of native bird and mammal species (*Portland Plant List, pg. 3.17-1*). Ponderosa pine is a native conifer with a mature height of up to 200'. There are currently no coniferous trees within the site's stand. Adding a coniferous species will help to add diversity and upper canopy habitat over the long-run that the site currently lacks.

As already noted, removing invasives and replanting with a more diversified species selection than is currently present on the site, will increase the site's diversity of resources and better support its functional values. To further enhance the site, the applicant has proposed to leave larger pieces of downed wood on the site, if feasible. Creating woody debris will create new and important habitat options for insects, small mammals and other important decomposers like fungi, which are vital to overall ecosystem health.

Finally, the applicant has proposed a monitoring plan that includes continued removal of nuisance species and replacement of dead plantings for two years after the completion of the project. Per the applicant's narrative, *"The BES Watershed Revegetation Group will be responsible for the monitoring and establishment of the Mitigation Plan. The Watershed Revegetation Group will inspect the plantings at six months and at one year after the initial planting, to check for the survival and vigor of the plantings. Replacing in-kind any dead or dying plants [as appropriate to achieve final desired density]. The Watershed Revegetation Group will check the plantings one-year after the end of the first growing season and check again for the survival and vigor of the plantings. Again, any dead or dying plants will be replaced in kind [as appropriate to achieve final desired density]. Generally, after two years, all plants should be well established and not require any further monitoring and/or maintenance."*

The applicant and the revegetation team for BES have stated that their strategy is to achieve the desired final stocking density (20 trees and 353 shrubs) by *"planting bareroot seedlings at initially higher density and anticipating this mortality. Since native bareroot seedlings are very low cost (<\$2 each for material + installation) and can be successfully established without supplemental irrigation, we find this to be very cost-effective overall."*

As a condition of approval, the area where nuisance species will be removed will be from all areas within 10 feet of mitigation plantings, using handheld equipment to avoid undue additional disturbance from the effort in those areas within 10 feet of the planting area.

An additional condition of approval will require that maintenance and monitoring of the planted area continue for two years after the initial planting and that at the end of two years:

- a. The surviving number of trees will be a minimum of 20 specimens in ratios of species type and diversity similar to those proposed;
- b. The surviving number of shrubs will be a minimum of 353 specimens in ratios of species type and diversity similar to those proposed;
- c. The percent of planted area covered by invasive species shall not exceed 10%.

With the above conditions, this criterion is met.

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

Findings: All mitigation proposed is to occur within or abutting the project area.

Therefore, *this criterion is met.*

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

Findings: The site is within the I-5 right of way. The Oregon Department of Transportation (ODOT) has permitting authority for this facility. ODOT Development Review staff reviewed this proposal and stated the following, “An ODOT Permit to Occupy or Perform Operations Upon a State Highway shall be obtained for all work in the State highway right of way. When the total value of improvements within the ODOT right of way is estimated to be \$100,000 or more, an agreement with ODOT is required to address the ownership, maintenance, and operations of any improvements or alterations made in highway right of way. An Intergovernmental Agreement is required for public sector agreements.”

As such, a condition of approval shall require the applicant to provide documentation that they have approval from ODOT to install and maintain the mitigation plantings.

With the above condition, this criterion is met.

A.3. Rights-of-way, driveways, walkways, outfalls, and utilities;

- a. The location, design, and construction method of any outfall or utility proposed within the resource area of an environmental protection zone has the least significant detrimental impact to the identified resources and functional values of other practicable alternatives including alternatives outside the resource area of the environmental protection zone;

Findings: The project area is not adjacent to or within an environmental protection zone. Therefore, this criterion is not applicable.

- b. There will be no significant detrimental impact on water bodies for the migration, rearing, feeding, or spawning of fish; and

Findings: There are no water bodies within the project area. Therefore, this criterion is not applicable.

- c. Water bodies are crossed only when there are no practicable alternatives with fewer significant detrimental impacts.

Findings: The project doesn't propose to cross any water bodies. Therefore, this criterion is not applicable.

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 temporarily disturb up to 5,080 square feet and permanently disturb up to 10 square feet within the Environmental Conservation overlay zone for the purposes of repairing and replacing an existing, failing sewer pipe. The disturbance area will be mitigated with the removal of invasive species and the installation of native plants once construction is complete. The applicant considered alternatives to demonstrate the proposed disturbance would minimize impacts to the resource area of the Environmental Zone. The applicant 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 conditions described below.

ADMINISTRATIVE DECISION

Approval of an Environmental Review for the removal of four native trees greater than 6" in diameter to replace an existing, failed sewer pipe, and to install a new manhole, all within the Environmental Conservation overlay zone, and in substantial conformance with **Exhibits C.1 through C.5**, as approved by the City of Portland Bureau of Development Services on **May 28, 2020**.

Approval is subject to the following conditions:

- A. The applicants shall continue to work with and complete all the permitting requirements through the Urban Forestry Capital Improvement Project (CIP) process, see permit #17-285531. For purposes of this review, this includes the following requirements:
 1. To ensure that the tree protection fencing is set in place at the proper location installation of the fence at location A (see exhibit C.5) shall be inspected and approved by the Urban Forestry CIP inspector prior to any ground disturbance occurring at the site; and
 2. If the initial excavation reveals that the pipe failure is more extensive and additional excavation is required, the Urban Forestry CIP inspector shall supervise relocation of the fence to location B (see exhibit C.5) before the remaining excavation begins.
- B. **A BDS Zoning Permit is required for inspection of required mitigation plantings and shall be obtained prior to the start of construction activities. The Zoning Permit must have final inspection approval within 6 weeks of completion of construction, but may be extended to allow for planting within the next planting season.**

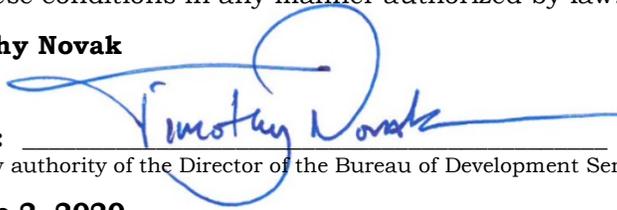
The Conditions of Approval listed below, shall be noted on the appropriate plan sheets submitted for permits. Plans shall include the following statement, ***“Any field changes shall be in substantial conformance with approved LU 20-111460 EN Exhibits C.1 through C.5.”***

1. The Zoning Permit application shall include documentation that the applicant has approval to install and maintain the required mitigation plantings with the ODOT right-of-way.
2. The Zoning Permit shall include inspection of a mitigation plan for invasive species removal, planting of 40 trees, 425 shrubs, and seeding of the entire temporary disturbance area(s) with a native groundcover mix. The location of plantings shall be in substantial conformance with the temporary disturbance areas shown on Exhibit C.2; the resource area shall be prioritized for planting. Once the spacing requirements stated on Exhibit C.4 are met within the resource area, the remaining plantings shall be planted in the transition area. The plans shall include a planting table listing the species, quantity, spacing and sizes of plants to be planted in substantial conformance with Exhibit C.4. 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 substituted with conifers. Fruit-bearing shrubs must be substituted with fruit-bearing shrubs.
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. 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.

5. After installing the required mitigation plantings, the applicant shall request inspection of mitigation plantings and final the Zoning Permit.
- C. **The applicant shall maintain the required plantings** to ensure survival and replacement so that a minimum of 20 trees and 353 shrubs have established themselves at the end of the designated two-year monitoring period. The applicant 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 applicant 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 of the zoning permit required in Condition C.
 2. The surviving number of trees will be a minimum of 20 specimens in ratios of species type and diversity similar to those proposed.
 3. The surviving number of shrubs will be a minimum of 353 specimens in ratios of species type and diversity similar to those proposed.
 4. The percent of planted area covered by invasive species shall not exceed 10%.
- 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: Timothy Novak

Decision rendered by:  **on May 28, 2020**
By authority of the Director of the Bureau of Development Services

Decision mailed: June 2, 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 January 29, 2020, and was determined to be complete on April 14, 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 January 29, 2020.

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 ten (10) days (Exhibit G.3). Unless further extended by the applicant, **the 120 days will expire on: August 22, 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.

Appealing this decision. This decision may be appealed, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received by 4:30 PM on June 16, 2020. **Towards promoting social distancing during the COVID-19 pandemic, the completed appeal application form must be e-mailed to BDSLUSTeamTech@portlandoregon.gov and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. An appeal fee of \$250 will be charged. Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations for the appeal of Type II and IX decisions on property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional 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 limited 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 <https://www.portlandoregon.gov/citycode/28197>.

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 **June 16, 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 of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

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

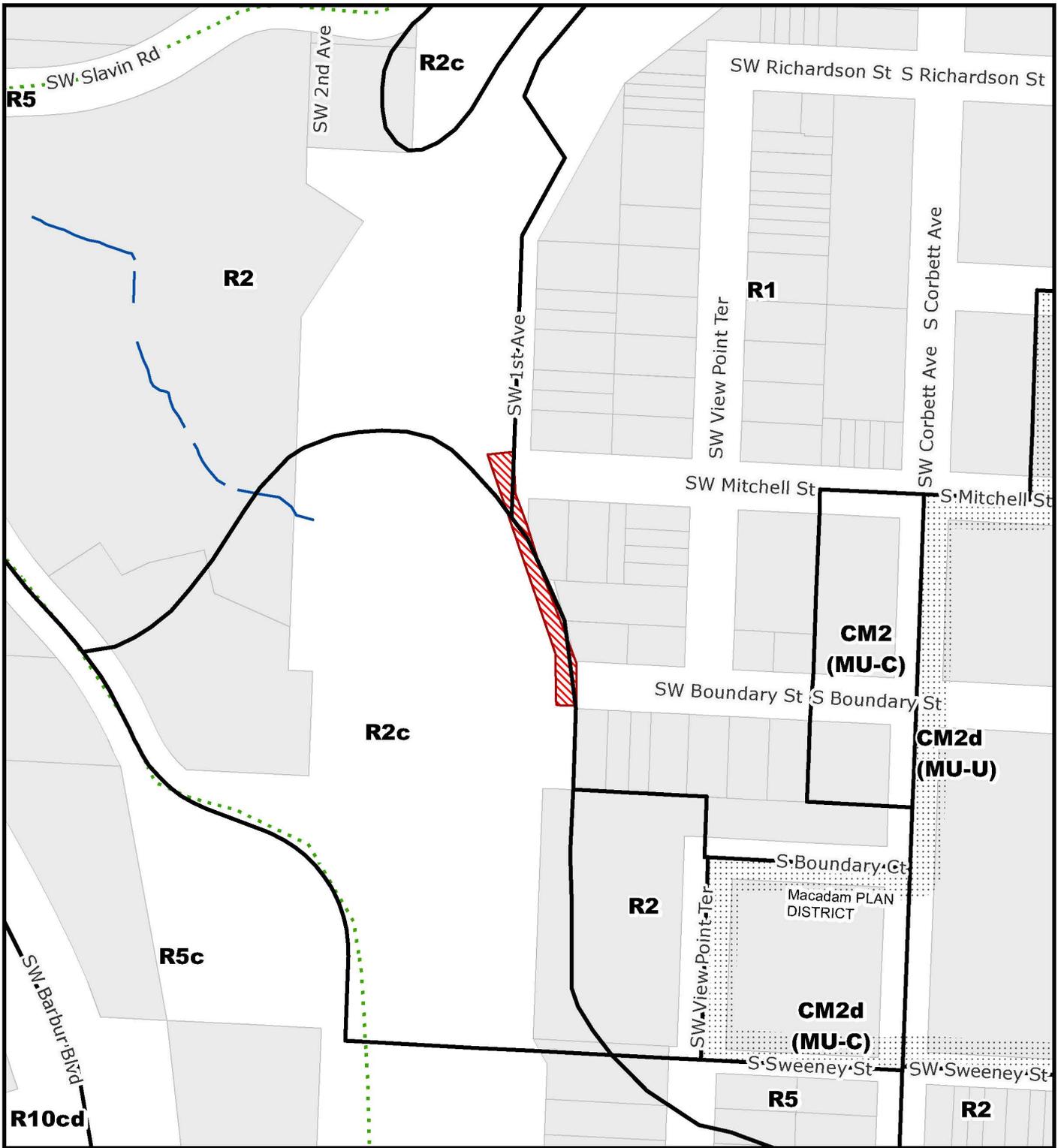
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Original Narrative and Plan Set, 1/29/2020
 - 2. Revised Submittals
 - a. Response to Incomplete Letter
 - b. Revised Plan Set – *See C-Exhibits*
 - c. Narrative, dated 5/20/2020
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions Plan
 - 2. Proposed Development Plan (attached)
 - 3. Construction Management Plan
 - 4. Mitigation Planting Plan (attached)
 - 5. Tree Protection Plan
- 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
 - 8. Oregon Dept of Transportation, Region 1, Development Review
- F. Correspondence: NONE
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter
 - 3. Signed 120-day Extension Request
 - 4. Correspondence regarding planting strategy and quantities

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).

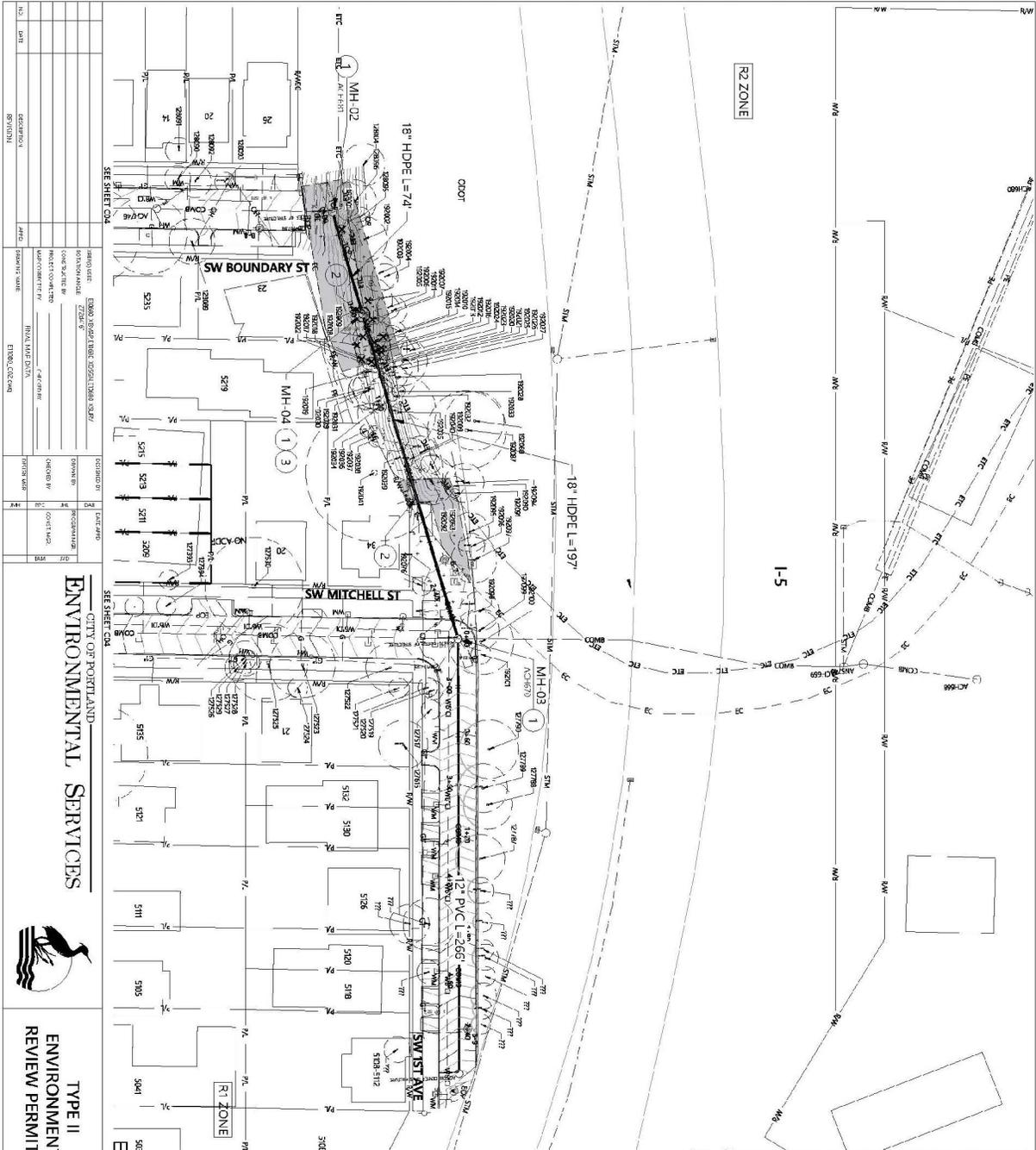


ZONING

↑
NORTH

-  Site
-  Stream
-  Recreational Trails

File No.	LU 20 - 111460 EN
1/4 Section	3529
Scale	1 inch = 163 feet
State ID	1S1E15BC 3702
Exhibit	B Jan 31, 2020



NO.	DATE	DESCRIPTION	BY

CITY OF PORTLAND
ENVIRONMENTAL SERVICES

TYPE II ENVIRONMENTAL REVIEW PERMIT SET

SOUTH PORTLAND - BURLINGAME PHASE II SEWER REHABILITATION PROPOSED DEVELOPMENT PLAN
 ODOT PROPERTY BETWEEN SW BOUNDARY ST AND SW MITCHELL ST

Exhibit C.2 - LU 20-111460 EN

SCALE
 30' 0" 15' 30'
 50' 100' 150' 200'

LEGEND:

	ENVIRONMENTAL ZONE LIMITS OF TEMPORARY DISTURBANCE	1,172
	LIMIT OF PERMANENT DISTURBANCE	5
	TOTAL EC DISTURBANCE AREA -	1,176
	ENVIRONMENTAL TRANSITION ZONE LIMITS OF TEMPORARY DISTURBANCE	3,397
	LIMITS OF PERMANENT DISTURBANCE	5
	TOTAL ETC DISTURBANCE AREA -	3,392
	REMOVED TREES	

1. CONSTRUCT 48" MANHOLE
2. RECONNECT EXISTING LATERAL
3. PERMANENT TO SITE REMAIN AREA IS LIMITED TO THIS NEW MAINLINE E. NO "BACKED" EQUIPMENT SHALL BE USED. NO BENCHING OF SOILS WILL BE ALLOWED. CONTRACTOR TO HAND D.C. OR USE WALKING BEACON/LIGHTS TO MINIMIZE DISTURBANCE FOR RELOCATION OF MANHOLE.
4. SEE SHEET FOR MUTATION PLAN FOR REGENERATION OF LINES.

TREE REMOVAL TABLE

TREE NUMBER	SPECIES	TREE TYPE	ACTION	DIRECTION	LOCATION
1	ROSA NINA ROSA/DWARF CANA	NUISANCE	REMOVE	48"	ETC
2	ACER MACROPHYLLUM	NATIVE	REMOVE	15"	EC
3	FRAXINUS SPP	NATIVE	REMOVE	48"	EC
4	FRAXINUS SPP	NATIVE	PRESERVE	48"	EC
5	ACER MACROPHYLLUM	NATIVE	PRESERVE	10"	EC
6	FRAXINUS SPP	NATIVE	PRESERVE	48"	H.C.
7	FRAXINUS SPP	NATIVE	PRESERVE	48"	EC
8	ACER MACROPHYLLUM	NATIVE	PRESERVE	20"	ETC
9	FRAXINUS SPP	NATIVE	PRESERVE	6"	ETC
10	FRAXINUS SPP	NATIVE	PRESERVE	48"	ETC
11	ACER MACROPHYLLUM	NATIVE	PRESERVE	48"	ETC
12	ACER MACROPHYLLUM	NATIVE	PRESERVE	48"	ETC

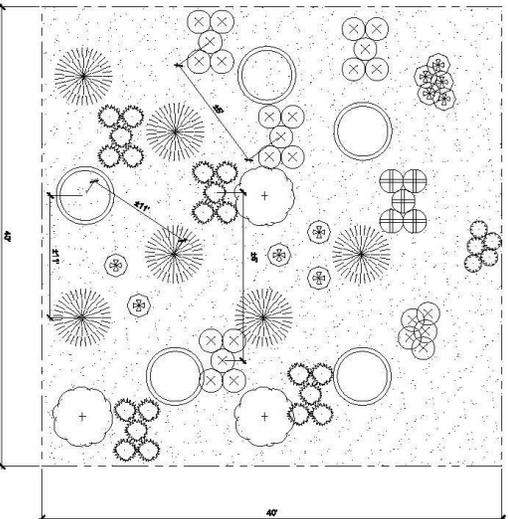
SHEET NOTES:

1. PREPAREMENT TO SITE REMAIN AREA IS LIMITED TO THIS NEW MAINLINE E. NO "BACKED" EQUIPMENT SHALL BE USED. NO BENCHING OF SOILS WILL BE ALLOWED. CONTRACTOR TO HAND D.C. OR USE WALKING BEACON/LIGHTS TO MINIMIZE DISTURBANCE FOR RELOCATION OF MANHOLE.
2. SEE SHEET FOR MUTATION PLAN FOR REGENERATION OF LINES.

DATE: 5/19/2020
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 PROJECT NO: [Number]
 SHEET NO: [Number]

GENERAL NOTES: PLANTING PLAN

1. SPACING SHALL BE AS FOLLOWS:
TREES: 11'
SHRUBS: 5'
2. PLANTING BY RES WATERSHED REVEGETATION PROGRAM.
3. THE APPLICANT SHALL OBTAIN A BOS ZONING PERMIT FOR APPROVAL AND INSPECTION OF A REVEGETATION PLAN. ALL PLANTING SUGGESTIONS SHALL BE SELECTED FROM THE BOUNDARY PLANT LIST. ALL NEW PLANTINGS SHALL BE SUBSTANTIALLY EQUIVALENT IN SIZE TO THE ORIGINAL PLANT OR AT LEAST ONE-HALF INCH IN DIAMETER WHICH EVER IS GREATER.
- 3.1. PERMIT PLAN SHALL SHOW:
 - 3.1.1. THE GENERAL LOCATION OF THE TREES, SHRUBS AND GRASS PLANTS REQUIRED BY THE PERMIT PLAN. THE PLANTING PLAN SHALL INCLUDE A 4'-0" FOOT BY 4'-0" FOOT SQUARE PLANTING LAYOUT FOR EACH PLANTING ZONE, AND SHALL INCLUDE A PLANTING TABLE LISTING THE SPECIES, QUANTITY, SPACING AND SIZES OF PLANTS TO BE PLANTED.
 - 3.1.2. THE APPLICANT SHALL INDICATE ON THE PLANTING SECTION OF EITHER TREEING OR SHRUBS PLANTS FOR IDENTIFICATION OR ACCOMPANYING THE BOS INSPECTION FOR AN ON-SITE INSPECTION.
 - 3.2. PLANTINGS SHALL BE INSTALLED BETWEEN OCTOBER 1 AND MARCH 31 (THE PLANTING SEASON).
 - 3.3. WEED CONTROL NECESSARY FOR PLANT ESTABLISHMENT WILL OCCUR PRIOR TO PLANTING.
 - 3.4. IF PLANTINGS ARE INSTALLED PRIOR TO COMPLETION OF CONSTRUCTION, A TEMPORARY WEED CONTROL PLAN SHALL BE SUBMITTED TO THE BOS INSPECTOR FOR REVIEW AND PLANTINGS FROM CONSTRUCTION ACTIVITIES.
 - 3.5. AFTER INSTALLING THE REQUIRED MITIGATION PLANTINGS, THE APPLICANT SHALL REQUEST INSPECTION OF MITIGATION PLANTINGS AND SHALL THE BOS INSPECTOR SHALL.
 - 3.6. ALL MITIGATION SHRUBS AND TREES SHALL BE MARKED IN THE FIELD BY A TAG OR BY A FLAG ON THE SPACING OR PLANTING PLAN. THE TAGS OR FLAGS SHALL BE USED TO LOCATE MITIGATION PLANTINGS FOR INSPECTION. IF TAGS ARE USED IT SHALL BE A CONTRASTING COLOR THAT IS EASILY SEEN AND IDENTIFIED.
 - 3.7. NUISANCE SPECIES WILL BE REMOVED FROM THE ENTIRETY OF THE MITIGATION PLANTING AREA.



1 SCHEMATIC LAYOUT - REVEGETATION AREA
N.T.S.

Boundary-Mitchell (E11080) Revegetation Plan		Mitigation area
Trees (target after establishment period, including established trees in Shaded enhancement area)	Square Feet	5,070
Trees (planting)	Square Feet	216
Shrub spacing (planting)	Square Feet	360
Tree spacing (planting)	Square Feet	11 ft
Shrub spacing (planting)	Square Feet	2880
Shrub spacing	Square Feet	3600
TREES (bareroot seedlings)		
Acer macrophyllum	bigleaf maple	10
Pinus ponderosa	ponderosa pine	15
Prunus emarginata	bitter cherry	15
SHRUBS (bareroot seedlings)		
Acer circinnatum	vine maple	25
Berberis (Mahonia) aquifolium	hail Oregon grape	123
Sambucus racemosa	red elderberry	50
Symphoricarpos albus	snowberry	225
Total shrubs		425

2 PLANT LEGEND
N.T.S.

Tree Removed	Replacement Requirement per Table 430-3 Option A
20" Big Leaf Maple	3 trees
20" Big Leaf Maple	3 trees
15" Big Leaf Maple	3 trees
6" Plum	2 trees
4 trees removed	11 trees for replacement

*As noted, Table 430-3 would otherwise require 11 trees to replace the four trees whose diameter is 6" or greater that are being removed. An additional 29 trees (40 total) are being planted to mitigate for removal of trees greater than 12" diameter.

NO. DATE	REVISION	ISSUED BY	DATE	REASON

DESIGN NO. 2020-09-01-PORTLAND-SEWER-REHABILITATION PROJECT NO. 2020-09-01-PORTLAND-SEWER-REHABILITATION CONTRACT NO. 2020-09-01-PORTLAND-SEWER-REHABILITATION DRAWN BY CHECKED BY DATE 	DESIGN NO. 2020-09-01-PORTLAND-SEWER-REHABILITATION PROJECT NO. 2020-09-01-PORTLAND-SEWER-REHABILITATION CONTRACT NO. 2020-09-01-PORTLAND-SEWER-REHABILITATION DRAWN BY CHECKED BY DATE 	CITY OF PORTLAND ENVIRONMENTAL SERVICES TYPE II ENVIRONMENTAL REVIEW PERMIT SET SOUTH PORTLAND- BURLINGAME PHASE II SEWER REHABILITATION MITIGATION PLAN - PLANTING LEGEND AND SCHEMATIC LAYOUT SW BOUNDARY ST AND SW MITCHELL ST
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Exhibit C.4 - LU 20-111460 EN