



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

Chloe Eudaly, Commissioner
 Rebecca Esau, Director
 Phone: (503) 823-7300
 Fax: (503) 823-5630
 TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: April 4, 2018
To: Interested Person
From: Morgan Steele, Land Use Services
 503-823-7731 / Morgan.Steele@portlandoregon.gov

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 18-123718 GW

GENERAL INFORMATION

Applicant: Yohannes Sihel | Town Trucking/Town Yard, LLC
 10145 N Portland Road | Portland, OR 97203

Owner: Town Yard LLC
 PO Box 11638 | Portland, OR 97211

Representative: Christopher Green | Harper Houf Peterson Righellis, Inc.
 205 SE Spokane Street, Suite 200 | Portland, OR 97202
 503/221-1131

Site Address: 14141 N RIVERGATE BOULEVARD

Legal Description: LOT 2, PARTITION PLAT 1997-108
Tax Account No.: R649774300
State ID No.: 2N1W26 00700
Quarter Section: 1619

Neighborhood: St. Johns, contact sjnalanduse@gmail.com.
Business District: Columbia Corridor Association, contact Debbie Deetz-Silva at 503-978-6044.
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

Plan District: None
Other Designations: *Lower Willamette River Wildlife Habitat Inventory*, Site #3.3B – Rivergate
Zoning: Base Zone: Heavy Industrial (IH)
 Overlay Zones: Aircraft Landing Zone (h), River Industrial (i)

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

Proposal:

The applicant's proposal consists of installing a 700 square foot modular office building for the purposes of supporting a freight movement business, as well as associated site improvements that include parking, gravel storage area, a stormwater facility, and buffer landscaping. The 3.8-acre project site is located at the northeast corner of N Rivergate Boulevard and N Ramsey Boulevard and does not have frontage on the Willamette River. The site is currently undeveloped with existing trees in the northeast and southeast corners which will be removed as a result of this proposal.

The entirety of the site lies within the River Industrial Greenway overlay zone. The Portland Zoning Code requires Greenway Review for new development within the Greenway Overlay zone, landward of the Greenway Setback (33.440.210.C.1). In this case, the proposal consists of development landward of the Greenway Setback and does not meet any exemptions; therefore, the work must be approved through a Greenway Review.

Relevant Approval Criteria:

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

- **Section 33.440.350(A) – For all greenway reviews. The Willamette Greenway design guidelines must be met for all greenway reviews.**

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. This application was submitted on February 16, 2018, and determined to be complete on February 27, 2018.

ANALYSIS

Site and Vicinity: The 3.8-acre project site is located in North Portland at the corner of N Rivergate Boulevard and N Ramsey Boulevard. The site is currently undeveloped with tree canopy located in the northeast and southeast portions of the site. The surrounding development is dominated by heavy marine and industrial uses.

Additionally, the site is identified in the *Lower Willamette River Wildlife Habitat Inventory* as Site 3.3B – Rivergate. The site is designated as a Rank V Habitat Area. Sites with such rankings are noted as generally having little or no value for wildlife due to extensive development; yet, they are also noted as areas that could be greatly improved with revegetation.

Zoning: The Heavy Industrial base zone provides areas where all kinds of industries may locate including those not desirable in other zones due to their objectionable impacts or appearance. The provisions of this zone allow this use; these provisions are not specifically addressed through this Greenway Review.

The Greenway Overlay zones protect, conserve, enhance, and maintain the natural, scenic, historical, economic, and recreational qualities of lands along Portland's rivers. The greenway regulations implement the City's Willamette Greenway responsibilities as required by ORS 390.310 to 390.368, as well as the water quality performance standards of Metro's Title 3. The purpose of this land use review is to ensure compliance with the regulations of the greenway overlay zones.

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

MCF 031-69: Approval for proposal to plat two blocks and extend N Lombard Street;
LUR 92-009842 GW: Approval of new electrical maintenance facility;
LUR 92-009876 GW: Approval to construct a new ladle degassing facility;
LUR 96-00 794 MP: Approval of a minor partition plat which created this lot.

This proposal has no effect on prior land use reviews.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed on March 2, 2018. The following Bureaus have responded with no issues, concerns, or objections:

- Bureau of Parks-Forestry Division
- Water Bureau
- Fire Bureau
- Life Safety

The Bureau of Environmental Services responded with multiple comments including permit review requirements. Please see Exhibit E.1 for additional details.

The Bureau of Transportation Engineering responded with multiple comments/requirements. Please see Exhibit E.2 for additional details.

The Site Development Section of BDS responded with multiple comments including permit review requirements. Please see Exhibit E.6 for additional details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on March 2, 2018. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

Title 33.440.350 Approval Criteria for Greenway Review

The approval criteria for a greenway review have been divided by location or situation. The divisions are not exclusive; a proposal must comply with all of the approval criteria that apply to the site. A greenway review application will be approved if the review body finds that the applicant has shown that all of the applicable approval criteria are met.

Findings: The approval criteria which apply to the 700 square foot modular office building and associated development are found in Section 33.440.350. The applicant has provided findings for these approval criteria and BDS Land Use Services staff has revised these findings or added conditions, where necessary to meet the approval criteria.

A. For all greenway reviews. The Willamette Greenway design guidelines must be met for all greenway reviews.

Findings: The Willamette Greenway Design Guidelines address the quality of the environment along the river and require public and private developments to complement and enhance the riverbank area. A complete description of the Design Guidelines and their applicability is provided in Appendix C of the *Willamette Greenway Plan*.

The Design Guidelines are grouped in a series of eight Issues as discussed below. The Guidelines have been regrouped according to similarity of Issues:

Issue A. Relationship of Structures to the Greenway Setback Area: This issue “applies to all but river-dependent and river-related industrial use applications for Greenway Approval, when the Greenway Trail is shown on the property in the *Willamette Greenway Plan*.” These guidelines call for complementary design and orientation of structures so that the Greenway Setback area is enhanced:

Guidelines:

1. Structure Design
2. Structure Alignment

Issue B. Public Access: This issue “applies to all but river-dependent and river-related industrial use applications for Greenway Approval, when the Greenway Trail is shown on the property in the *Willamette Greenway Plan*.” These guidelines call for the integration of the Greenway Trail into new development, as well as the provision of features such as viewpoints, plazas, or view corridors:

Guidelines:

- 1. Public Access**
- 2. Separation and Screening**
- 3. Signage**
- 4. Access to Water's Edge**

Issue F. Alignment of Greenway Trail: This issue “applies to all applications for Greenway Approval with the Greenway Trail shown on the property in the *Willamette Greenway Plan*.” These guidelines provide direction for the proper alignment of the greenway trail, including special consideration for existing habitat protection and physical features in the area of the proposed alignment:

Guidelines:

- 1. Year-round Use**
- 2. Habitat Protection**
- 3. Alignment**

Findings: The *Willamette Greenway Plan* does not show the Greenway Trail on this site. *Therefore, Issues A, B, and F are not applicable.*

Issue C. Natural Riverbank and Riparian Habitat: This issue “applies to situations where the river bank is in a natural state, or has significant wildlife habitat, as determined by the wildlife habitat inventory.” These guidelines call for the preservation and enhancement of natural banks and areas with riparian habitat:

Guidelines:

- 1. Natural Riverbanks.** The natural riverbank along the Willamette River should be conserved and enhanced to the maximum extent practicable. Modification of the riverbank should only be considered when necessary to prevent significant bank erosion and the loss of private property, or when necessary for the functioning of a river-dependent or river-related use.
- 2. Riparian Habitat.** Rank I riparian habitat areas, as identified in the wildlife habitat inventory, should be conserved and enhanced with a riparian landscape treatment. Other riparian habitat should be conserved and enhanced through riparian landscape treatments to the maximum extent practical. Conservation however does not mean absolute preservation. Some discretion as to what vegetation should remain and what can be removed and replaced should be permitted. Riparian habitat treatments should include a variety of species of plants of varying heights that provide different food and shelter opportunities throughout the year.

Findings: The subject property does not include any portion of the riverbank. *Therefore, this issue does not apply.*

Issue D. Riverbank Stabilization Treatments: This Issue “applies to all applications for Greenway Approval.” This guideline promotes bank treatments for upland developments that enhance the appearance of the riverbank, promote public access to the river, and incorporate the use of vegetation where possible:

Guidelines:

- 1. Riverbank Enhancement.** Riverbank stabilization treatments should enhance the appearance of the riverbank, promote public access to the river, and incorporate the use of vegetation where practical. Areas used for river-dependent and river-related industrial uses are exempted from providing public access

Findings: The subject property was created in 1996 through a minor partition and is not contiguous with the bank of the Willamette River and as such does not include any portion of the riverbank *Therefore, this issue is not applicable.*

Issue E. Landscape Treatments: This Issue “applies to all applications for Greenway Approval which are subject to the landscape requirements of the Greenway chapter of Title 33 Planning and Zoning of the Portland Municipal Code.” These guidelines call for landscaping treatments

that create a balance between the needs of both human and wildlife populations in the Greenway Setback area or riverward of the Greenway Setback:

Guidelines:

1. Landscape Treatments. The landscape treatment should create an environment which recognizes both human and wildlife use. Areas where limited human activity is expected should consider more informal riparian treatments. Areas of intense human use could consider a more formal landscape treatment. The top of bank may be considered a transition area between a riparian treatment on the riverbank and a more formal treatment of the upland.

2. Grouping of Trees and Shrubs. In areas of more intense human use, trees and shrubs can be grouped. The grouping of trees and shrubs allows for open areas for human use, and has the secondary value of increasing the value of the vegetation for wildlife.

3. Transition. The landscape treatment should provide an adequate transition between upland and riparian areas and with the landscape treatments of adjacent properties.

Findings: This subject property is not within or riverward of the Greenway Setback. *Therefore, Issue E is not applicable.*

Issue G. Viewpoints: This issue “applies to all applications for Greenway Approval with a public viewpoint shown on the property in the *Willamette Greenway Plan* and for all applications proposing to locate a viewpoint on the property.” These guidelines provide direction about the features and design of viewpoints, as required at specific locations:

Guidelines:

1. Design

2. Facilities

Issue H. View Corridors: This issue “applies to all applications for Greenway Approval with a view corridor shown on the property in the *Willamette Greenway Plan*.” These guidelines provide guidance in protecting view corridors to the river and adjacent neighborhoods:

Guidelines:

1. Right-of-way Protection

2. View Protection

3. Landscape Enhancement

Findings: The *Willamette Greenway Plan* does not identify viewpoints or view corridors on this site. *Therefore, guidelines G and H do not apply.*

Summary of Issue Findings: The design guidelines in Issues A through H are not applicable. *Therefore, this criterion is not applicable.*

B. River frontage lots in the River Industrial zone. In the River Industrial Zone, uses that are not river-dependent or river-related may locate on river frontage lots when the site is found to be unsuitable for river-dependent or river-related uses. Considerations include such constraints as the size or dimensions of the site, distance or isolation from other river-dependent or river-related uses, and inadequate river access for river dependent uses.

Findings: The subject property has no river frontage; *therefore, this criterion is not applicable.*

C. Development within the River Natural zone. The applicant must show that the proposed development, excavation, or fill within the River Natural Zone will not have significant detrimental environmental impacts on the wildlife, wildlife habitat, and scenic qualities of the lands zoned River Natural. The criterion applies to the construction and long-range impacts of the proposal, and to proposed remediation measures. Excavations and fills are prohibited except in conjunction with approved development or for the purpose of wildlife habitat enhancement, riverbank enhancement, or mitigating significant riverbank erosion.

D. Development on land within 50 feet of the River Natural zone. The applicant must show that the proposed development or fill on land within 50 feet of the River Natural zone will not have a significant detrimental environmental impact on the land in the River Natural zone.

Findings: The site does not have a River Natural designation and is not located within 50 feet of a River Natural designation. *Therefore, Criteria C and D do not apply.*

E. Development within the greenway setback. The applicant must show that the proposed development or fill within the greenway setback will not have a significant detrimental environmental impact on Rank I and II wildlife habitat areas on the riverbank. Habitat rankings are found in the *Lower Willamette River Wildlife Habitat Inventory*.

F. Development riverward of the greenway setback. The applicant must show that the proposed development or fill riverward of the greenway setback will comply with all of the following criteria:

1. The proposal will not result in the significant loss of biological productivity in the river;
2. The riverbank will be protected from wave and wake damage;
3. The proposal will not:
 - a. Restrict boat access to adjacent properties;
 - b. Interfere with the commercial navigational use of the river, including transiting, turning, and berthing movements;
 - c. Interfere with fishing use of the river;
 - d. Significantly add to recreational boating congestion; and
4. The request will not significantly interfere with beaches that are open to the public.

Findings: This proposal does not contain development within or riverward of the Greenway Setback and is not located in a Rank I or II wildlife habitat area. *Therefore, these criteria do not apply.*

G. Development within the River Water Quality overlay zone setback. If the proposal includes development, exterior alterations, excavations, or fills in the River Water Quality overlay zone setback the following approval criteria must be met:

Findings: The site does not have a River Water Quality designation. *Therefore, this criterion is not applicable.*

H. Mitigation or remediation plans. Where a mitigation or remediation plan is required by the approval criteria of this chapter, the applicant's mitigation or remediation plan must demonstrate that the mitigation will occur on-site or as close to it as possible; that the applicant owns the mitigation site; and that the mitigation plan contains a construction timetable as well as monitoring and maintenance plans.

Findings: Mitigation/remediation is not required by the subject criteria. *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

Through this Greenway Review, the applicant requests approval for the installation of a 700 square foot modular office building as well as associated site improvements located within the Greenway overlay zone. The applicant selected a construction approach that minimizes impact to areas

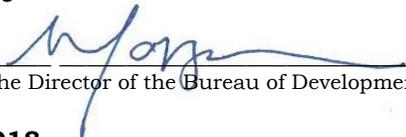
designated to be left undisturbed. With the conditions for conformance with the site plans, the above findings have shown that no approval criteria apply; therefore, this proposal should be approved.

ADMINISTRATIVE DECISION

Approval of a Greenway Review for the installation of a 700 square foot modular office and associated site improvements located entirely within the Greenway overlay zone, per the approved site plans, Exhibits C.2 and C.3 as signed and dated by the City of Portland Bureau of Development Services on **April 2, 2018**. Approval is subject to the following conditions:

- A. A BDS construction permit is required for construction.** Plans submitted for permits (building, Zoning, grading, Site Development, erosion control, etc.) shall include the following statement, **"Any field changes shall be in substantial conformance with approved LU 18-123718 GW Exhibits C.2 and C.3."**
- B.** 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 April 2, 2018**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 4, 2018

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on February 16, 2018, and was determined to be complete on February 27, 2018.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore, this application was reviewed against the Zoning Code in effect on February 16, 2018.

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: June 27, 2018.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term “applicant” includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on April 18, 2018** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **April 18, 2018**, by the Bureau of Development Services.

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

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

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

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

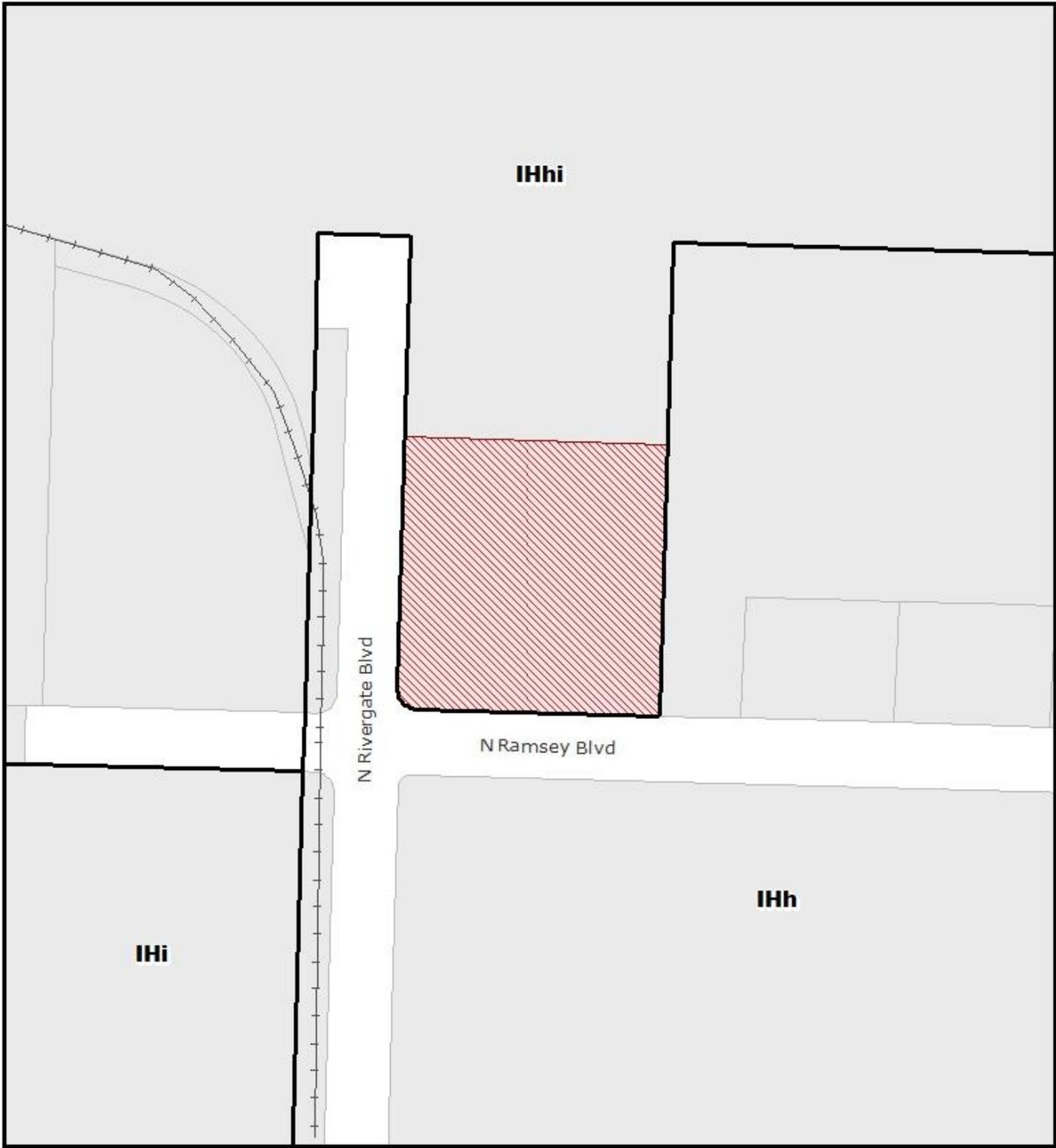
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Applicant's Narrative, February 2018
 - 2. Applicant's Addendum, February 2018
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions Plan
 - 2. Proposed Development Plan
 - 3. Construction Management Plan (Attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Life Safety
 - 5. Fire Bureau
 - 6. Site Development Review Section of BDS
 - 7. Bureau of Parks, Forestry Division
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application

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

File No.	LU 18-123718 GW
1/4 Section	1619
Scale	1 inch = 200 feet
State ID	2N1W26 700
Exhibit	B Feb 23, 2018

