



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

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**Date:** February 4, 2020  
**To:** Interested Person  
**From:** Morgan Steele, 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 19-164548 GW**

#### **GENERAL INFORMATION**

**Applicant:** Gabe Headrick | Steelhead Architecture  
201 SE 3rd Avenue | Portland, OR 97214  
503.348.8874 | [gabe.headrick@steelheadarchitecture.com](mailto:gabe.headrick@steelheadarchitecture.com)

**Owner:** Ito Mendez & Associates LLC  
3852 Wellington Court | West Linn, OR 97068

**Site Address:** 7430 SW MILES PLACE

**Legal Description:** LOT 35, WILLAMETTE OAKS PK  
**Tax Account No.:** R913700690  
**State ID No.:** 1S1E22AC 01800  
**Quarter Section:** 3730

**Neighborhood:** South Portland NA., contact Jim Gardner at 503-227-2096.  
**Business District:** South Portland Business Association, contact [info@southportlanddba.com](mailto:info@southportlanddba.com).

**District Coalition:** Southwest Neighborhoods Inc., contact Sylvia Bogert at 503-823-4592.

**Plan District:** Macadam  
**Other Designations:** *Willamette River Wildlife Habitat Inventory* – Site #23.4A and 23.4.B;  
100-Year Floodplain; FEMA Floodway

**Zoning:** *Base Zone:* Residential 5,000 (R5)  
*Overlay Zones:* Design (d), Greenway River General (g), Greenway River Water Quality (q)

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

**Proposal:**

The applicant is proposing a major addition and alteration to an existing single-dwelling residence including the reinforcement of an existing sea wall. The project site is in SW Portland on SW Miles Place and is adjacent to the Willamette River. The project will be built on the existing building footprint. The entire first floor of the existing house will remain. The existing full second floor and partial third floor will be removed or partially removed and rebuilt. The proposed final project will be a four-story, single-dwelling structure.

As noted above, the applicant is also proposing to reinforce the existing sea wall that is located east of the current residence. The sea wall is in poor condition and requires reinforcement for the proposed development. The reinforcement measures include placing a new layer of concrete (6 inches) in addition to anchors which will tie back into the existing embankment. Since the sea wall repairs are allowed by the Base Zone (R5) and are usual and necessary for the use and enjoyment of the existing house, the work is exempt from Greenway regulations per 33.440.320.E.

The entirety of the site lies within the City's River General and River Water Quality Greenway overlay zones. The Portland Zoning Code requires Greenway Review for exterior alterations to development within the Greenway overlay zone (33.440.320.B). In this case, the proposed single-dwelling residence remodel includes alterations to existing development; therefore, the work must be approved through a Greenway Review. This review is concurrent with Design Review 19-164515 DZ.

**Relevant Approval Criteria:**

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.**
- **Section 33.440.350.E – Development within the greenway setback.**
- **Section 33.440.350.F – Development riverward of the greenway setback.**
- **Section 33.440.350.G – Development within the River Water Quality overlay zone.**

**ANALYSIS**

**Site and Vicinity:** The 3,000 square foot site is situated in the middle of a small enclave of residential lots located in Southwest Portland, on SW Miles Place, which is a short dead-end street. Park-owned properties abut the residential area to the north, east, and south; and the Willamette River is adjacent to those parklands. Macadam Avenue and a multitude of commercial properties are located one block to the west. The subject site is currently developed with an existing house, including a deck and sea wall.

The site is located entirely within the floodplain of the Willamette River. The *Lower Willamette Wildlife Habitat Inventory* (1986) notes that the shoreline adjacent to the Miles Place residential area consists of a small beach with extensive mud flats. This habitat site (Site 23.4A) received high values for diversity, cover, rarity of habitat, and scenic quality.

**Zoning:** The zoning designation on the site includes Residential 5,000 (R5) base zone with Design (d), River General (g), and River Water Quality (q) overlay zones.

The R5 base zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 3,000 square feet. Newly created lots must have a minimum density of 1 lot per 5,000 square feet of site area. The provisions of this zone allow this use; these provisions are not specifically addressed through this Greenway Review.

The Design overlay zone promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development must meet the Community Design Standards (Chapter 33.218) or are subject to design review. The regulations of this zone do not apply to this proposal; these regulations are being addressed through the concurrent Design Review (LU 19-164515 DZ).

The Greenway overlay zone is intended to protect, conserve, enhance, and maintain the natural, scenic, historical, economic, and recreational qualities of lands along Portland's rivers; establish criteria, standards, and procedures for the development of land, change of uses, and the intensification of uses within the greenway; and implement the City's Willamette Greenway responsibilities as required by ORS 390.310 to 390.368 and Metro's Title 3. The purpose of this land use review is to ensure compliance with the regulations of the Greenway overlay zones.

**Greenway Resources:** The upland portion of the site (landward of the seawall) is mapped within Resource Site 23.4B (Rank V) and the riparian portion (riverward of the seawall) is mapped within Resource Site 23.4A (Rank II) of the *Lower Willamette River Wildlife Habitat Inventory (1986)*. Identified resources within Resource Site 23.4A include the Willamette River, mudflats, riparian vegetation, and fish and wildlife habitat.

**Nonconforming Uses and Development:** Existing nonconforming development in the Greenway River Water Quality overlay zone may be expanded within the Greenway Setback when the building coverage of the development is not increased (33.440.270.D). Residential uses/development are not river-related and/or river-dependent and are therefore a nonconforming use/development when within the Greenway Setback. For this proposal, the residential development may be expanded within the Greenway Setback since building footprint is not increasing.

**Impact Analysis and Revegetation and Monitoring Plan:** The following discusses unavoidable impacts resulting from the development. The following additionally describes the proposed construction management plan and revegetation and monitoring proposal.

**Unavoidable Impacts:** Unavoidable impacts resulting from this proposal will be minimal. Alternations to the existing dwelling unit will take place within the existing house footprint and disturbance areas and construction access will occur from SW Miles Place. No trees are proposed for removal and no new ground disturbance (other than the exempt sea wall) will occur.

**Construction Management Plan:** Construction impacts and project duration will be minimized by confining construction footprints, equipment, materials, and access routes to the immediate zone around the existing dwelling unit foundation. Erosion control fencing will be installed to clearly delineate construction zones from areas that will be left undisturbed.

**Planting Plan:** To meet the required landscaping standard of Zoning Code Section 33.440.230 and to restore the area disturbed by the exempt sea wall activities, the applicant proposes to plant 2 trees, 31 shrubs, and 45 groundcovers in the area immediately riverward of the sea wall. The plant species selected have either a Facultative Wet or Obligate status and therefore can survive in permanently or semi-permanently inundated conditions.

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

- ❖ LUR 65-033729 (VZ 214-65): Variance to reduce the carport setback adjacent to the north and south side lot lines from the required 40 feet from the west front lot line, SW Miles Place to 2.5 feet; to waive the required masonry walls both north and south for a carport adjacent to the side lot lines; to reduce the north side yard from the required 5 feet to 2 ½ feet; to reduce the south side yard from the required 5 feet to 4 feet; to increase the ground area covered by type 1 accessory buildings from the permitted 10 percent of the lot area or 298 square feet to approximately 12 percent or 360 square feet.
- ❖ LUR 67-033382 (VZ 202-67): Variance to reduce the carport setback adjacent to the north and south side lot lines from the required 40 feet from the west front lot line, SW Miles Place to 3 feet; to waive the required masonry walls both north and south for a carport adjacent to the north and south side lot lines; to increase the ground area covered by type 1 accessory buildings from the permitted 10 percent of the lot area or 298 square feet to 13.5 percent or 400 square feet in order to obtain a building permit for an existing 20 foot by 20-foot attached carport.

- ❖ LUR 71-034050 (VZ 225-71): Variance to reduce the north side yard from the required 6 feet to 2 feet 7 inches; to reduce the south side yard from the required 6 feet to 4 feet; to increase the roof overhang on the north from the permitted 5 inches to 18 inches, and on the south from 8 inches to 18 inches in order to add a second story to the existing single-family dwelling.
- ❖ LUR 72-028074 (VZ 049-72): Variance to increase the maximum lot coverage of portions of all buildings exceeding one-story in height from the permitted 35 percent of the lot area to 40.9 percent to maintain recently remodeled home.

Prior land use reviews have no effect on the current proposal.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed August 9, 2019. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- PBOT
- Fire Bureau
- Urban Forestry

Life Safety responded with the following comment. Please see Exhibit E.3 for additional details.

*A separate Building Permit is required for the work proposed and the proposal must be designed to meet all applicable building codes and ordinances.*

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

*The revised drawings, received November 26, 2019, propose parking, storage, access, and a bathroom on the ground floor of the house. Only parking, access, and limited storage are allowed below the flood protection elevation. The location of the bathroom does not meet the flood hazard area requirements. The proposed development must be revised to meet flood hazard area requirements prior to building permit submittal.*

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on August 9, 2019. Three written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. The comments received focus on Design Review (19-164515 DZ) criteria and setback modifications and do not address any Greenway Review approval criteria. The full responses can be found in Exhibit F.

## ZONING CODE APPROVAL CRITERIA

### 33.440.350 Greenway Review Approval Criteria

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** 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 the approval criteria are met.

**Findings:** The approval criteria which apply to this major addition and remodel 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 map 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:** While most of the subject property is developed with residential use, riverward of the Greenway Setback (sea wall) has remained in a natural state. This area has been identified in the *Lower Willamette River Habitat Inventory* as Site 23.4A, a Rank II riparian habitat area, and consists of extensive mudflats and shoreline. The site scored high for diversity, cover, rarity of habitat, and scenic quality. Other than an expansion of 6 inches of sea wall for reinforcement purposes, the proposal does not propose to alter the natural riverbank. In fact, the proposed Planting Plan shown graphically on Exhibit C.6 and described on page 3, will aid in enhancement of the natural riverbank and its ecosystem. *Therefore, this issue is met.*

**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 proposed major addition and remodel of the existing dwelling unit includes reinforcement of an existing sea wall which is necessary for the use of the existing house. As detailed in the applicant’s Geotechnical Report (Exhibit A.5), the existing sea wall is distressed and not suitable for long-term structural support. Therefore, to maintain long-term livability of the residence, the applicant is proposing to reinforce the existing sea wall. And although these activities are exempt per 33.440.320.E and thus cannot be viewed against the approval criteria, it is important to recognize the work as part of the overall development.

Thus, while the repair of the existing sea wall will not provide public access to the river as it is privately owned, it will enhance the appearance of the riverbank by repairing a currently distressed sea wall and will incorporate the use of vegetation as described on page 3 of this report. Therefore, while the proposed sea wall repairs will ultimately enhance the riverbank, the work is exempt, *and 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:** While the majority of the Greenway Setback is currently developed with residential use, riverward of the Greenway Setback remains largely in a natural state. Riverward of the Greenway Setback consists mainly of undeveloped mudflats that are seasonally inundated and sparsely vegetated. Therefore, to meet the required landscaping standard of Zoning Code Section 33.440.230 and to restore the area disturbed by the exempt sea wall activities, the applicant proposes to plant 2 trees, 31 shrubs, and 45 groundcovers in the area immediately

riverward of the sea wall. The plant species selected have either a Facultative Wet or Obligate status and therefore can survive in permanently or semi-permanently inundated conditions.

With conditions to ensure that plantings required for this Greenway Review are installed, maintained, and inspected, *this criterion can be met.*

**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, issues G and H do not apply.*

**Summary of Issue Findings:** The design guidelines in Issues A, B, D, and F through H are not applicable; Issues C and E are met or can be met with conditions. *Therefore, this criterion is met.*

- 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 is not located in the River Industrial overlay zone; *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*.

**Findings:** The area of the subject site located within the Greenway Setback has been identified in the *Lower Willamette River Wildlife Habitat Inventory* as Site 23.4B, a Rank V site. Therefore, the major addition and remodel of the existing dwelling unit within the Greenway Setback will not be occurring within a Rank I or II wildlife habitat area. Further, construction management methods will be used (detailed on page 3 and shown graphically on Exhibit C.5) to prevent impacts to the Rank II wildlife habitat area (Site 23.4A) located east of the sea wall and riverward of the Greenway Setback. *Therefore, this criterion is met.*

**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 the following criteria:

**1. The proposal will not result in the significant loss of biological productivity in the river;**

**Findings:** The proposed project will not result in significant loss of biological productivity in the river as the only disturbance that will occur riverward of the Greenway Setback is the exempt sea wall reinforcement activities. This work will result in the temporary disturbance of an area along the base of the sea wall, extending no more than 15 feet riverward from top of bank. This area is currently sparsely vegetated and dominated by non-native and invasive species. Work riverward of the Greenway Setback will be completed during the ODFW in-water work window of July 1<sup>st</sup> to October 31<sup>st</sup>. Further, the applicant proposes to restore temporary disturbance areas with 2 trees, 31 shrubs, and 45 groundcovers that are native and appropriate for the location, enhancing the area beyond its current state.

Based on the short-term and temporary impact of construction activities and that no significant loss of biological productivity in the river will occur as a result of this project, *this criterion is met.*

**2. The riverbank will be protected from wave and wake damage;**

**Findings:** There is an existing sea wall that protects the riverbank from wave and wake damage. The exempt sea wall activities will strengthen the sea wall and ultimately enhance the protection of the riverbank. *Therefore, this criterion is met.*

**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;**

**Findings:** The proposed development is on private property and, other than a minor expansion of the sea wall, is within the same footprint as what currently exists. There is no public access to the river throughout the site for any recreational boats for fishing. No part of the existing or proposed project protrudes into the river or any area that a boat coming from the river would navigate. *Therefore, this criterion is met.*

**4. The request will not significantly interfere with beaches that are open to the public.**

**Findings:** The proposed development is on private property and there is no public access to the beach through this site. Therefore, *this criterion is not applicable.*

**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:

**5. Other development, excavations, and fill in the River Water Quality overlay zone setback.** Where development, exterior alterations, excavation, or fill is proposed in the River Water Quality overlay zone setback, the applicant's impact evaluation must demonstrate that all the following are met:

**a. Proposed development minimizes the loss of functional values, consistent with allowing those uses generally permitted or allowed in the greenway overlay zone without a land use review;**

**Findings:** The proposal includes the major addition and remodel of an existing house located in the entirety of the Greenway Setback of the River Water Quality overlay zone. The site is also located in the Residential 5,000 base zone where house-hold living is a use allowed by right, without a land use review. Since the proposed construction activities for the house remodel will be occurring entirely within the footprint of existing development and impacts from exempt seawall activities will be minimized through Best Management Practices (BMPs) and restoration, the proposal will not result in the loss of functional values at the site. *Therefore, this criterion is met.*

**b. Proposed development locations, designs, and construction methods are less detrimental to the functional values of the water quality resource area than other practicable and significantly different alternatives including alternatives outside the River Water Quality overlay zone setback.**

**Findings:** The zoning restrictions at the site, specifically 33.440.270.D, prevent the proposed alterations to existing nonconforming development from taking place other than where the development currently exists (within the Greenway Setback) and outside of its current footprint; therefore, no alternative development locations or designs were proposed. Further, placing a new dwelling unit outside the Greenway Setback is impracticable as there is only 1,050 square feet of area existing on the site outside the Greenway Setback.

However, the applicant did present a Construction Management Plan, described on page 3, that will prevent detrimental impacts to the functional values of the Water Quality resource area by choosing appropriate Best Management Practices (BMPs), utilizing low-impact construction methods, and localizing disturbance to the immediate area of the proposed work. *Therefore, this criterion is met.*

**c. There will be no significant detrimental impact on functional values in areas designated to be left undisturbed;**

**Findings:** The limits of the work area below top-of-bank will be demarcated with silt fencing and no disturbance or access will be allowed beyond that boundary. Areas to be left undisturbed will be further protected through implementation of BMPs and avoidance and minimization measures, as shown on Exhibit C.5. *Therefore, this criterion is met.*

**d. Areas disturbed during construction that do not contain permanent development will be restored with native vegetation appropriate to the site conditions and found in the Portland Plant List;**

**Findings:** As demonstrated on Exhibit C.6 and described on page 3, the applicant's proposed Planting Plan will restore areas temporarily disturbed during construction by planting native trees, shrubs, and groundcovers found in the *Portland Plant List* for the exempt sea-wall activities. Further, the applicant has selected plants with either a Facultative Wet or Obligate status, which are plants appropriate to the immediate area that is seasonally inundated by the Willamette River. *Therefore, this criterion is met.*

**e. All significant detrimental impacts on functional values will be offset through mitigation;**

**Findings:** As described in the unavoidable impacts section on page 3, no significant detrimental impacts on functional values will occur as a result of this proposal. In fact, impacts resulting from this project will be temporary and minimal and offset by the proposed plantings riverward of the top of bank. Since no detrimental impacts on functional values will occur as a result of this project, *this criterion is not applicable.*

**f. The mitigation plan meets the requirements of Subsection 33.440.350.H;**

**Findings:** Mitigation is not required as a function of this proposal. All non-exempt work will take place landward of top of bank and within existing disturbance areas. *This criterion is not applicable.*

**g. The mitigation plan ensures that the proposed development will not contribute to a cumulative loss of functional values over time; and**

**Findings:** As stated above, mitigation is not required for this proposal. *Therefore, this criterion is not applicable.*

**h. Where significant restoration or enhancement opportunities have been identified in City-adopted watershed restoration plans or where previous restoration projects have taken place, the proposed development will not preclude those restoration or enhancement opportunities or damage existing restoration projects.**

**Findings:** The subject site is on private property and therefore not part of a City-adopted watershed restoration plan. Additionally, no previous restoration projects have taken place on the subject site. *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 following are met:

**Findings:** Mitigation/remediation is not required by the approval criteria of this chapter for this specific proposal. *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 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

Through this Greenway Review, the applicant requests approval for the major addition and alteration of a single-dwelling residence located within the Greenway overlay zone and partially within the Greenway Setback. 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 approval criteria have been met; therefore, this proposal should be approved with the following conditions.

## ADMINISTRATIVE DECISION

**Approval** of a Greenway Review for:

- Major addition and alteration to an existing single-dwelling residence within the Greenway overlay zone, and in substantial conformance with Exhibits C.4 through C.13, as approved and signed by the City of Portland Bureau of Development Services on

**February 3, 2019.** Approval is subject to the following conditions:

- A. A BDS Zoning Permit is required for inspection of required 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. Plans shall include the following statement, ***"Any field changes shall be in substantial conformance with approved LU 19-164548 GW Exhibits C.4 through C.13."***

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

**Building Permits shall not be finalized until the BDS Zoning Permit for inspection of plantings required in Condition C below is finalized.**

- B.** Silt fencing shall be placed along the Limits of Construction Disturbance, as delineated on Exhibit C.5, Construction Management Plan, to separate 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 silt fence.
- C.** The applicant shall obtain a BDS Zoning Permit for approval and inspection of a Planting Plan for the planting a total of 2 trees, 31 shrubs, and 45 groundcovers in substantial conformance with Exhibit C.6, Planting Plan. Any plant substitutions shall be selected from the *Portland Plant List* and shall be substantially equivalent in size to the original plant.
1. Permit plans shall show:
    - a. Permit plans shall show the general location of the trees, shrubs and ground covers required by this condition 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.
  2. Plantings shall be installed between October 1 and March 31 (the planting season).
  3. Prior to installing required plantings, non-native invasive plants shall be removed from all areas within the Greenway overlay zone, using handheld equipment.
  4. If plantings are installed prior to completion of construction, a temporary bright orange, 4-foot high construction fence shall be placed to protect plantings from construction activities.
  5. All 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 plantings for inspection. If tape is used it shall be a contrasting color that is easily seen and identified.
  6. After installing the required plantings, the applicant shall request inspection of mitigation plantings and final the BDS Zoning Permit.
- D. The land owner shall maintain the required plantings** to ensure survival and replacement. The land owner is responsible for ongoing survival of required plantings during and beyond the designated two-year monitoring period. After the 2-year initial establishment period, the landowner shall:
1. Obtain a Zoning Permit for a final inspection at the end of the 2-year maintenance and monitoring period. The applicant shall arrange to accompany the BDS inspector to the site to locate plantings for inspection. The permit must be finalized no later than 2 years from the final inspection for the installation of mitigation planting, to ensure 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.
- E.** 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 February 3, 2020**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: February 4, 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 May 15, 2019, and was determined to be complete on August 6, 2019.

*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 May 15, 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 waived the 120-day review period, as stated within Exhibit A.8. Unless further extended by the applicant, **the 120 days will expire on: August 5, 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 to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on February 18, 2020**, at 1900 SW Fourth Ave. Appeals can be filed at the 5<sup>th</sup> floor reception desk of 1900 SW 4<sup>th</sup> 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](http://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 **February 18, 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, permittees must demonstrate compliance with:

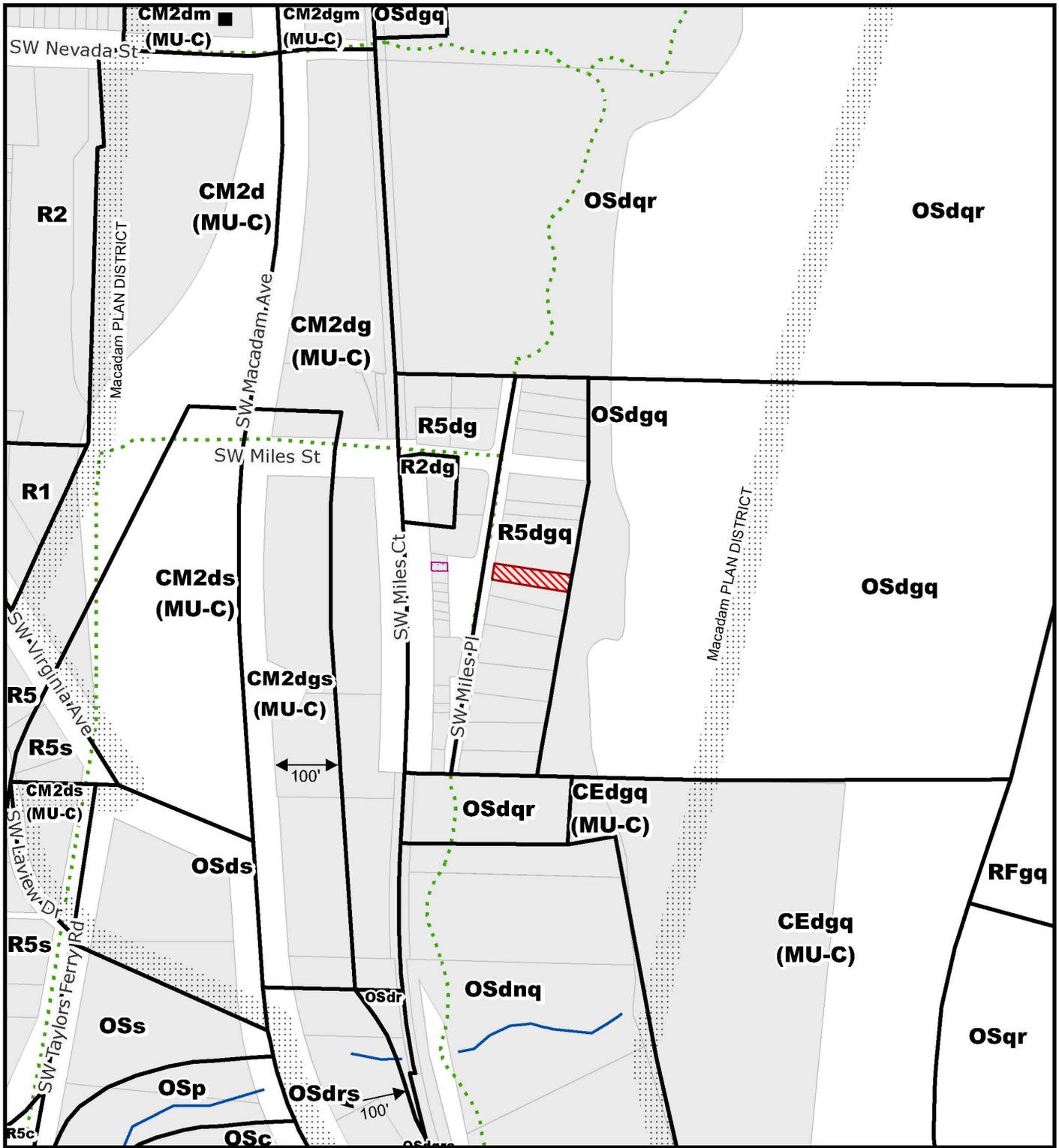
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Applicant's Original Site Plans, May 2019
  - 2. Applicant's Resubmittal Package, September 2019
  - 3. Applicant's Narrative, May 2019
  - 4. Sea Wall Details
  - 5. Geotechnical Report, December 2018
  - 6. No-Rise Analysis, November 2019
  - 7. Applicant's Response to Incomplete Items, August & November 2019
  - 8. Extension to the 120-Day Review Period
  - 9. Supplemental Site Plans, November 2019
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Cover Sheet
  - 2. Survey
  - 3. Demolition & Existing Conditions Site Plan
  - 4. Proposed Development Site Plan (attached)
  - 5. Construction Management & Erosion Control Plan
  - 6. Planting Plan (attached)
  - 7. Existing vs. New Development Diagrams
  - 8. Existing vs. New Development Diagrams
  - 9. Existing/Demo Floor Plans
  - 10. New Construction Floor Plans, Floors 1 & 2
  - 11. New Construction Floor Plan, Floors 3 & 4
  - 12. New Construction Floor Plan, Roof
  - 13. Details: Deck, Guardrails, & Stairs
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation
  - 3. Life Safety
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
- F. Correspondence:
  - 1. Jim Gardner, SPNA Chair, August 23, 2019
  - 2. Justin and Carey Kulongoski, Neighbors, August 29, 2019 & November 12, 2019
  - 3. Brian and Judy Hollander, Neighbors, August 30, 2019 & November 19, 2019
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter

**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

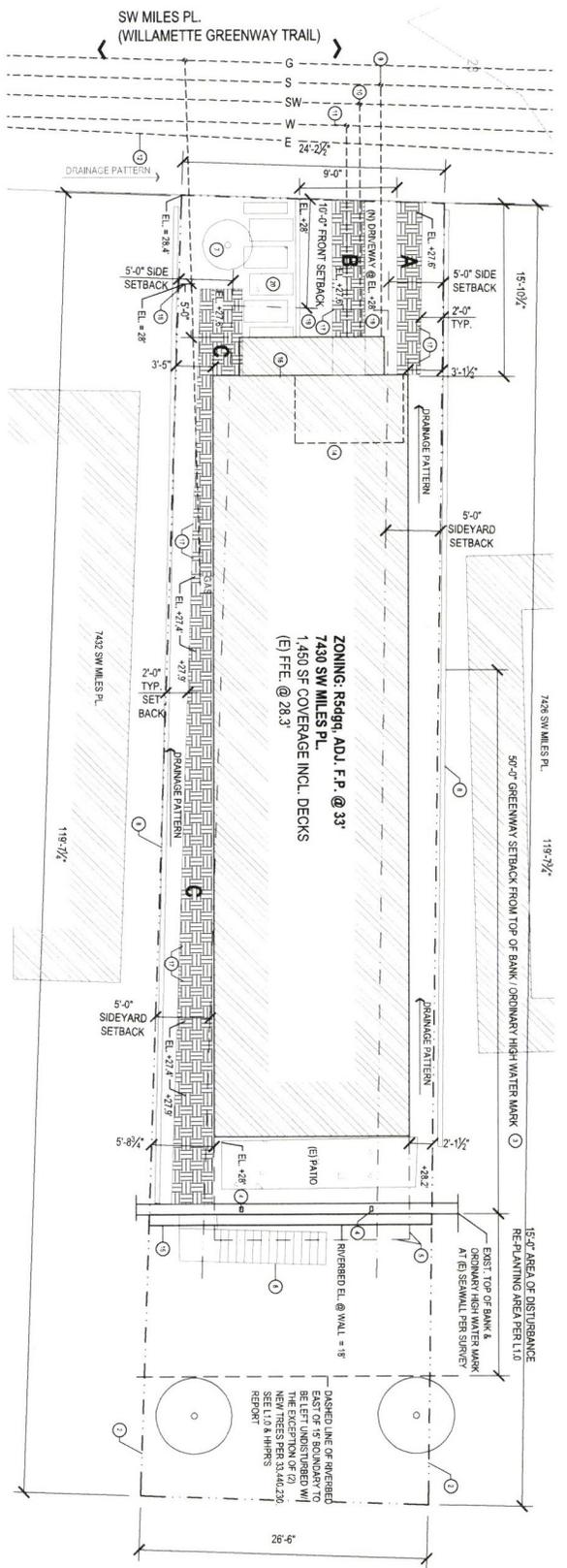


THIS SITE LIES WITHIN THE:  
MACADAM PLAN DISTRICT

-  Site
-  Also Owned Parcels
-  Stream
-  Historic Landmark
-  Recreational Trails

File No.	LU 19-164548 GW
1/4 Section	3730
Scale	1 inch = 200 feet
State ID	1S1E22AC 1800
Exhibit	B May 17, 2019

**\*Approved\***  
**City of Portland - Bureau of Development Services**  
 LU # **19-164548 GW**  
 Planner: *W. J. Morgan* Date: **2.3.20**  
 \* Approval for Environmental Review only. Not a building permit.  
 Additional zoning requirements may apply.



**IRC/1#3 - FOUR STORY RESIDENTIAL STRUCTURES REGULATED UNDER ORSC PROVIDED ALL OF THE FOLLOWING CONDITIONS ARE MET:**

1. NFPA 130 FIRE SPRINKLERS SHALL BE INSTALLED THROUGHOUT THE STRUCTURE UNDER A PERMIT FROM THE BUREAU OF DEVELOPMENT SERVICES.
2. ALL EXTERIOR WALLS WITH MORE THAN 2,000 SF TOTAL EXPOSED SURFACE AND EXPOSED UNSEALED AND/OR UNHABITABLE SPACE SHALL BE PROTECTED WITH 1/2" MINIMUM THICKNESS AT LEAST TWO FOOT COORS TO THE EXTERIOR. EACH ON A JOISTING LEVEL.
3. STRUCTURES WITH ENCLOSED USEABLE AND/OR HABITABLE SPACE ON FOUR LEVELS SHALL NOT ALSO HAVE A JOISTING FIVE LEVELS.
4. THE INTERIOR OF THE LOWEST FLOOR SHALL BE PROTECTED WITH 5/8" GRSW SHEATHING OR SHALL BE PROTECTED WITH ADDITIONAL FIRE SPRINKLERS.
5. EXPOSED VERTICAL POSTS SUPPORTING LOWEST FLOOR SHALL BE OF MINIMUM 6" NOMINAL DIMENSION OR BE OF NONCOMBUSTIBLE CONSTRUCTION AND
6. THE STRUCTURAL DESIGN FOR ENTIRE BUILDING SHALL BE BY A LICENSED DESIGN PROFESSIONAL.

**ANY GRADE MODIFICATION BESIDES CUT/FILL REQ. DURING CONSTRUCTION WILL BE RESTORED TO ITS EXIST. CONDITION.**

**BALANCED CUT & FILL VOLUME CALCULATIONS:**

**FILL - PROPOSED SEAWALL EXPANSION (SEE SECT A&I)**  
 F WIDE X 26'-0" LONG X 6' DEPTH = 6.53 FT<sup>3</sup>  
 TOTAL 150 FT<sup>3</sup> REQ.

**CUT - TOTAL (3) REGIONS @ 779.6' DEPTH**  
 A. 34' SF X 6' DEPTH = 17 FT<sup>3</sup>  
 B. 48' SF X 6' DEPTH = 24 FT<sup>3</sup>  
 C. 222' SF X 6' DEPTH = 1311 FT<sup>3</sup>  
**TOTAL 152 FT<sup>3</sup> > 150 FT<sup>3</sup>; CUT/FILL REQ. MET**

**ADDITIONAL INFORMATION PROVIDED ON QUALITATIVE ANALYSIS REPORT**

**AREA SUMMARY:**

LAND	QUANTIFICATION	TOTAL	DESCRIPTION
FIRST	1,264	1,264	143
SECOND	1,264	1,264	173
FOURTH	431	431	231
<b>TOTALS</b>	<b>2,959 SF</b>	<b>2,959 SF</b>	

**1. SITE PLAN**  
 SCALE 3/16" = 1'-0" ON Z24-24 3/32" = 1'-0" ON 11X17



**CASE NO. 19-164548 GW**  
**EXHIBIT C-4**

**CR & DR 03/14/19**  
**COMPLETE 07/01/19**  
**REV 1 11/22/19**  
**REV 2 12/19/19**  
**REV 3**

**PROPOSED NEW SITE PLAN**

7430 SW MILES PL  
 PORTLAND, OR 97219

LU 19-164548 GW  
 LU 19-164515 DZ

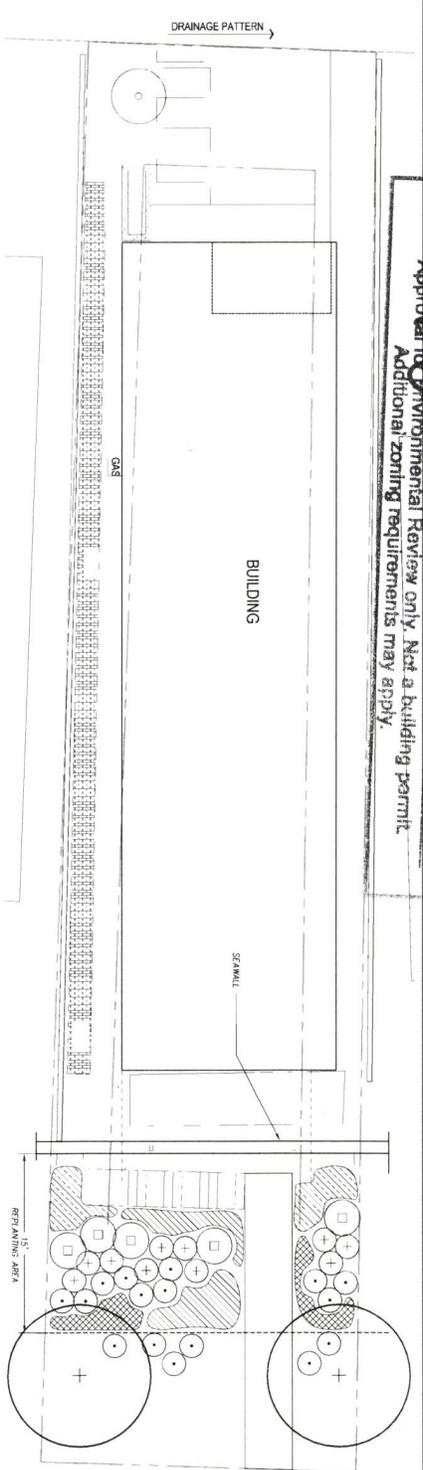


**STEELHEAD ARCHITECTURE**  
 201 SE 1RD AVENUE PORTLAND OREGON 97214

201 SE 1RD AVENUE PORTLAND OREGON 97214

\*Approved\*

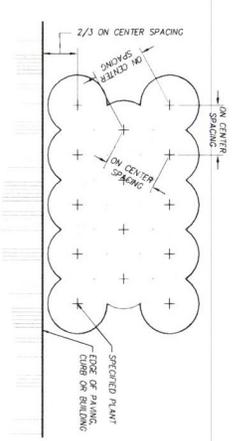
City of Portland - Bureau of Development Services  
 LU # **19-164548 6w**  
 Planner **Myra**  
 \* Approval for Environmental Review only. Not a building permit.  
 Additional zoning requirements may apply.  
 Date **2.3.20**



1 SEAWALL RE-PLANTING PLAN

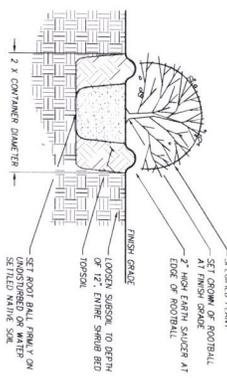
Scale: 1" = 5'-0"

NOTE:  
ON CENTER SPACING SHALL BE AS INDICATED IN PLANNING LEGEND.



2 TRIANGULAR SPACING

NOTE:  
MINIMUM 36" DIAMETER WHICH OR COMPOSITE PINE, AS SPECIFIED.



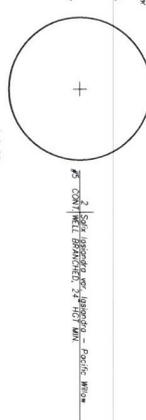
3 SHRUB PLANTING

NOTE TO SCALE

GENERAL PLANTING NOTES

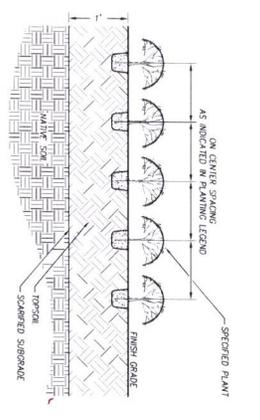
1. ALL CONSTRUCTION SHALL BE PERFORMED IN ACCORDANCE WITH CURRENT CITY OF PORTLAND STANDARDS AND ORDINANCES AND SPECIALTY CODES.
2. ALL PLANTING SHALL BE IN ACCORDANCE WITH CITY OF PORTLAND STANDARDS FROM TO DATE FROM THE CITY OF PORTLAND.
3. CONTRACTOR SHALL MAINTAIN AND PROTECT ALL UTILITIES, SITE FEATURES, AND VEGETATION TO REMAIN IN PLACE.
4. CONTRACTOR SHALL REPORT ALL WEEDS AND INVASIVE SPECIES FROM TO PLANNING OR SEWM.
5. ALL DISTURBED AREAS SHALL BE RESTORED TO ORIGINAL CONDITION.
6. PLANT MATERIAL SPECIFIED SHALL CONFORM IN SIZE AND GRADE TO THE AMERICAN STANDARD FOR NURSERY STOCK (CURRENT EDITION).
7. QUANTITIES OF PLANT MATERIAL SHALL BE AS DETERMINED BY CONTRACTOR IN ACCORDANCE WITH SPECIFIED PLANNING LEGEND AND PLANNING LEGEND. CONTRACTOR SHALL VERIFY QUANTITIES AND SPECIFICATIONS WITH ARCHITECT PRIOR TO INSTALLATION. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF PORTLAND AND OREGON. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF PORTLAND AND OREGON. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF PORTLAND AND OREGON.
8. LANDSCAPE CONTRACTOR SHALL MAINTAIN RECORDS FOR PLANTING OF ALL PLANTS AND MATERIALS USED IN THE PROJECT. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF PORTLAND AND OREGON.

PLANT SCHEDULE



4 GROUND COVER PLANTING

NOTE TO SCALE



SYMBOL	DESCRIPTION
○	18" SPECIES SPECIFIED BY CONTRACTOR - COLOR: WHITE
□	12" SPECIES SPECIFIED BY CONTRACTOR - COLOR: WHITE
△	12" SPECIES SPECIFIED BY CONTRACTOR - COLOR: WHITE
○	2" CONT. W/ 1/2" BARKEN, 2" HOY W/ 1/2" BARKEN
○	18" SPECIES SPECIFIED BY CONTRACTOR - COLOR: WHITE
□	12" SPECIES SPECIFIED BY CONTRACTOR - COLOR: WHITE
△	12" SPECIES SPECIFIED BY CONTRACTOR - COLOR: WHITE
○	2" CONT. W/ 1/2" BARKEN, 2" HOY W/ 1/2" BARKEN

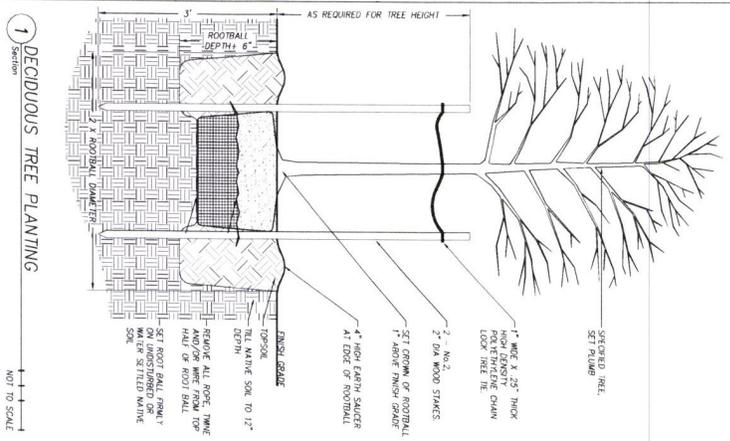
DESIGNED	DRAWN	CHECKED	DATE
MM	PC	MM	JULY 2019

SHEET NO. **L1.0**  
 25th ST  
 5TH DS

CASE NO. **19-164548 6w**  
 EXHIBIT **C.6**

PLANTING PLAN  
 7430 SW MILES PLACE  
 PORTLAND, OR

**Harper Houf Peterson Righellis Inc.**  
 ENGINEERING PLANNERS  
 205 SE Spokane Street, Suite 200, Portland, OR 97202  
 Phone: 503.221.1131 Fax: 503.221.1171  
 www.hhrp.com



1 DECIDUOUS TREE PLANTING

NOTE TO SCALE