



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

Ted Wheeler, Mayor
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: March 11, 2020
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 19-232715 EN

GENERAL INFORMATION

Applicant: Ken Sun | Prologis
3353 Gateway Boulevard | Fremont, CA 94538
510.304.1852 | ksun@prologis.com

Owners: Hayden Meadows | Attn: Lamont Smith
760 SW 9th Avenue, #2250 | Portland, OR 97205-2584

Portland Bureau of Transportation | Attn: Jake Wiser
111 SW Columbia Street | Portland, OR 97201

Representative: Carlee Michaelson | Pacific Habitat Services
9450 SW Commerce Circle #180 | Wilsonville, OR 97070

Site Address: Near 9620 N Whitaker Road

Legal Description: TL 1200 1.90 ACRES, SECTION 03 1N 1E
Tax Account No.: R941030150
State ID No.: 1N1E03CC 01200
Quarter Section: 2028, 2029, 2129

Neighborhood: East Columbia NA, contact Anthony Giltner at eastcolumbialanduse@gmail.com

Business District: Columbia Corridor Association, contact at info@columbiacorridor.org
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-8877.

Plan District: None
Other Designations: 100-Year Floodplain; *Columbia Corridor Mapping Project* – Site 33 (46)

Zoning: *Base Zone:* General Employment 2 (EG2)
Overlay Zones: Environmental Conservation (c), Aircraft Landing Zone (h)

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

PROPOSAL:

The applicant is proposing to install a 48-inch stormwater outfall pipe which will discharge into an off-chute channel of the main stem of the Columbia Slough. The outfall is required as part of the stormwater management system for off-site improvements north of N Schmeer Road and east of N Whitaker Road in North Portland, Oregon. The outfall will connect to a storm pipe running under N Whitaker Road as well as a storm main that will be installed as a requirement of the proposed off-site development. The purpose of the outfall is to discharge stormwater that has been captured and treated per City of Portland Stormwater Management Manual Standards.

The proposed outfall will require the removal of one 12-inch Oregon ash tree that is located along the top of the slough levee. To mitigate for tree removal and 160 square feet of permanent and 694 square feet of temporary disturbance to the Environmental Conservation overlay zone, the applicant proposes to plant 12 trees, 180 shrubs, and 480 groundcovers. Invasive species will also be removed from within the temporary disturbance areas.

The site is within the City's Environmental Conservation overlay zone. Certain standards must be met to allow the work to occur by right. If the standards are not met, an Environmental Review is required. In this case, the disturbance area is wider than 10 feet, the proposed outfall exceeds four-inches, and a 12-inch native tree will be removed; therefore, Standards 33.430.180.A, .B, and .H are not met by the proposal. For these reasons, an Environmental Review is required.

RELEVANT APPROVAL CRITERIA:

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

- [33.430.250.A. Outfalls](#)

ANALYSIS

Site and Vicinity: The site is located near the intersection of N Whitaker Road and N Hayden Meadows Drive in North Portland. The proposed outfall will connect to a storm pipe running under N Whitaker Road where it will discharge into a perpendicular off-chute channel of the main stem of the Columbia Slough. The immediate slough area is undeveloped and vegetated with a mix of native trees and invasive understory. Surrounding development consists mostly of industrial uses with the Columbia Slough to the south.

Zoning: The zoning designation on the project site includes the General Employment 2 (EG2) base zone with Aircraft Landing (h) and Environmental Conservation (c) overlay zones (see zoning on Exhibit B).

The General Employment 2 base zone allows a wide range of employment opportunities without potential conflicts from interspersed residential uses. The emphasis of the zone is on industrial or industrially-related uses. EG2 areas have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverages and buildings which are usually set back from the street. The regulations of this zone do not apply to this proposal and are not specifically addressed through this Environmental Review.

The Aircraft landing overlay zone limits the height of structures and vegetation in the vicinity of the Portland International Airport; a height contour map is available for review in the Development Services Center. The regulations of this zone do not apply to this proposal and are not specifically addressed through this Environmental Review.

Environmental overlay zones protect environmental resources and functional values that have been identified by the City as providing benefits to the public. The environmental regulations

encourage flexibility and innovation in site planning and provide for development that is carefully designed to be sensitive to the site's protected resources. They protect the most important environmental features and resources while allowing environmentally sensitive urban development where resources are less sensitive. The purpose of this land use review is to ensure compliance with the regulations of the Environmental Zones.

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.

Since no inventory of this area was included in the 1988 mapping project, a similar site within the same sub-area (Site 46) was used to evaluate onsite resources and their functional values. Significant resources and functional values on the project site include wildlife habitat; habitat connectivity/movement, and water quality. Currently, the resources and functional values onsite are low-functioning having been heavily impacted by invasive species encroachment and being truncated by busy roads to the north, south, east and west.

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

Development Alternatives:

Alternative #1 – No-Build Alternative

The no-build alternative focuses on off-site development without providing a new stormwater outfall. This alternative would limit improvements off-site, requires no increase in impervious surfaces, and utilizes existing underground stormwater conveyances. Infiltration was rejected as an acceptable stormwater approach due to groundwater levels to the east, limiting alternatives in stormwater design and inhibiting the continuation of the project based on storm event capacity requirements. The no-build alternative was rejected as it would not reduce existing water quality issues and would eliminate an opportunity to provide an overall improvement to City of Portland stormwater infrastructure, as well as the riparian reach within the project area.

Alternative #2 – Tie-in to Existing

N Whitaker Road contains an existing stormwater outfall approximately 600 feet south of the project area that is connected to underground City of Portland (City) stormwater conveyances. In order to accommodate the drainage requirements of off-site improvements, a new storm lateral would need to be extended north of existing conveyances and outfalls on N Whitaker Road. This alternative explored connecting the proposed storm pipe into existing underground stormwater pipes; however, the City rejected this design, which will not meet the required conveyance capacity applied through the City and Multnomah County Drainage District (MCDD) with any increases to treated stormwater runoff. The positive slope needed for conveyance of the storm system would not be achieved through a tie-in to the existing public outfall, and the storm system would eventually be exposed above ground as it extended east below the new road. Additionally, using the MCDD's current pump capacity, the existing 18-inch outfall is at capacity and does not meet MCDD standards for stage storage of the 25-year storm event. As a result, the City is in favor of the proposed stormwater outfall along the Slough, as it complies with the City of Portland Stormwater Manual.

Alternative #3 – Alternate Alignment

The proposed stormwater outfall location is an extension of a storm main alignment, which will be constructed beneath a new public road called "Internal Street A." Internal Street A will be located due east of the proposed outfall. The alignment of the main line (and therefore the outfall) cannot be altered as it is dictated by the Bureau of Environmental Services, which requires the pipe to be four feet south of the proposed centerline of Internal Street A. As the main alignment of the pipe beneath the new road cannot be changed, engineers explored angling the pipe to the north as it crosses N Whitaker Road to avoid removing the 12-inch Oregon ash tree. They found this will

not work as the outfall will be in the direction of the water as it flows in the slough. MCDD will not allow this angle for maintenance purposes. The angle would also not allow for the free flow of stormwater discharge into the slough from the outfall. Therefore, the alignment cannot be altered to avoid the 12-inch Oregon ash proposed for removal.

Construction Management Plan: The Construction Management Plan for the proposed development is shown on Exhibits C.9 and C.10. The following components of the Construction Management Plan will protect against erosion and prevent the transport of sediments into the slough, ensure that disturbance is localized, prevent impacts to the portions of the Environmental Zone that are to remain undisturbed, and protect any trees that are not proposed for removal.

- Prior to the start of any earth-moving activities, silt fence in tandem with orange construction fencing will be installed at the limits of the temporary disturbance area. No activities will be permitted to occur beyond this construction barrier. This fencing will also serve as tree protection fencing to help protect trees not proposed for removal.
- A turbidity curtain will be installed in the slough immediately downslope of the work area prior to the disturbance of any soils.
- Equipment and material staging will be in the existing impervious shoulder adjacent to the west side of N Whitaker Road.
- Disturbed soils will be stabilized with a native seed mix and plantings upon project completion.

Unavoidable Impacts: The installation of the 48-inch stormwater outfall pipe will require the removal of one, 12-inch Oregon ash tree located along the bank of the slough channel. Additionally, a total of 853 square feet of disturbance will occur within the Environmental Zone: 160 square feet of permanent disturbance and 459 square feet of temporary disturbance will occur within the resource area and 234 square feet of temporary disturbance within the transition area will be within paved right-of-way.

Mitigation Plan: To compensate for permanent and temporary impacts to the Environmental Conservation overlay zone both within the transition area and resource area, the applicant proposes to revegetate 600 square feet of the Environmental Conservation overlay zone within the riparian corridor adjacent to the slough channel, with 14 trees, 180 shrubs, 480 groundcovers, and native seed. Disturbance within the Environmental Zone that is currently paved right-of-way (234 square feet) will be restored to pre-construction roadway conditions.

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

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **October 16, 2019**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Life Safety
- Fire Bureau
- PBOT
- Site Development Section of BDS
- Multnomah County Drainage District

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on October 16, 2019. 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 stormwater outfall are found in Section 33.430.250.A. 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 the general criteria in Paragraph A.1 and the applicable specific criteria of Paragraphs A.2, 3, or 4, below, have been met (emphasis added to sections applicable to this review):

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;**
 - a. **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: This criterion requires the applicant to demonstrate alternatives were considered during the design process, and that there are no practicable alternatives that would be less detrimental to the identified resources and functional values located onsite. The location of the proposed stormwater pipe and outfall was evaluated and considered in other areas but could not be effectively located outside of the resource area of the Environmental Zone as it must drain stormwater run-off from the off-site improvement areas. The alternatives analysis, found on pages 3 and 4, details how the project as proposed has the least significant detrimental impacts to identified resources and functional values of other practicable alternatives.

The new 48-inch storm pipe connects to the existing public stormwater infrastructure through the route with the least impacts, but also through the route required in order to meet City of Portland (City) and Multnomah County Drainage District (MCDD) stormwater standards. The new pipe and outfall will discharge directly to the MCDD slough on the west side of N Whitaker Road, rather than establishing a subsurface connection to existing public subsurface conveyances, which would result in a larger temporary disturbance area that feeds into an undersized conveyance pipe and outfall before entering the slough.

Given the geotechnical limitations of soil and groundwater to the east, infiltration as a method of stormwater treatment is not an acceptable approach. Further, not only does the Preferred Alternative keep most of the disturbance outside of the Environmental Zone, it also allows for the mitigation and restoration of riparian corridor adjacent to the slough. As shown on Exhibits C.13 and C.14, 600 square feet of slough riparian area within the Environmental Zone adjacent to development will be restored by removing invasive species and planting native vegetation, as such, the Preferred Alternative not only has the least significant detrimental impact to identified resources, it enhances the currently low-functioning resources onsite.

For the reasons stated above, the selected alternative has the least significant detrimental impact to identified resources and functional values. 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: This approval criterion requires the protection of resources outside of proposed disturbance areas from impacts related to the proposal, such as damage to vegetation beyond the approved limits of disturbance, erosion of soils off the site, and downstream impacts to water quality and wildlife habitat from increased stormwater runoff and erosion off the site. The applicant provided a description of their Construction Management Plan in the application case file (Exhibit A.1), in addition to a graphic Construction Management Plan (Exhibits C.9 and C.10). Additionally, the Construction Management Plan is described on page 4 of this report.

The new pipe will be installed within the limits of temporary disturbance necessary for pipe and outfall construction while the outfall and associated riprap are considered permanent impacts. The Construction Management Plan includes the installation of construction fencing and staked sediment fences that will serve as construction barriers. Fencing will form a continuous barrier along areas that will remain undisturbed. All construction activities will be conducted within designated access, staging, and temporary disturbance areas within construction fencing. In this way, areas to remain undisturbed will not experience detrimental impacts on resources and functional values.

For the reasons stated above and with a condition that construction occur in substantial conformance with Exhibits C.9 and C.10, *this criterion can be met.*

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

Findings: This criterion requires the applicant to assess unavoidable impacts and propose mitigation that is proportional to the impacts, as well as sufficient in character and quantity to replace lost resource functions and values. The proposed mitigation plan is described on page 4 of this report. It will offset 459 square feet of temporary and 160 square feet of permanent disturbance within the resource area of the Environmental Conservation overlay zone in addition to the removal of one, 12-inch Oregon ash.

The proposal will have temporary impacts on resources and functional values and the mitigation plan will compensate for these impacts for the following reasons:

- All disturbance areas, outside of existing roadways, will be planted with native vegetation in addition to invasive species removal within the Environmental Zone.
- The mitigation plantings will increase species diversity to improve wildlife habitat in areas that currently have minimal native vegetation and low-functioning resources.
- The plantings will aid in pollution and nutrient retention and removal, sediment trapping and erosion control in addition to providing wildlife habitat along the Columbia Slough corridor.

With conditions to ensure that plantings required for this Environmental Review are installed, maintained, and inspected, *this criterion can be 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: Mitigation for significant detrimental impacts will be conducted on the same site as the proposed development *and 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: To meet this criterion, the applicant must either own the mitigation site or possess a legal instrument that allows for access to the mitigation site for the purposes of mitigation maintenance and monitoring. The applicant does not currently own the mitigation site and has not provided evidence of a legal agreement for access to the site. Therefore, to ensure maintenance and monitoring of the mitigation plantings, the applicant will be required to demonstrate ownership of the mitigation site or possess a legal instrument that allows the applicant to access the site for the duration of planting maintenance period.

With conditions to demonstrate legal ownership or legal access to the mitigation plantings, *this criterion can be met.*

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

- 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 outside the resource area of the environmental protection zone;**

Findings: There is no Environmental Protection zoning on the subject site or adjacent to the subject site, only Environmental Conservation zoning; *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: No essential salmonid habitat is known to occur in the project area due to manmade fish passage barriers downstream managed by MCDD. Because the new storm pipe will convey properly treated stormwater per City standards and the receiving conveyance system has adequate capacity and discharges to a large waterbody (the mainstem of the Columbia Slough), significant detrimental impacts on water bodies for the migration, rearing, feeding, or spawning of fish will not occur. The project will require stormwater treatment off-site, for improvements to roads and industrial infrastructure. The project will also result in impacts to the MCDD Slough below the mapped ordinary high water (OHW) through the installation of a new stormwater outfall, which will comply with the Standard Local Operating Procedures for Endangered Species (SLOPES V) by the U.S. Army Corps of Engineers.

Based on the foregoing, the proposed outfall will have no significant detrimental impact on water bodies for the migration, rearing, feeding, or spawning of fish, and *this criterion is met.*

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

Findings: No waterbodies will be crossed as part of this proposal; *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 Environmental Review, the applicant requests approval for the installation of one 48-inch stormwater outfall pipe, all within the Environmental Conservation overlay zone. The applicant selected a construction approach that minimizes impacts to surrounding wildlife and habitat. With the proposed mitigation and restoration plan and conditions for conformance with the site plans, construction management, and planting and monitoring, the above findings have shown that the proposal meets the applicable approval criteria. Therefore, this proposal should be approved, subject to the conditions listed below.

ADMINISTRATIVE DECISION

Approval of an Environmental Review for:

- Installation of a 48-inch stormwater outfall pipe; and
- 160 square feet of permanent disturbance and 694 square feet of temporary disturbance

all within the Environmental Conservation overlay zone, and in substantial conformance with Exhibits C.7 through C.10 and C.12 through C.14, as approved by the City of Portland Bureau of Development Services on **March 9, 2020**. Approval is subject to the following conditions:

A. A BDS Zoning Permit is required for inspection of required mitigation plantings, and a separate BDS construction permit may be required for development. The Conditions of Approval listed below, shall be noted on appropriate plan sheets submitted for permits (building, Zoning, grading, Site Development, erosion control, etc.). Plans shall include the following statement, ***"Any field changes shall be in substantial conformance with approved LU 19-232715 EN Exhibits C.7 through C.10 and C.12 through C.14."***

1. Prior to the issuance of a construction permits, the applicant shall acquire ownership of the site or obtain a legal instrument which grants access to the mitigation plantings for a minimum of two years after initial installation.
2. Construction Permits shall not be issued until a BDS Zoning Permit is issued.
3. Building Permits shall not be finalized until the BDS Zoning Permit for inspection of mitigation plantings required in Condition C below is finalized.

B. Temporary construction fencing shall be installed according to tree protection measures in Title 11 Tree Code, chapter 11.60. Silt fence shall be placed along the Limits of Disturbance for the approved development, as depicted on Exhibits C.9 and C.10 Construction Management Plan.

1. All measures provided for sediment control, including sediment fencing, shall be placed inside of the approved "Limits of Construction Disturbance," delineated by the temporary construction fence.
2. No mechanized construction vehicles are permitted outside of the approved "Limits of Construction Disturbance" delineated by the temporary construction fence. All planting work, invasive vegetation removal, and other work to be done outside the Limits of Construction Disturbance, shall be conducted using handheld equipment.

C. The applicant shall obtain a BDS Zoning Permit for approval of a mitigation plan for a total of 14 trees, 240 shrubs, and 480 ground covers, in substantial conformance with Exhibits C.13 and C.14 Mitigation and Restoration 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 to be planted in the mitigation area and labeled as “new required landscaping”. The plans shall include a “typical,” scalable planting layout for each planting zone, and shall illustrate a naturalistic arrangement of plants and should include a planting table listing the species, quantity, spacing and sizes of plants to be planted.
 - b. The applicant shall indicate on the plans selection of either tagging plants for identification or accompanying the BDS inspector for an on-site inspection.
2. Plantings shall be installed between October 1 and March 31 (the planting season).
 3. Prior to installing required mitigation plantings, non-native invasive plants shall be removed from all areas within 10 feet of mitigation plantings, using handheld equipment.
 4. All mitigation and restoration shrubs and trees shall be marked in the field by a tag attached to the top of the plant for easy identification by the City Inspector; or the applicant shall arrange to accompany the BDS inspector to the site to locate mitigation plantings for inspection. If tape is used it shall be a contrasting color that is easily seen and identified.
 5. After installing the required mitigation plantings, the applicant shall request inspection of mitigation plantings and final the BDS Zoning Permit.
- D. The landowner or applicant shall maintain the required plantings** to ensure survival and replacement. The landowner or 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 landowner shall:
1. Obtain a Zoning Permit for a final inspection at the end of the 2-year maintenance and monitoring period. The applicant shall arrange to accompany the BDS inspector to the site to locate mitigation plantings for inspection. The permit must be finalized no later than 2 years from the final inspection for the installation of mitigation planting, for the purpose of ensuring that the required plantings remain. Any required plantings that have not survived must be replaced.
 2. All required landscaping shall be continuously maintained, by the landowner or applicant 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 March 9, 2020**
By authority of the Director of the Bureau of Development Services

Decision mailed: March 11, 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 September 26, 2019, and was determined to be complete on October 14, 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 September 26, 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 extended the 120-day review period (Exhibit A.6). Unless further extended by the applicant, **the 120 days will expire on: June 10, 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 March 25, 2020** 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 Street 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 **March 25, 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:

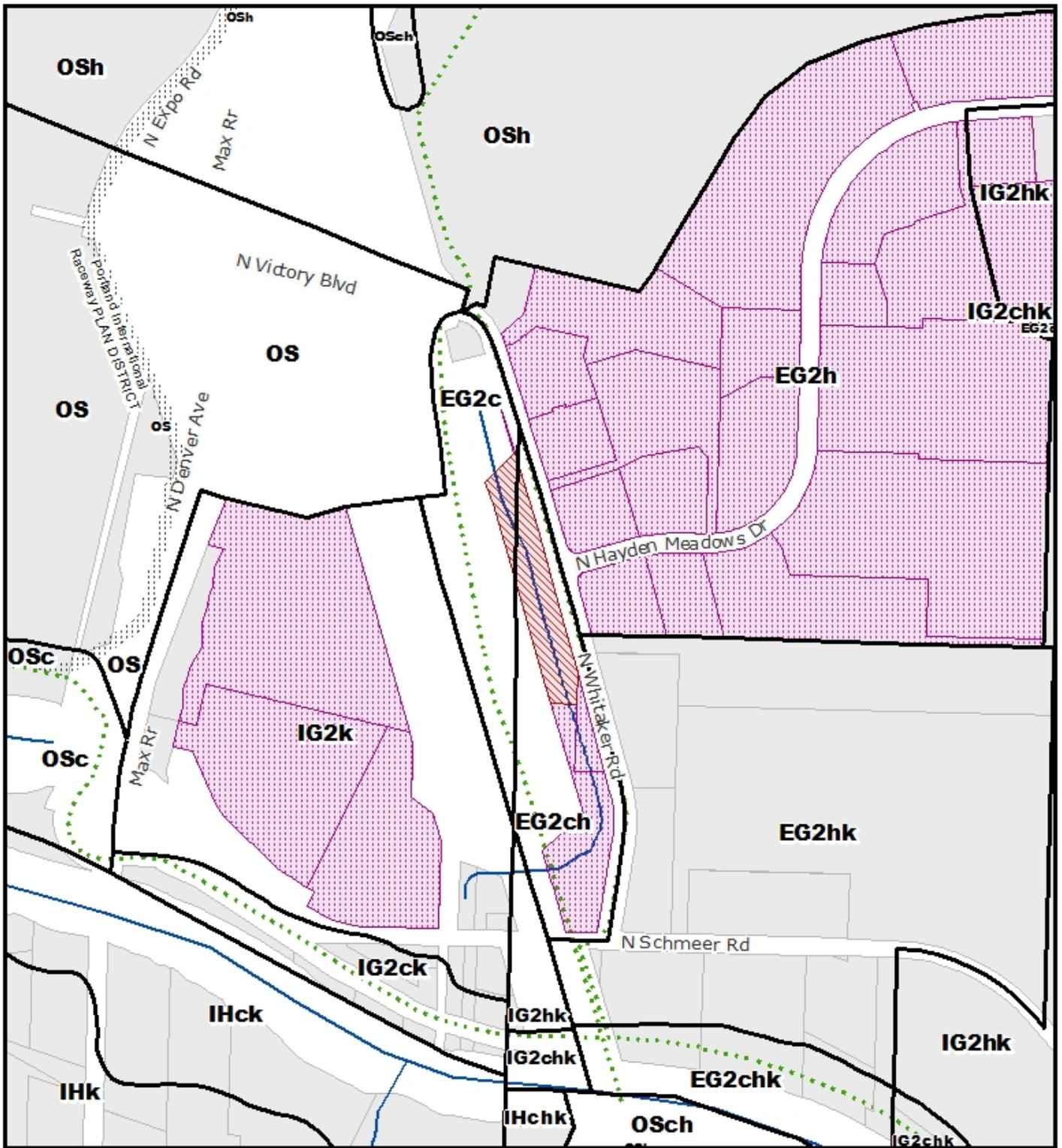
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Applicant's Narrative & Original Site Plans, September 2019
 - 2. Drainage Report
 - 3. Geotechnical Report
 - 4. PAC Report
 - 5. Applicant's Response to Incomplete Items, October 2019
 - 6. Extension to the 120-Day Review Period
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. General Location and Topography
 - 2. Tax Lot Map
 - 3. Official Zoning Map
 - 4. Official Zoning Map
 - 5. Aerial Photo
 - 6. Existing Conditions
 - 7. Proposed Development – Overview
 - 8. Proposed Development
 - 9. Construction Management – Overview
 - 10. Construction Management and Tree Plan (attached)
 - 11. Construction Management Detail and Notes
 - 12. Mitigation and Restoration Plan – Overview
 - 13. Mitigation and Restoration Plan
 - 14. Mitigation and Restoration Planting Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation
 - 3. Fire Bureau
 - 4. Site Development Review Section of BDS
 - 5. Bureau of Parks, Forestry Division
 - 6. Oregon Department of State Lands
 - 7. Multnomah County Drainage District
- F. Correspondence: None
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter
 - 3. ODSL Wetland Land Use Notification

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING



-  Site
-  Also Owned Parcels
-  Stream
-  Recreational Trails

File No.	LU 19 - 232715 EN
1/4 Section	2129, 2028, 2029
Scale	1 inch = 400 feet
State ID	1N1E03CC 1200
Exhibit	B Sep 30, 2019

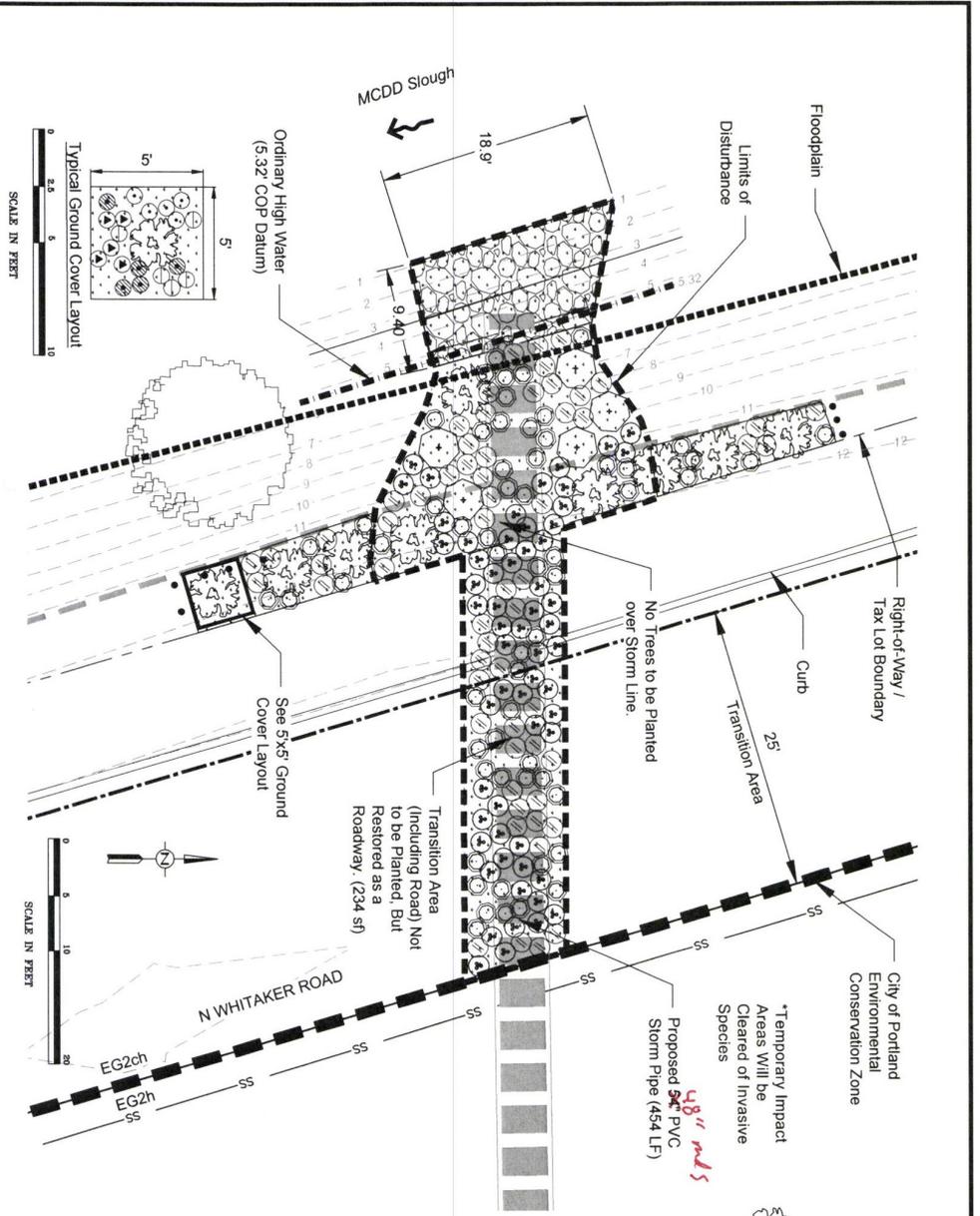
Approved

City of Portland - Bureau of Development Services

LU # 19-232715 GN

Partner Wagner Delta 3.9.2020

* Approval for Environmental Review only. Not a building permit.
Additional zoning requirements may apply.



Base Provided by DOW.
Plan revised on 9/12/19.
Vertical Datum is City of Portland (COP) datum.



Tree Removal Mitigation	
Scientific Name	Common Name
<i>Fraxinus sibirica</i>	Common Name
Quantity	2
Size	1/2" DBH
Spacing	10' x 20' o.c.

Site Restoration and Impact Mitigation (400' x 100' = 40,000 square feet)				
Scientific Name	Common Name	Quantity	Size	Spacing
<i>Fraxinus sibirica</i>	Black alder	6	1/2" DBH	10' x 20' o.c.
<i>Populus balsamifera</i>	Common Poplar	6	1/2" DBH	10' x 20' o.c.
<i>Berberis repens</i>	grape	60	1-2"	4' o.c.
<i>Hedera helix</i>	Common Ivy	60	1-2"	6' o.c.
<i>Rubus parviflorus</i>	Thimbleberry	60	1-2"	7' o.c.
<i>Bornia vulgaris</i>	Columbine	120	4" pot	18" o.c.
<i>Erythronium sibiricum</i>	Blue wildflower	120	4" pot	18" o.c.
<i>Geranium macranthemum</i>	Western geranium	120	4" pot	18" o.c.
<i>Thalictrum flavum</i>	Yellow poppy	120	4" pot	12" o.c.
<i>Thalictrum aquilegifolium</i>	Blue poppy	120	4" pot	12" o.c.

Mix for Sediment Fence Areas (11 square feet)				
Scientific Name	Common Name	Quantity	Size	Spacing
<i>Thalictrum flavum</i>	Yellow poppy	9	4" pot	12" o.c.

Seed Mix for all Restoration and Mitigation Areas		
Scientific Name	Common Name	Seeding rate (lb./1,000 sq ft)
<i>Erythronium sibiricum</i>	Columbine	1
<i>Chamaenerion sibiricum</i>	Blue poppy	1
<i>Erythronium sibiricum</i>	Blue poppy	0.5
<i>Erigeron annuus</i>	Wildflower	0.5
<i>Thalictrum flavum</i>	Yellow poppy	2

- Vegetation Planting Specifications**
- All trees and shrubs plantings shall be bare root, nursery propagated, and non-clonal in origin.
 - Plant materials are to be used for restoration purposes and should not be treated with pesticides, fungicides, or fertilizers.
 - The seed mix shall be supplied by a local nursery with the specification that the seed source must be as local as possible.
 - Plants listed on the Nuisance Plants List shall be removed from the mitigation area.
 - Trees shall not be staked or otherwise marked with non-biodegradable material. The selected contractor will be required to comply with specifications to ensure that the proposed project complies with Section 53.248.090.
 - New plantings must be manually watered regularly during the first growing season. During later seasons, watering must be done as needed to ensure survival of the plants.
 - Plants that die must be replaced in kind during the warranty period.

Mitigation and Restoration Planting Plan
North Whitaker Road Property - Portland, Oregon

FIGURE **7B**

CASE NO. 19-232715 GN
EXHIBIT C.14