



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

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Date: April 17, 2020
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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 19-218415 EN GW
UNINCORPORATED MULTNOMAH COUNTY

GENERAL INFORMATION

Owner/Applicants: Sheela and Suresh Paranjpe / Mortgage Funding LLC
11150 SW Riverwood Road
Portland OR 97219-8444

Consultants: Tina Farrelly / Pacific Habitat Services / 503-570-0800
9450 SW Commerce Circle, Suite 180
Wilsonville OR 97070

Peter Karp / PLI Systems Inc
3045 SE 61 Court
Hillsboro OR 97123

Site Address: 11150 SW RIVERWOOD ROAD

Legal Description: TL 800 1.05 ACRES, SECTION 35 1S 1E; TL 600 0.33 ACRES,
SECTION 35 1S 1E

Tax Account No.: R991350150, R991350180

State ID No.: 1S1E35BA 00800, 1S1E35BA 00600

Quarter Section: 4131

Neighborhood: None

Business District: None

District Coalition: None

Zoning: Single Dwelling Residential 20,000 (R20)
Environmental Conservation (c)
Environmental Protection (p)
Greenway River General (g)

Other Designations: Unincorporated Multnomah County, Resource Site 117-A: Dunthorpe, *Multnomah County Project*, 100-year floodplain, potential landslide hazard area, streams

Case Type: Environmental Review (EN) and Greenway Review (GW)

Procedure: Type II, an administrative decision with appeal to the Hearings Officer

Proposal: The applicants request an **Environmental Review** and a **Greenway Review** to allow for the construction of an accessway and boat dock on the Willamette River. The project components include a pathway, stairway and platform, 2 gangways, 2 landings and a dock supported by piles.

All of the proposed development is located within the Greenway River General overlay zone; the pathway, stairway and platform, and a portion of one gangway are proposed within the greenway setback; and the balance of gangways, landings, pilings, and dock are proposed to be installed riverward of the setback. Portions of the gangway system are also located within the resource area of the Environmental Conservation zone.

The existing development exceeds the allowance for disturbance in the environmental resource area of the site (33.430.140.D), and the proposal will create additional disturbance, which triggers the Environmental Review. New development and construction within and riverward of the top of the bank triggers Greenway Review.

Additionally, the applicants request changes to conditions related to the mitigation required for through a prior land use review (LU 12-105833). The applicants propose to move the former mitigation area and combine it with a new mitigation area proposed for the new gangway system and dock. The requested changes to the prior conditions also trigger an Environmental Review and a Greenway Review.

RELEVANT APPROVAL CRITERIA:

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

- **Environmental Review 33.430.250.E**
- **Greenway Review 33.440.350**
- ***Willamette Greenway Design Guidelines***

ANALYSIS

Site and Vicinity: The 1.35-acre site is a developed residential property situated on the west bank of the Willamette River on a bluff approximately 60-75 feet above the river. The site fronts onto SW Riverwood Drive and is bisected by an approximately 40-foot wide publicly owned rail corridor. The northwest corner of the site is developed with a multi-story residence, attached carport, paved driveway, and ornamental gardens; and a tie-back retaining wall (approved in land use case LU 12-105833), which is located approximately 10 feet east of the house. Beyond the retaining wall, the property slopes steeply down to the river. The bulk of the property is undeveloped and contains mature riparian vegetation, including large Douglas fir, Bigleaf Maple, and Western red cedar trees. The understory is dominated by invasive species including Himalayan blackberry, English ivy, horsetail and bracken fern. The English ivy also covers nearly all the tree trunks on the site.

The adjacent riverfront properties are developed with houses and many have stairs or ramps that lead to boat docks. The property directly across the river is within the City of Milwaukie and is developed as a golf course and country club.

Natural resources on and around the site are described in greater detail, in the "Environmental and Greenway Resources" section below.

Environmental and Greenway Resources: The site lies at approximate river mile 18 in an unincorporated area of Multnomah County, known as Dunthorpe, between the city boundaries of Portland and Lake Oswego. The ordinary high water (OHW) elevation of the river in the project area is approximately 20 feet and the Ordinary low water (OLW) elevation is approximately 3 feet (City of Portland datum). Two unnamed tributaries cross through the property and flow east to the Willamette River. One tributary is situated along the northern property boundary and the other is located toward the south end of the site. The tributary on the north end consists primarily of an open channel on the site, except where the stream crosses under the rail corridor. The side slopes are steep and the bank vegetation includes large diameter native trees, ornamental plantings, and nuisance species. The tributary on the south end is less defined and appears to have more intermittent flows. The waterway is routed through several culverts on either side of the rail corridor, and areas on below each culvert appear eroded with bare soil or ivy patches.

The subject site is within Resource Site 117-A: Dunthorpe, as mapped in the *Inventory of Natural, Scenic and Open Space Resources for Multnomah County Unincorporated Urban Areas* (2002). Overall, Resource Site 117-A is approximately 660 acres and the general boundaries are Lewis and Clark College/Riverview Cemetery (north), Willamette River (east), the county line at Iron Mountain Road (south), and Terwilliger Boulevard (west). This area is composed primarily of low-density residential development and within the resource site, there are both aquatic and terrestrial habitats, including the streams and ravines flowing to the Willamette River and Tryon Creek, and the rock cliffs above the Willamette River. Resource Site 117-A has a habitat rating of 55 (the habitat rating range for all City and County sites is 6-106).

Valuable resources found with Resource Site 117-A include perennial and seasonal streams, palustrine wetlands, springs, forest, fish and wildlife, special status species, groundwater, and open space. Functional values include water quality, flood attenuation/storage, fish and wildlife habitat, slope stabilization/soil anchoring, groundwater recharge and discharge, and water supply and heritage. Additional functional values include sediment trapping and pollutant/nutrient removal, storm drainage, land use buffering, education, recreation and scenic amenities.

The primary resources found at the project site include the vegetated bank, stream tributaries, and waterway along the Willamette River, which afford fish and wildlife habitat, flood storage, groundwater recharge, and scenic amenities.

The applicants' narrative (Exhibit A.1) notes there are 5 species listed under the Endangered Species Act with the potential to occur in the project area, including Chinook and coho salmon and steelhead trout. In addition, the project area contains designated Critical Habitat, Essential Fish Habitat, and Essential Salmonid Habitat.

The BES response (Exhibit E.1) also describes how the riparian and shallow water habitat areas along the shoreline of the site and surrounding areas provide significant habitat for multiple native fish species of concern, including white sturgeon, Pacific lamprey, and coastal cutthroat trout.

As described in the *Willamette River Greenway Plan*, the Willamette River and its riverbanks are a natural resource of inestimable statewide importance. The north boundary of Resource Site 117-A abuts Resource Site 23.7 (Rank III) of the *Lower Willamette River Wildlife Habitat Inventory* (1986). The habitat areas at the project site and surrounding Dunthorpe area were not included in the *Lower Willamette River Wildlife Habitat Inventory*, as Multnomah County had jurisdiction of the area when that inventory was created in 1986. As such, the nearest designated Rank I and Rank II wildlife habitat areas are approximately 1.5 miles or more downstream of the site and include the shoreline between the Sellwood Bridge and Willamette Park (Sites 23.4A and 23.5) on west bank of the Willamette River and the shoreline and uplands at Oaks Bottom (Sites 21.1A, 21.1B) on the east side of river.

The site does not have a designated Greenway trail, viewpoint, or view corridor.

Zoning: The site is in the **Residential 20,000 (R20)** base zone. *The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households.*

The site is also within the following overlay zones:

- **Greenway River General (g)** *allows for uses and development which are consistent with the base zoning, which allow for public use and enjoyment of the riverfront, and which enhance the river's natural and scenic qualities.*
- **Environmental Conservation (c)** *conserves important resources and functional values in areas where the resources and functional values can be protected while allowing environmentally sensitive urban development.*
- **Environmental Protection (p)** *provides the highest level of protection to the most important resources and functional values. These resources and functional values are identified and assigned value in the inventory and economic, social, environmental, and energy (ESEE) analysis for each specific study area. Development will be approved in the environmental protection zone only in rare and unusual circumstances.*

Land Use History: City records indicate 5 prior land use reviews for this property. There are limited details available about these 4 reviews that occurred under Multnomah County jurisdiction:

- MUP 4-89 WRG
- MUP 64-93 PA
- MUP 6-89 HV
- MUP 6-96 LD

The following land use review was evaluated under City of Portland jurisdiction:

- LU 12-105833 EN GW for a retaining wall and slope repair-approved with conditions for erosion control and mitigation measures

The applicant has requested modifications to the mitigation measures required by this prior review, as discussed in the findings for this report.

Agency and Neighborhood Review: *A Notice of Proposal in your Neighborhood* was mailed on **December 3, 2019**.

1. **Agency Review:** Several agencies have responded to this proposal. Please see E-Exhibits for details. The comments are also addressed under the appropriate criteria for review of the proposal.

The applicant provided service agency forms from the following:

- **Lake Oswego Fire Department** (Exhibit A.2) which indicates the proposed dock does not impeded fire department access.
- **Palatine Hill Water District** (Exhibit A.2) which notes no concerns.
- **Dunthorpe Riverdale Sanitary Sewer District** (Exhibit A2) which notes the sewer service for the site was installed in 1990.

The **Site Development Section of BDS** (Exhibit E.5) responded with information about flood hazards, balanced cut/fill and no-rise requirements, geotechnical requirements, erosion control, and dock construction requirements that will apply at the time of permit review.

The **Bureau of Environmental Services** (Exhibit E.1) provided information about sanitary sewer services and storm water management requirements, and details about site considerations and construction methods related to the protection of riparian resources.

The **Life Safety Section of BDS** (Exhibit E.7) notes a separate Building Permit is required for the work proposed and the proposal must be designed to meet all applicable building codes and ordinances.

The **Oregon Department of State Lands** (DSL) provided a Wetland Land Use Notification response (Exhibit E.8), which indicates the Willamette River is a state-owned waterway. The DSL response notes the proposed project appears it will impact Essential Salmonid Habitat and requires a state permit. The DSL response notes the applicant has received a removal fill permit from DSL (62128 RF) and the applicant must obtain a dock registration from DSL.

The following agencies responded with no issues or concerns:

- **Portland Transportation**
- **Urban Forestry**
- **Portland Fire Bureau**

2. Neighborhood Review: No written responses have been received.

ZONING CODE APPROVAL CRITERIA

This proposal must satisfy the approval criteria for both the Environmental Review and the Greenway Review. Findings for these reviews are provided below:

- **33.430.250 Environmental Review Approval Criteria**
- **33.440.350 Greenway Review Approval Criteria**

Only the applicable Environmental Review and Greenway Review approval criteria are listed.

33.430.250

E. Other development in the Environmental Conservation zone or within the Transition Area only. In Environmental Conservation zones or for development within the Transition Area only, the applicant's impact evaluation must demonstrate that all of the following are met:

- 1. Proposed development minimizes the loss of resources and functional values, consistent with allowing those uses generally permitted or allowed in the base zone without a land use review;**
- 2. Proposed development locations, designs, and construction methods are less detrimental to identified resources and functional values than other practicable and significantly different alternatives;**
- 3. There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed;**
- 4. The mitigation plan demonstrates that all significant detrimental impacts on resources and functional values will be compensated for;**
- 5. 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**
- 6. 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.**

33.440.350

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

- **Issue C. Natural Riverbank and Riparian Habitat**
- **Issue D. Riverbank Stabilization Treatments**
- **Issue E. Landscape Treatments**

E. Development within the greenway setback. The applicant must show that the proposed development or fill within the greenway setback will not have a significant detrimental environmental impact on Rank I and II wildlife habitat areas on the

riverbank. Habitat rankings are found in the *Lower Willamette River Wildlife Habitat Inventory*.

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

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

Findings: The applicants provided findings for these approval criteria. These criteria address comparable requirements, so BDS Land Use Services staff combined the findings for both the Environmental and Greenway Reviews for ease of review and readability. Where warranted, BDS Land Use Services staff also added conditions to ensure the approval criteria will be met.

The findings provide an evaluation of the proposed project purpose and alternatives; the anticipated project impacts; and the proposed mitigation measures.

Project Purpose and Alternatives: The applicants' narrative explains that the location of the proposed project is constrained by steep topography; geotechnical considerations; the location of the existing house; and the on-site water bodies. The project purpose is to provide recreational access to the Willamette River and support the aquatic ecosystem and habitat-forming processes. Project-specific objectives include the following:

1. Safe access to the river from privately-owned residential property
2. Minimize project-related impacts to the aquatic environment and riparian area
3. Improve function of existing aquatic environment and riparian area

Additionally, another noted purpose of the project is to relocate a mitigation planting area required through a prior land use review (LU 12-105833) and combine it with a new mitigation scheme.

The applicants' narrative (Exhibits A.1 and A.2) indicates their preferred alternative was selected after considering options that included: alternative sites, no-build, and several alternative access and dock designs. The applicants rejected the alternative sites and no-build options, because no nearby riverfront homes were for sale (as of July 2019) and a no-build scenario would not provide the desired river access. The *build* alternatives are summarized below:

Build Alternatives: The applicants indicate the proposed project design was evaluated to determine if it was feasible from an engineering, environmental, and economic standpoint, and that it was consistent with the underlying project purpose to serve the residential property with recreational river access. The applicant evaluated access route alternatives that would provide safe access to the river across the steep bank slopes, and dock design features to align with state and federal guidelines, as summarized below.

Option 1) Single Gangway: Connect a single gangway with a concrete footing below the existing tie-back wall to the dock, which would be supported by pilings in the river. The applicants indicate this would require the least amount of disturbance to the undeveloped riparian area, but there would be a 71 foot vertical distance between the existing development and the river, which would exceed the maximum allowed slope for gangways

(1 vertical to 2.5 horizontal-per City of Portland Code 28.06.060). The applicants determined this would not provide a feasible accessway and rejected this alternative.

Option 2) Two Gangways (Applicants' Preferred Alternative): This alternative would use a stairway and a lower platform anchored with pile footings and tiebacks to connect to two 95-foot long gangways linked by an intermediate platform to the proposed dock landing and dock. The gangways, platform, and dock would be supported by 5 pilings in the river. This would necessitate the removal of vegetation to install the stairway and platform, but no trees would be removed, and the vertical distance between the lower platform and the river would be approximately 59 feet. The applicants determined access route Option #2 would avoid unsafe slopes in the gangway system, as compared to Option #1, and result in the fewest impacts to the riparian area, as compared to Option #3.

Option 3) Elevated Tram and Gangway: This alternative would utilize an elevated tram between the existing residence and gangway section to the proposed dock, to allow for the steepest portion of the riverbank to be traversed within a contained, mechanized structure. The vertical distance between the lower tram platform and the river would be approximately 35 feet. Mature trees would be avoided, though existing shrubs beneath the elevated tram track would be disturbed. Although feasible, the applicants rejected this alternative, as it required considerably more structural and geotechnical design considerations and on-going maintenance needs than a non-mechanized gangway alternative.

The applicants' assert the location and design elements of the proposed dock will have the least detrimental impacts to resources and functional values compared with other build alternatives, and minimize the loss of resources and functional values, consistent with allowing those uses generally permitted or allowed in the base zone. BDS Staff generally concur with the applicants' proposal, except for some specific parameters around the extent of and timing for the mitigation measures, as described in more detail below.

Potential Project Impacts: The applicants acknowledge all development within the Willamette River has the potential to result in the loss of biological productivity in the river, since overwater structures shade habitat and provide a safe haven for predators that feed on ESA listed juvenile salmon and steelhead migrating through the area.

Additionally, as noted in the BES response: *Numerous studies have found the cumulative effect of incremental shoreline habitat modifications has negative impacts on native fish species including ESA listed juvenile salmonid. Studies have shown predatory invasive fish species such as bass and northern pikeminnow have a strong affinity to overwater structures. These fish species and predatory birds are major predators of juvenile salmonids. The proposed dock will be located in critical salmonid habitat which prefer this in-shore, low-velocity microhabitat. According to the Oregon Department of Fish and Wildlife (ODFW 2016), the proliferation of residential overwater structures may reduce recovery efforts for these ESA listed species. Mitigation for these impacts to listed species should be included in this proposal.*

Overall, the applicants have characterized the project-related impacts from the stairway, gangways, platforms, dock, and associated piles and footings, will include: 449 square feet of permanent disturbance in the c-zone and 2,011 square feet of permanent disturbance within and riverward of the greenway setback; and proposal will also include 526 square feet of temporary disturbance to existing riparian vegetation in the c-zone and greenway setback.

The in-water development will occupy approximately 140 feet or 28 percent of the site's 490 feet of river frontage, which will create some reduction in public access for fishing or non-motorized boating along the shoreline. Motorized boats traveling to and from the dock will contribute additional wave and wake action close to the shoreline, which will create disruptions to the shallow water and riparian habitat proximate to the gangway and dock facility. The gangways and dock will be outside of the navigational channel, so they are not expected to significantly interfere with commercial navigation or motorized boating along the river.

Mitigation Measures: To temper impacts from the development, the applicants indicate the size, materials, and placement of the dock system has been designed to avoid and minimize damage to the upland and aquatic environments; the construction areas and methods have been selected to limit impacts to existing shoreline vegetation and shallow water habitat areas and the species that are dependent on those areas; and mitigation measures will be implemented to counter the impacts that cannot be avoided and to replace riparian vegetation that contributes to the habitat values of the site and surrounding area. Additionally, the proposed mitigation will occur within the project site, which is owned by the applicants.

The mitigation measures include the following:

Dock Design Features: The dock is proposed to be installed in a deep water area (25 to 30 feet of water depth at ordinary low water) at least 42 feet from the shoreline (3-foot elevation, City of Portland datum), to provide year-round boat access without dredging and to limit impacts to the in-water and shoreline habitat on and adjacent to the site.

The dock is proposed to be 10 feet wide and 35 feet long with a 6 foot by 8 foot attached landing. The applicants' narrative indicates the size of the dock is the minimum necessary to accommodate their watercraft and, according to the dock designer, support the proposed gangway system and withstand the large wakes experienced in the area.

The applicants' narrative, below, indicates the dock design aligns with as many of the following National Marine Fisheries Service SLOPES standards and the Oregon Department of Fish and Wildlife recommendations for residential docks as possible:

Federal and State Standards and Recommendations

Size: The proposed dock meets the NMFS standard for dock size but is larger than the ODFW recommendation for residential docks. According to ODFW, the residential dock size recommendation was based on dock proliferation on coastal lakes and may not be appropriate for larger riverine docks. The dock design is 10 feet wide and 35 feet long with a 6 foot by 8 foot attached landing. These dimensions are the minimum necessary to accommodate the Applicant's watercraft on the inner side of the dock and, according to the dock designer, to adequately support the proposed gangway system and withstand the large wakes experienced in the area.

Light Transmission: The proposed dock and attached dock landing will have at least 50 percent of the float surface composed of grating with 60 percent open surface area and meets the SLOPES standard and ODFW recommendation for light transmission. Open areas will not be used for storage, seating, or other activities that permanently reduce light transmission. The new gangways will be 5 feet wide and will have a 100 percent grated walk surface. The intermediate river landing will have a steel frame with a 100 percent grated walk surface.

Materials: Materials for the new dock, gangway, and pilings include steel, aluminum, and fiberglass / composite decking and do not include treated wood. The new floats will be fully encapsulated according to Oregon law and approved by the Oregon State Marine Board. The proposed project meets the SLOPES standards and ODFW recommendations for materials.

Willamette River Recommendations

Distance from Shoreline: The proposed dock is approximately 42 feet from the OLW. Although the SLOPES standard and ODFW recommendation for distance from the shoreline is 50 feet, the depth of water beneath the dock in the proposed location is approximately 25-30 feet at OLW. As such, it is assumed that the location will minimize the adverse effects anticipated when placing docks closer than 50 feet from shore (per previous approvals NWP-2015-269 / WCR-2015-3603 and NWP1998-796 / NMFS #2015-2056))

Float Width, Grating, and Flow Velocity: The proposed dock is wider than 6 feet and has been designed to have 50 percent of the dock surface grated (allowing 60 percent light transmission), which meets SLOPES standard for new floats. The ODFW further recommends that docks exceeding 6 feet in width be placed in water that maintains a flow velocity of at least 0.7 feet per second. Due to the tidal influence in the project reach, there are periods in which the water velocity is less than 0.7 feet per second. The most recent mean water velocities recorded at the USGS Gage (14211720 – Willamette River at the Morrison Bridge), include water velocities below 0.7 feet per second in multiple days in January, and almost daily in February and March. As such, this recommendation is not reasonable for docks in this portion of the Willamette River.

Construction Management: The proposed concrete footing, stairway, and lower platform will be installed using land-based equipment. Construction work for the intermediate river landing, gangways, dock, and piles will be conducted from the water.

The applicants provided a detailed construction management plan (Exhibits C.7-C.9), which shows 4-foot tall orange high visibility fencing will be installed around the upland construction access and temporary staging area. The fencing will be located at the edge of the developed vehicle, parking and walkway areas adjacent to the house and outside of the protection zone, and around the perimeter of the stair and landing construction area. The fencing will also serve as tree protection fencing for the trees proximate to the construction activities. Tree Root Protection Zone (RPZ) signage and other access restriction signage will be placed in prominent locations on the tree protective fencing and along the access route between the staging area and the landing site. Contractors will be instructed to stay within the designated access and staging areas.

Straw wattles will be installed around the temporary disturbance area for installation of the concrete footing, stairs, and lower platform. All excavated soil will be bagged and carried out to an off-site, permitted disposal facility. Following excavation, the concrete footing will be cast in place. Concrete mixing will occur within the staging area, and wet concrete will be transported to the landing location in a contained vessel using a wheelbarrow or similar hand operated, non-mechanized equipment. Concrete waste management will adhere to the standards of the City of Portland's Erosion and Sediment Control manual (March 2008 or most recent version).

For the lower platform, the selected contractor will need to access the hillslope below the existing tie-back retaining wall to install the concrete landing and its associated pile footings and the lower platform and its associated tie-back concrete wall and pile foundations. The foundation piles will be installed, as recommended by the geotechnical engineer, using a hand operated pile driver. Once the structural features are installed, the lower platform and stairs will be constructed and attached in place by hand.

For the gangway system and dock, construction access will be from the river, with only the final attachment of the gangway to the landing conducted by hand from the lower platform. All heavy equipment necessary for the installation of the dock, gangway, and associated pilings (i.e., crane, vibratory hammer, impact hammer, work barges) will access the project area via a floating barge, using the following practices:

General

- All proposed work within the Willamette River channel will occur between July 1 and October 31 or December 1 and January 31 (the ODFW-approved IWWWs), the time of year when ESA-listed species are least likely to be present.
- A Pollution Control Plan (PCP) will be prepared by the Contractor, including:
 - Practices to prevent construction debris from dropping into any waterbody.
 - Steps to cease work under high flow conditions, except for efforts to avoid or minimize resource damage.
- All conditions of DEQ's 401 Water Quality Certification will be followed.

- Only enough supplies and equipment to complete the project will be stored on site.
- All heavy equipment (i.e., crane, pile driver) will access the project site via existing roadways and floating barges.
- All equipment will be inspected daily for fluid leaks, any leaks detected will be repaired before operation is resumed.
- Stationary power equipment (i.e., cranes) operated within 150 feet of the Willamette River will be diapered to prevent leaks.

Piles

- All piles will be installed with a vibratory hammer. An impact hammer may be necessary to proof the new piles.
- New pilings will be round steel, 12-inches in diameter. The contractor anticipates that a vibratory hammer will adequately embed the new piles to the necessary depth; however, an impact driver may be necessary to proof the new piles.
- The contractor will initiate daily “soft-start” procedures to provide a warning and/or give animals near pile driving and removal activities a chance to leave the area prior to a vibratory or impact driver operating at full capacity; thereby, exposing fewer animals to loud underwater and airborne sounds.
 - A soft start procedure will be used at the beginning of in-water pile driving or any time pile driving has ceased for more than 30 minutes.
 - For vibratory pile driving, the contractor will initiate noise from vibratory hammers for 15 seconds at reduced energy followed by a 30-second waiting period. The procedure shall be repeated two additional times.
- When using an impact hammer to proof the piles, the contractor will surround the piling being driven by a confined or unconfined bubble curtain that will distribute small air bubbles around 100% of the piling perimeter for the full depth of the water column.
 - If water velocity is 1.6 feet per second or less, the contractor will use either a confined or unconfined bubble curtain.
 - If water velocity is greater than 1.6 feet per the contractor will use a confined bubble curtain.
- All pilings will be fitted with devices to prevent perching by piscivorous birds.

Once the landing, stairs, and lower platform have been installed and the gangway attached, tree protection and temporary erosion control measures will be removed. Permanent erosion control seed and other mitigation plantings will be installed by hand without the use of machinery or other equipment.

Ivy removal, mitigation plant installation, and monitoring: The applicants propose to cut ivy from all trees located riverward of the rail right-of-way; and to remove nuisance species and install and maintain and monitor native plantings in designated mitigation areas (Exhibits C.10-C.11). The project plans identify all the trees riverward of the rail right-of-way. Those trees proximate to the house are labeled and identified, as “Existing Trees to Remain”; however, no tree removal is authorized with this review and all trees noted on the plans must remain.

No specific details about the proposed ivy cutting are provided. Therefore, to ensure clarity for the applicants, construction workers, and city inspectors, BDS staff will require the ivy cutting to be performed as follows, based on guidelines from Portland Parks “No-Ivy League”:

Girdle the ivy by using loppers or a pruning saw to cut through every vine clinging to the tree trunk at shoulder height and at ankle height. Strip the ivy away from the tree between the two cuts – carefully, so the bark is not damaged. After girdling the ivy from the tree, also clear the surrounding ground ivy vines and roots within a 6-foot radius around the tree. Remove all cut ivy vines and roots from the site.

The applicants have noted that the site’s steep terrain may pose challenges for access to conduct the ivy removal; but also recognize that allowing the ivy to persist will likely result in the death of the existing trees and other native flora, which contribute to the stabilization of the riverbank. BDS staff and the applicants have discussed the benefits that will result from the ivy removal and expect them to be manifold.

The project plans show a single 4,288 square foot mitigation area (Exhibit C.10), generally located between the proposed stairway connection to the gangway system and the stream channel on the north end of the site. For discussion purposes, BDS staff will designate two separate subareas to the overall mitigation area and assign different requirements to each subarea to assure efficiency in the implementation of the mitigation efforts. The first will be called Mitigation Subarea A and will consist of the mitigation area within the environmental resource area; generally shown as an area between the rail tracks and the top of bank adjacent to the stream at the north end of the site. The second will be called Mitigation Subarea B and will consist of the mitigation area generally located below the retaining wall, east of the house, and around the proposed new stairway and landing connections to the gangways.

Overtime, the applicants have installed non-native ornamental plantings in both mitigation subareas, including within the environmental protection zone in Mitigation Subarea A. These non-native plantings encroach into the resource area intended for only native species. Some of the non-native plantings include edible cherry trees. Although not definitively identified on the project plans, these cherry trees are likely cultivars of *Prunus avium*, which is listed as a nuisance plant on the *Portland Plant List*. In both Mitigation Subarea A, all nuisance species, including the ornamental *Prunus* species, Trees 27, 28, 29 and 34, must be removed. Other non-native ornamental species within Mitigation Subareas A and B will not be required to be removed, but must be replaced when they die with native species from the *Portland Plant List*.

To afford expediency in replacing the resources lost from the 2012 review and to advance the overall mitigation efforts efficiently, conditions will be applied as follows:

Prior to issuance of permits for the proposed dock facility, the applicants shall complete one of the following options for Mitigation Subarea A:

- Option 1) Obtain and finalize a BDS Zoning Permit for the following mitigation actions:
- Ivy must be removed from all trees riverward of the rail right-of-way; as follows:
Girdle the ivy by using loppers or a pruning saw to cut through every vine clinging to the tree trunk at shoulder height and at ankle height. Strip the ivy away from the tree between the two cuts – carefully, so the bark is not damaged. After girdling the ivy from the tree, also clear the surrounding ground ivy vines and roots within a 6-foot radius around the tree. Remove all cut ivy vines and roots from the site.
 - All nuisance plants must be removed from Mitigation Subarea A, including the ornamental *Prunus* species, Trees 27, 28, 29 and 34; and
 - All mitigation plantings must be installed in Mitigation Subarea A.

OR

Option 2) Provide a performance guarantee for the removal of the ivy and installation and maintenance of the mitigation plantings, as described in Option 1, in accordance with 33.700.050, Performance Guarantees, *if the dock construction will occur outside of the planting season (October 1 and March 31)*.

Additionally, prior to issuing the permits for the proposed dock facility, the applicants shall obtain a BDS Zoning Permit for the following mitigation actions:

- All nuisance plants must be removed from Mitigation Subarea B;
- All mitigation plantings must be installed in Mitigation Subarea B.

The Zoning Code requires that required mitigation plantings must be maintained to survive to maturity. The applicant has proposed to monitor the new plantings and invasive species within the mitigation area for one year. However, limiting intrusion into planted areas by invasive species, as well as providing water during the dry summer months for the first few years, is expected to help to ensure survival of the mitigation plantings. A minimum two-year monitoring period is expected to provide improved assurance that the mitigation

plantings succeed and meet the project goals. Therefore, an extended monitoring period will be required.

Summary Findings: As discussed in these findings, with conditions regarding the construction methods and additional mitigation efforts to protect and enhance the site's upland and streamside functions, measures will be applied to ensure the work is conducted to minimize potential impacts to migrating and rearing aquatic species that are dependent on shallow water habitat and to replace riparian vegetation that contributes to the habitat values of the site and surrounding area. As such, the negative effects of the proposed dock system to resources and functions of the environmental resources in the Environmental Conservation and Environmental Protection zone and to the Willamette River's hydrologic, geomorphic, biological, or chemical/nutrient functions have been minimized or will be effectively mitigated. Accordingly, these criteria are met.

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.

The environmental standards in Zoning Code Section 33.430.140.D through S (except L) apply to the proposal. Standard 33.430.140.D has been addressed by this Environmental Review. All other applicable standards must be shown to be met at permit time.

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process, based on other City Titles, as administered by other City service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical requirements applicable to this proposal. This list is not final and is subject to change when final permit plans are provided for City review.

Bureau	Code Authority and Topic
Water Bureau, 503-823-7404 www.portlandonline.com/water	Title 21 - Water availability
Environmental Services, 503-823-7740 www.portlandonline.com/bes	Title 17- Stormwater Manual Sewer availability & Stormwater Management
Dunthorpe-Riverdale Service District No.1 503-988-5050	Sewer availability
Lake Oswego Fire District, 503-635-0275	Emergency Access, Hydrants
Multnomah County Transportation 503-988-5050	MCRR: 6.100A, 16, 18, 18.250, 18.750 DCM 5.1 Public road design
Development Services 503-823-7300 www.portlandonline.com/bds	Title 24 - Building Code, Flood Plain, Site Development Title 10 - Erosion and Sediment Control

As authorized in Section 33.800.070 of the Zoning Code conditions of approval related to these technical standards have been included in the Administrative Decision on this proposal.

CONCLUSIONS

The applicants propose a new gangway system and boat dock on the Willamette River for river recreation. A portion of the proposed accessway extends through an area that was identified for mitigation plantings in a 2012 land use review, so the proposal also includes a request to modify those prior mitigation requirements.

The proposed dock system will consist of an upland concrete landing and stairs, two elevated gangway segments connected via intermediate platform landings, a river level gangway landing and the dock. Residential docks have historically been allowed as accessory features associated with a primary residence, and the applicants have demonstrated their preferred alternative will have the fewest impacts of the “build” alternatives.

To reduce impacts to the aquatic environment, the dock and gangway system have been designed to minimize impacts to upland and shallow water habitat, employ durable materials, and generally align with federal and state guidelines for residential docks.

To reduce construction impacts, construction activities in the upland areas will be localized to existing paved vehicle areas and designated construction limits; and all river components will be installed from a floating barge.

To mitigate for impacts from the dock project and to replace mitigation required by the 2012 review, ivy will be removed from all trees located riverward of the rail right-of-way and native plantings will be installed and maintained in designated mitigation areas.

These efforts will temper impacts to the aquatic and upland environment by improving the overall health of the existing riverfront forest on the site, as well as the functions of the stream channel bordering the north end of the site.

With conditions described throughout this report regarding the design, construction and mitigation for the dock facility, the proposal will meet the applicable approval criteria and can be approved.

ADMINISTRATIVE DECISION

Approval of an Environmental Review and Greenway Review for:

Construction of a stairway and concrete landing platform; and elevated gangways, pilings, landings and a floating dock; within the Greenway River general and Environmental Conservation overlay zones, and in substantial conformance with Exhibits C.3 through C.11, subject to the following conditions:

- A. BDS Zoning Permits are required for inspection of required nuisance plant removal and mitigation plantings, in conformance with Conditions A-E. A separate BDS building permit is required for development and is subject to the following:

1. Prior to issuance of BDS building permits for the proposed dock facility, the applicants shall complete one of the following options for Mitigation Subarea A:
Option 1) Obtain and finalize a BDS Zoning Permit for the following mitigation actions:

- Ivy must be removed from all trees riverward of the rail right-of-way; as follows:
Girdle the ivy by using loppers or a pruning saw to cut through every vine clinging to the tree trunk at shoulder height and at ankle height. Strip the ivy away from the tree between the two cuts – carefully, so the bark is not damaged. After girdling the ivy from the tree, also clear the surrounding ground ivy vines and roots within a 6-foot radius around the tree. Remove all cut ivy vines and roots from the site.
- All nuisance plants must be removed from Mitigation Subarea A, including the ornamental Prunus species, Trees 27, 28, 29 and 34; and
- All mitigation plantings must be installed in Mitigation Subarea A.

OR

Option 2) Provide a performance guarantee for the removal of the ivy and installation and maintenance of the mitigation plantings, as described in Option 1, in accordance with 33.700.050, Performance Guarantees, *if the dock construction will occur outside of the planting season (October 1 and March 31).*

2. Prior to issuance of BDS building permits for the proposed dock facility, the applicants shall obtain a BDS Zoning Permit for the following mitigation actions in Subarea B:
 - All nuisance plants must be removed from Mitigation Subarea B;
 - All mitigation plantings must be installed in Mitigation Subarea B.
 3. Building Permits shall not be finalized until the BDS Zoning Permit for inspection of mitigation plantings required in Conditions A.1 and A.2 are finalized.
- B. The Conditions of Approval listed below, shall be noted on appropriate plan sheets submitted for permits (building, Zoning, grading, Site Development, erosion control, etc.).
1. Permit plans shall include the following statement, "**Any field changes shall be in substantial conformance with approved LU 19-218415 EN GW Exhibits C.3 through C.11.**"
- C. Temporary, 4-foot high, bright orange construction fencing shall be placed as depicted on Exhibit C.8 Construction Management Plan.
1. All measures provided for sediment control, including sediment fencing, shall be placed inside of the temporary construction fence, if required at permit time.
 2. No mechanized construction vehicles are permitted outside of the temporary construction fence. All planting work, invasive vegetation removal, and other work to be done outside the fenced area and existing paved areas, shall be conducted using handheld equipment.
 3. Trees shall be protected according to tree protection measures provided in Title 11 Tree Code, Chapter [11.60.030 Tree Protection Specifications](#), or as specifically depicted on Exhibit C.8 Tree Plan.
- D. The applicant shall obtain BDS Zoning Permits for approval and inspection of a mitigation plan for a total of 75 shrubs, 200 ground covers, and erosion control seed mix total in Subarea A and Subarea B, in substantial conformance with Exhibits C.10 and C.11 Mitigation Plans. 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 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 40-foot by 40-foot "typical", scalable planting layout for each planting zone, and shall illustrate a naturalistic arrangement of plants and should include a planting table listing the species, quantity, spacing and sizes of plants to be planted.
 - b. The applicant shall indicate on the plans selection of either tagging plants for identification or accompanying the BDS inspector for an on-site inspection.
 2. Plantings shall be installed between October 1 and March 31 (the planting season).
 3. Prior to installing required mitigation plantings, non-native invasive plants shall be removed from all areas within 10 feet of mitigation plantings, using handheld equipment.
 4. If plantings are installed prior to completion of construction, a temporary bright orange, 4-foot high construction fence shall be placed to protect plantings from construction activities.
 5. After installing the required mitigation plantings, the applicant shall request inspection of mitigation plantings and final the BDS Zoning Permit.
 6. All mitigation 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.
- E. 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 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 ivy removal has been conducted and the required plantings remain. Any ivy that has regrown in the trees located riverward of the rail right-of-way must again be removed as outlined in Condition A.1; and any required plantings that have not survived in Mitigation Subarea A and Subarea B must be replaced.
 2. All required landscaping shall be continuously maintained, by the land owner in a healthy manner, with no more than 15% cover by invasive species. In the mitigation areas: required mitigation plants that die shall be replaced in kind, or with an appropriate native species from the *Portland Plant List*, as noted on the approved plans. Ornamental plants that die shall be replaced with an appropriate native species from the *Portland Plant List*, as noted on the approved plans.
- F. 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.

Note: In addition to the requirements of the Zoning Code, all uses and development must comply with other applicable City, regional, state and federal regulations. This decision applies to only the City's environmental regulations. Activities which the City regulates through PCC 33.430 may also be regulated by other agencies. In cases of overlapping City, Special District, Regional, State, or Federal regulations, the more stringent regulations will control. City approval does not imply approval by other agencies.

Staff Planner: Kate Green

Decision rendered by:  **on April 17, 2020**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 17, 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 August 28, 2019, and was deemed complete on November 26, 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 August 28, 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 requested that the 120-day review period be extended (Exhibit A.3). Unless further extended by the applicant, **the 120 days will expire on: July 2, 2020.**

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

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

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

Appealing this decision. This decision may be appealed, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received by 4:30 PM on May 1, 2020. **Towards promoting social distancing during the COVID-19 pandemic, the completed appeal application form must be e-mailed to BDSLUSTeamTech@portlandoregon.gov and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations for the appeal of Type II and Ix decisions on property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in the file, please contact the planner listed on the front of this decision. The planner can provide some information over the phone. Please note that due to COVID-19 and limited accessibility to files, only digital copies of material in the file are available for viewing. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at <https://www.portlandoregon.gov/citycode/28197>.

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

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

Recording the final decision.

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

- *Unless appealed*, the final decision will be recorded after May 1, 2020 by the Bureau of Development Services.

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

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

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

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

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

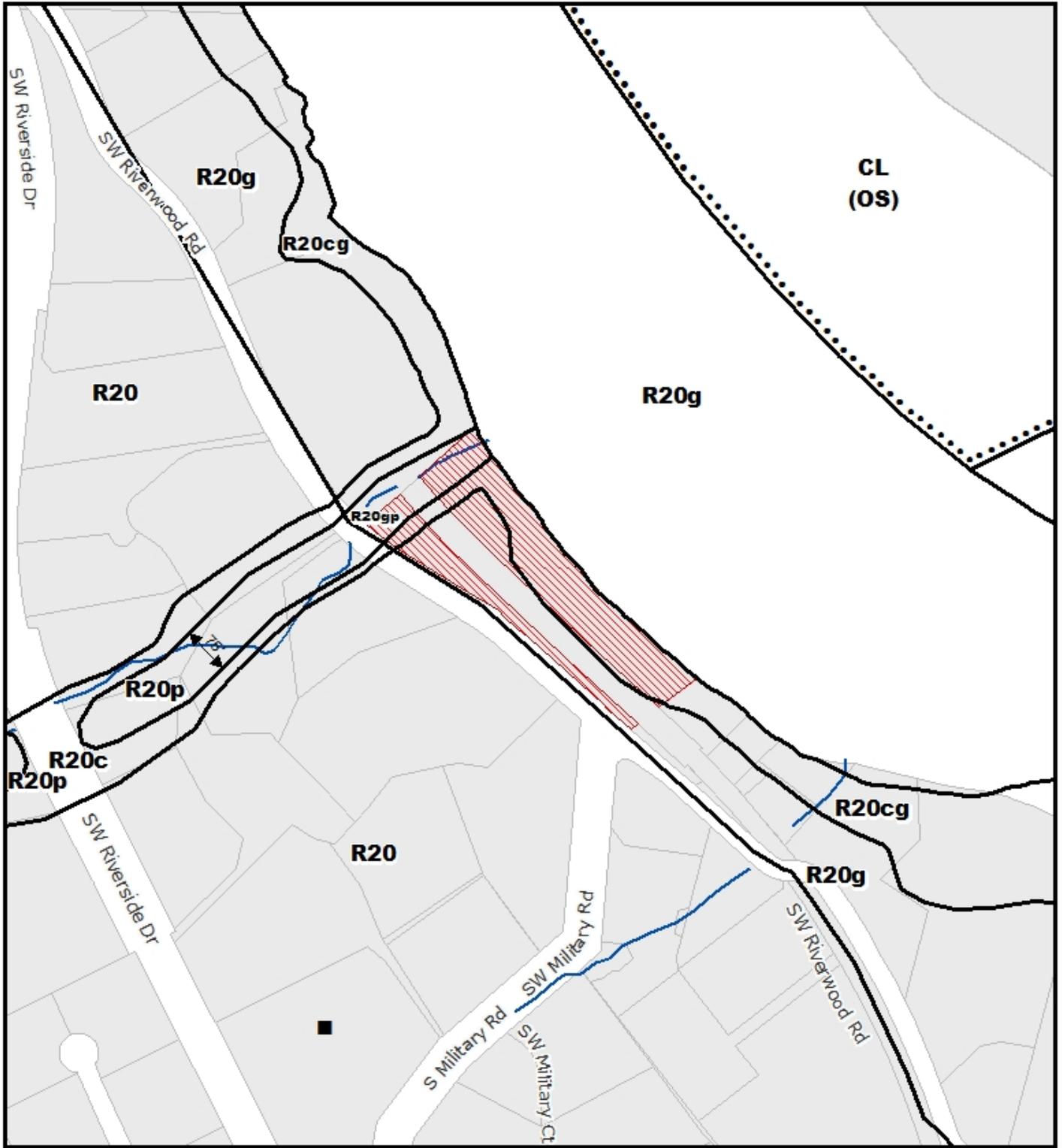
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Initial Submittal
 - 2. Amended Submittals
 - 3. Timeline Extensions
- B. Zoning Map (attached)
- C. Plans/Drawings: (attached)
 - 1. Existing Conditions Plan-entire site (Figure 4)
 - 2. Existing Conditions Plan-project area (Figure 4A)
 - 3. Site Plan-entire site (Figure 5)
 - 4. Site Plan-project area (Figure 5A)
 - 5. Dock Ramp Cross Sections (Figure 5B)
 - 6. Concrete Footing, Stairway, and Lower Platform Model (Figure 5C)
 - 7. Construction Management Plan and Tree Plan (Figure 6)-**attached**
 - 8. Construction Management Plan and Tree Plan (Figure 6A)
 - 9. Construction Management Plan and Tree Plan (Figure 6B)
 - 10. Mitigation and Greenway Planting Plan (Figure 7)-**attached**
 - 11. Mitigation and Greenway Planting Plan (Figure 7.A)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Portland Transportation
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development / BDS
 - 6. Urban Forestry /Parks Division
 - 7. Life Safety
 - 8. Oregon Department of State Lands-Wetland Notification response
- F. Correspondence: (none received)
- G. Other:
 - 1. Original LU Application
 - 2. Oregon Department of State Lands-Wetland Notification form
 - 3. Correspondence to/from applicant

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



Stream



Historic Landmark

File No.	LU 19 - 218415 EN GW
1/4 Section	4131
Scale	1 inch = 200 feet
State ID	1S1E35BA 800
Exhibit	B Sep 04, 2019



Pacific Habitat Services, Inc.
 11150 SW Riverwood Dock, Suite 300, Portland, Oregon 97205
 Phone: (503) 753-3000 Fax: (503) 753-3000

Base Map Surveyed by Griffin Land
 Surveying and Centline Concepts
 Vertical Datum is NAVD88

Construction Management Plan and Tree Plan

11150 SW Riverwood Road Dock Project - Portland, Oregon

FIGURE 6
 3-10-2020

