



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

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Date: May 29, 2020
To: Interested Person
From: Clare Fuchs, BDS Land Use Services
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NOTICE OF A TYPE Ix DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 20-116877 CN

GENERAL INFORMATION

Environmental Consultant: Noah Herlocker, AECOM
111 SW Columbia Suite 1500 Portland OR 97201
503-478-2768 noah.herlocker@aecom.com

Owner: Port of Portland
PO Box 3529 Portland, OR 97208-3529

Owner's Agent: Teresa Carr, Port of Portland
7201 N Marine Drive Portland OR 97203
teresa.carr@portofportland.com

Applicant: Mark Lindley, Portland General Electric Company
121 SW Salmon Street, 1wtc1302 Portland OR 97204
503-464-8102 mark.lindley@pgn.com

Site Address: 9619 N RIVERGATE BLVD

Legal Description: BLOCK 16 LOT 2 TL 100, RIVERGATE INDUSTRIAL DIS; BLOCK 24 LOT 2 TL 100, RIVERGATE INDUSTRIAL DIS; BLOCK 16 LOT 2 TL 103, RIVERGATE INDUSTRIAL DIS

Quarter Section: 1719
State ID No.: 2N1W35 00100, 2N1W35B 00100, 2N1W35 00103
Tax Account No.: R708883800, R708886600, R708883840

Neighborhood: St. Johns, contact Mike Vial at mikevial@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.

Other Designations: *Smith and Bybee Wetlands Comprehensive Natural Resource Plan* (2013); *Columbia Corridor Environment and Industrial Mapping Project* (1989); 100-year floodplain and 1996 Flood Inundation Area.

Zoning: Heavy Industrial (IH)
Overlays: Environmental Zone (c), Aircraft Landing Zone (h), and Prime Industrial Overlay Zone (k)
Case Type: CN (Comprehensive Natural Resource Plan Review)
Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal: Portland General Electric (PGE) proposes to reroute existing electrical lines (the Kelly Point transmission line) to coincide with the Portland Bureau of Transportation's new Rivergate Boulevard overpass. The new overpass is being built to increase travel times on N Rivergate Boulevard by creating a bridge over existing heavy rail lines. To do this PGE proposes to re-route an existing north-south electrical line and jog it west to pass over N Rivergate Boulevard in a location without the vertical constraints that the new overpass bridge will cause. After the electrical lines pass over N Rivergate Boulevard, the electrical lines and poles will jog back east to their original north-south alignment. To accomplish this, the applicant proposes to construct 4 new power poles. The two southern power poles are proposed to be located in an Environmental Conservation area, a wetland, and in the 100-year floodplain. A total of 5,000 square feet of temporary and 92 square feet of permanent disturbance area outside of the N Rivergate Boulevard right-of-way are proposed in the resource area of the Environmental Conservation overlay zone. The applicant proposes to restore temporary disturbance areas and mitigation in the form of 5,540 square feet shrubs and native seed planting. The work associated with the northern two poles is exempt from Environmental overlay zone regulations because it is located in the N Rivergate right-of-way or outside of the overlay zone.

In 2013, the City approved the *Smith and Bybee Wetlands Comprehensive Natural Resource Plan* (Smith & Bybee CNRP), in Land Use Review Case # [LU 12-167334 CN](#). The Smith & Bybee CNRP included final approval of 11 projects, and tentative approval of 9 projects within the 2,100-acre Smith & Bybee Wetland Natural Area in North Portland. Projects receiving tentative approval through the CNRP are subject to a second Type Ix land use review before they can be constructed to ensure conformance with the plan, when details are available.

The Kelly Point transmission line project was tentatively approved as part of Project 4B, the Rivergate Boulevard Overcrossing in the CNRP in the Smith & Bybee CNRP and assigned a Type Ix land use review procedure to evaluate impacts of the project and mitigation of impacts.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria laid out for Project 4B in Smith & Bybee CNRP ([LU 12-167334 CN](#)). The relevant approval criteria are:

- Designs, and construction methods are less detrimental to identified resources and functional values than other practicable and significantly different alternatives;
- There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed, including adjacent water bodies;
- The mitigation plan demonstrates that all significant detrimental impacts on resources and functional values will be compensated for, will occur within the same watershed as the proposed use, and the applicant owns the mitigation site;
- Meets all applicable Zoning Code development standards.

ANALYSIS

Site and Vicinity: The portion of the Kelly Point transmission line project taking place south of N Rivergate Boulevard is located within an area managed under the Smith & Bybee

CNRP. The larger CNRP area includes 2,100 acres of property owned primarily by Metro, the Port of Portland, and the City of Portland, and includes the Columbia Slough, Ramsey Lake wetland mitigation area, St. Johns Landfill, and the powerline corridor (peninsula) extending west from the southwest corner of the landfill. The proposed project is in this powerline corridor, referred to as the Lombard Peninsula.

The larger Smith & Bybee natural area consists of a mosaic of wetland, riparian, and upland habitats. These habitats include two large emergent wetlands (Smith and Bybee), scrub wetlands dominated by willows; bottomland forest with Oregon ash, black cottonwood, and willows; riparian forest, located primarily along the sloughs; and upland prairie, evolving at the former landfill site. The natural area supports an abundance of fish and wildlife, including 17 species of fish and more than 150 bird species, along with numerous species of reptiles, amphibians, mammals, insects, and aquatic invertebrates.

The Kelly Point transmission line project site has been substantially altered by paved roadways, railroads, powerline corridors, and industrial development. Due to a lack of contiguity with surrounding wetland habitat and inconsistent surface water presence, the project site does not contain the fish habitat described by the resource inventory (see Environmental Resources below). Depressional palustrine forested/emergent wetland habitat (described in the applicant's wetland delineation report) as well as upland vegetated areas on the project site are expected to provide the remaining identified resources and functional values. However, as the project site is bisected by N. Rivergate Boulevard and impounded by roadways and railroad berms, these resources and functional values are limited and degraded under existing conditions.

The proposed work would occur in an area at the upper periphery of identified wetlands, along the base of the N. Rivergate Boulevard road embankment. Conditions within the immediate vicinity of the affected Environmental Conservation overlay zone include a transition between non-native blackberries (*Rubus armeniacus*) growing along the road embankment to a mixture of native willow (*Salix scouleriana*), non-native blackberry, and non-native reed canarygrass (*Phalaris arundinacea*). The native willows in this area are located beneath existing powerlines and show evidence of multiple clippings and subsequent regrowth, resulting in dense, multi-stemmed willow habitat.

This wetland/upland transition zone primarily functions as a buffer for the interior wetland areas that attract beaver and other wildlife within a linear undeveloped wetland corridor. The buffer vegetation stabilizes slopes leading down to the wetland, and screens the interior wetland area from road traffic, light, and noise. Further detail on the ecological conditions within the affected portions of the overlay zone, including site photographs, are provided in a wetland delineation report prepared for this project (Attachment A8). The wetland delineation report has been reviewed and approved by the Oregon Department of State Lands.

Zoning: The site is within the Heavy Industrial (IH) base zone, with Environmental Conservation (c), Airport Height (h) and Prime Industrial (k) overlay zones.

The IH zone is one of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zone provides areas where all kinds of industries may locate including those not desirable in other zones due to their objectionable impacts or appearance. The provisions of this zone allow this use; these regulations are not specifically addressed through this Environmental Review.

The Airport Height ("h") overlay zone limits the height of structures and vegetation in the vicinity of the Portland International Airport. The height limits in the vicinity of the proposal are above 1,230 feet and these provisions are not specifically addressed through this Environmental Review.

The Prime Industrial ("k") overlay zone protects land that has been identified in the Comprehensive Plan as Prime Industrial, and prioritizes these areas for long-term retention. Prime Industrial Land is suited for traded-sector and supportive industries and possesses characteristics that are difficult to replace in the region. In Portland, Prime Industrial land

consists of the Portland Harbor, Columbia Corridor, and Brooklyn Yard industrial districts. The regulations protect these areas by preventing, or requiring an off-set for conversion of the land to another zone or use that would reduce industrial development capacity. The provisions of this zone allow this use; these regulations are not specifically addressed through this Environmental Review.

The Environmental (“c”) 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 preserve the site’s protected resources. They protect the most important environmental features and resources while allowing environmentally sensitive urban development where resources are less significant. The purpose of this land use review is to ensure compliance with the regulations of the environmental zones.

Environmental Resources: The application of the environmental overlay zones is based on detailed studies that have been carried out within separate areas throughout the City. Environmental resources and functional values present in environmental zones are described in environmental inventory reports for these respective study areas.

The PGE powerline project site is included within the City’s 1989 the [Inventory and Analysis of Wetlands, Water Bodies, and Wildlife Habitat Areas for the Columbia Corridor](#) (Columbia Corridor Inventory) as Inventory Site # 51 (North Portland [Rivergate-Terminal 4]). There are eight identified resources and functional values for Site # 51: groundwater recharge/discharge, drainage, flood storage, desynchronization, erosion control, sediment trapping, pollution and nutrient retention and removal, and medium-quality fish habitat.

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

- **LU 12-167334-CN:** Smith and Bybee Wetlands Natural Area Comprehensive Natural Resource Plan (CNRP), which required the further environmental review of the project at hand. The purpose of the current proposal is to implement LU 12-167334 CN.

Agency Review: A Notice of Proposal in your Neighborhood was mailed on **April 2, 2020**. The following Bureaus have responded with no concerns to the proposal:

- Fire Bureau (Exhibit E2)
- Life Safety Section of BDS (Exhibit E5)

The following Bureaus responded with comments which are summarized below:

- Bureau of Environmental Services: No objections based on information provided that work will not impact City sewers in the area. See Exhibit E1 for details.
- Site Development Section of BDS: Site Development requests the following condition of approval: Prior to final approval of the zoning permit, the applicant shall submit a memorandum from a licensed surveyor documenting that the temporary access road fills within the flood hazard area have been removed, site grades in the flood hazard area have been restored to original grades, and balanced cut and fill within the flood hazard area has been met. (Exhibit A5 and E3)
- Bureau of Parks Urban, Forestry Division: Trees have been permitted for removal on the N side of Rivergate Boulevard through 18-117773-UF for a Capital Improvement Project. Please note that the tree removal locations shown north of Rivergate Boulevard on this application are incorrect, (Those incorrect UF permitted removed trees are marked on the plans as such (Exhibit C2). Only the trees on the plans for 18-117773-UF are permitted for removal. (Exhibit E4).

The exception is that C2, Construction Management Plans, show trees for removal as approved in 18-117773-UF. Exhibit C2 has been modified to show where tree removal has not been approved in this decision or in 18-117773-UF. Approval is subject to the following conditions:

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **April 2, 2020**. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

In 2013 the City approved the *Smith and Bybee Wetlands Comprehensive Natural Resource Plan* (CNRP) in Land Use Review Case #LU 12-167334 CN, which tentatively approved 9 projects within the Smith & Bybee Wetland Natural Area in North Portland. The CNRP specifically addresses this project as part of Project 4B, the Rivergate Boulevard Overcrossing Project, which received “tentative approval” in the CNRP. The CNRP identifies three approval criteria for this review:

1. Designs and construction methods are less detrimental to identified resources and functional resources and functional values than other practicable and significantly different alternatives;

Findings: The Kelly Point transmission line re-route project will replace existing power poles to allow construction of the new Rivergate Boulevard overcrossing and the new poles must be situated within the existing PGE powerline alignment.

The Kelly Point transmission line is located under an existing Bonneville Power Association (BPA) line. Per National Electrical Safety Code regulations, PGE transmission lines cannot be raised above BPA lines. Therefore, the Kelly Point transmission line must be re-routed to the west of its existing route to avoid the Rivergate Boulevard Overcrossing Project footprint. Four is the minimum number of poles required for the adjusted transmission line route. The wetland in the project area runs roughly parallel to N. Rivergate Boulevard and the poles must stay outside of the roadway embankment to allow a clear zone for traffic; therefore, temporary and permanent wetland impacts cannot be completely avoided.

New pole PL-39 (south of N Rivergate Boulevard) must be located adjacent to existing pole B to allow for wire transfer; given pole B's location on the boundary of the wetland, pole PL-39 cannot feasibly avoid being located within the wetland. Therefore, there is no less impactful feasible alternative design or construction methods that would allow continued transmission line operation as well as avoidance of the Rivergate Boulevard Overcrossing Project footprint.

Alternative locations do not exist for the replacement poles due to the existing powerline alignment.

The proposed project site currently includes seven of the eight identified resources/functional values to a limited extent; therefore, the proposed project has the potential to impact these existing resources/functional values.

The applicant responded to this criterion noting that the project will compensate for impacts related to ground disturbance (for access roads and the pole removal area) and vegetation clearing (in pole work areas) in upland and wetland habitat. All remaining ground disturbance and vegetation clearing areas would be planted with native shrubs as well as broadcast seeded with a native erosion control mix. Shrubs and native seeds would also be planted within a 10-foot wide area extending between the two new poles south of N Rivergate Boulevard (PL-38 and PL-39) locations; this area would be cleared of non-native vegetation (predominately Himalayan blackberry) prior to planting.

The combined project would result in a permanent loss of 28 square feet of wetland habitat and 164 square feet of upland habitat resulting from the foundations of the four

new poles; this is considered a minimal amount of habitat loss at the upper, less-sensitive periphery of the wetland area. These minor impacts would be offset by non-native vegetation removal and native shrub and seed plantings as referenced above. However, 4 willow trees will also have to be removed for the two poles south of N Rivergate Boulevard. With the condition that 4 native trees be planted in their place, the project construction is not expected to have a net detrimental effect on the project site's resources/functional values. *This criterion is met.*

2. There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed, including adjacent water bodies;

Findings: This approval criterion requires the protection of resources outside of the proposed disturbance area from impacts related to the proposal, such as damage to vegetation, erosion of soils off the site, and downstream impacts to water quality and fish habitat from increased erosion off the site.

In the applicant's Supplemental Application report construction management is described in detail. Construction equipment will involve the following: auger drill rig, bucket truck, digger derrick, backhoe, cement truck, sagging CAT, boom truck, pole trailer, reel trailer, tensioner, and puller. Staging would occur on N. Rivergate Boulevard. Construction site access for all new pole/pole removal locations would be from N. Rivergate Boulevard. Prior to pole installation, two 15-foot-wide temporary access roads consisting of either gravel or matting would be constructed from N. Rivergate Boulevard to the pole PL-38 and pole PL-39/pole B locations. The proposed project would result in approximately 0.03 acre (1,248 square feet) of temporary ground disturbance associated with access roads and removal of existing poles.

Approximately 0.01 acre (536 square feet) of the pole work/vegetation clearing area associated with poles PL-39 and B would be located within the wetland. As mentioned above, no excavation or fill activities would occur in these areas. Native willows shrubs would be cut to the base (not grubbed) and allowed to re-grow; the area would be seeded with a native seed mix. Wetland A continues out of the project area to the south toward another railroad berm; however, no work would occur in this area, and no impacts to this portion of Wetland A are anticipated. Four multi-stemmed willow trees have been identified for removal within pole work/vegetation clearing areas to create a "clear zone" for access and construction and to facilitate reconductoring (i.e., pulling and reattaching transmission lines). Vegetation removal would be confined to the smallest portion of the project area necessary to complete the work.

The applicant describes best management practices (BMPs) to be implemented on-site during construction to prevent soil erosion and to control sediment, thereby avoiding impacts to adjacent resources. Following construction, the planting native shrubs and seeds and temporary mulching of ground disturbance and pole work/vegetation clearing areas as described above would prevent erosion, thereby protecting adjacent undisturbed wetland and upland habitat from excess sedimentation. To ensure that temporary fills for construction access are removed consistent with flood hazard regulations, BDS Site Development has requested a condition that documentation be provided that this material is removed prior to the zoning permit being finalized. This documentation will also ensure that excess material is not left at the site which could contribute to erosion.

Additionally, the screening/buffering values of the affected habitat will be restored to avoid and minimize impacts to adjacent wetland areas. Therefore, there will be no significant detrimental impacts on resources and functional values in adjacent undisturbed areas.

Temporary construction impacts will be contained within access and construction areas, and temporary construction areas will be returned to a natural state. With the condition noted above *this criterion is met.*

3. The mitigation plan demonstrates that all significant detrimental impacts on resources and functional values will be compensated for, will occur within the same watershed as the proposed use, and the applicant owns the mitigation site;

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 applicant describes mitigation for the project as planting native shrubs and seeds within all ground disturbance areas and pole work/vegetation clearing areas south of N. Rivergate Boulevard in accordance with City Code requirements for Environmental Conservation Overlay Zones. In the applicant's "Supplemental Information" report the mitigation proposal is described in detail and would include 369 native upland and wetland shrubs. Shrubs would be a minimum 1-gallon size container or bare root and all plants would be native species from the Portland Plant List. Some of the shrubs would be planted within a 10-foot wide area extending between the PL-28 and PL-39 locations; this area would be cleared of non-native vegetation (predominately Himalayan blackberry) prior to planting. The applicant notes that tree species were not selected for planting as they would present an eventual hazard for the overhead powerlines.

All shrub planting areas would also be broadcast seeded with an erosion control seed mix of native grasses.

The Zoning Code and this approval criterion require replacement of trees removed by this project. In order to meet this criterion, all trees removed for this project must be replaced as described by Table 430-3 at a minimum. This would require a minimum of 4 trees be planted to compensate for the 4 trees proposed for removal, along with the shrub planting proposed by the applicant. Staff understands there may be concerns about future conflicts with power lines. The applicant has chosen to plant 10 arborous shrubs in the mitigation area identified which will not reach a height that conflicts with the power lines or plant them elsewhere on the site within the resource area of the environmental zone, provided documentation is provided that the plantings will be maintained by the owner of the site or the applicant has access to do so through an easement or other binding agreement.

With the additional arborous shrubs plantings noted above, any loss of functional values associated with the temporary construction and permanent pole foundation impacts to wetland and upland habitat would be compensated for.

The proposed Mitigation Plan will be required to be installed and maintained under the regulations outlined in Section 33.248.040.A-D (Landscaping and Screening). To confirm initial installation of mitigation plantings, the applicant will be required to have the plantings inspected by applying for a Zoning Permit. To confirm survival of the plantings for the initial establishment period, the applicant will be required to have the plantings inspected 2 years after plantings are installed, by applying for a second Zoning Permit.

With conditions to ensure that mitigation is conducted as described in the applicant's narrative, and that plantings proposed by the applicant to mitigate construction impacts are installed, and that all trees removed for construction of this project are mitigated, and that all mitigation plantings are maintained and inspected, *these criteria can be met.*

The project site is located on tax lots owned by the Port of Portland. However, construction areas would be located within the temporary and permanent easements associated with utility work. Mitigation for detrimental impacts will be conducted on the same site as the proposed use or development, and the applicant owns or has legal access to the proposed on-site mitigation area. As noted above, if required tree planting is proposed outside of an easement, documentation must be provided that the tree planting will be maintained.

With conditions as described above, *these criteria will be 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 CN review presented above serves to address the environmental standards of Zoning Code Chapter 33.430.

Trees specifically approved for removal by the land use review are exempt from Title 11 Section 11.50.040 Tree Preservation Standards (11.50.040 B.5).

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	Contact Information
Water Bureau	Title 21 - Water availability	503-823-7404 www.portlandonline.com/water
Environmental Services	Title 17; 2014 Stormwater Manual	503-823-7740 www.portlandonline.com/bes
Fire Bureau	Title 31 Policy B-1 - Emergency Access	503-823-3700 www.portlandonline.com/fire
Transportation	Title 17 - Transportation System Plan	503-823-5185 www.portlandonline.com/transportation
Development Services	Title 24 - Building Code, Flood Plain, Site Development; Title 10 - Erosion and Sediment Control	503-823-7300 www.portlandonline.com/bds
Urban Forestry	Title 11 - Trees	503-823-8733 http://www.portlandoregon.gov/trees/

CONCLUSIONS

The applicant proposes to remove one existing power pole and install 2 new power poles within the conservation overlay zone outside the transition area.

The proposal minimizes impacts on the slope stabilizing and screening buffer vegetation leading down to the wetland and unavoidable impacts are proposed to be mitigated according to Exhibit C3. The rest of the unavoidable impacts have been mitigated by conditions of approval.

This review addresses the work on the south side of N Rivergate Boulevard. There is a pole that will be removed in the transition area on the north side of N Rivergate Boulevard. This transition area on the north side holds little value as it has been maintained as a traditional street planter strip with non-native trees and mowed bluegrass. The work on the north side transition area is exempt from Environmental overlay zone regulations (33.430) because it is

located in the right-of-way and is part of the larger street improvement project. In addition, the new power poles on the north side are outside of the Environmental overlay zone.

The applicants and the above findings have shown that the proposal meets the applicable approval criteria with conditions. Therefore, this proposal should be approved, subject to the following conditions.

ADMINISTRATIVE DECISION

Approval of a Comprehensive Natural Resource Plan Review for:

- rerouting existing Kelly Point transmission line to accommodate the Portland Bureau of Transportation's new Rivergate Boulevard overpass.

all within the Environmental Conservation overlay zone, and in substantial conformance with Exhibits C1, C2, and C3, as approved by the City of Portland Bureau of Development Services on **May 29, 2020**.

- A. A BDS Zoning Permit is required for inspection of mitigation plantings and removal of temporary fill, as required in Condition C and D below.** The Conditions of Approval listed below, shall be noted on appropriate plan sheets submitted for permit. Plans shall include the following statement, ***"Any field changes shall be in substantial conformance with approved LU 20-116877 CN Exhibits C1 through C3.***

A BDS Zoning Permit (Condition C) shall be applied for with mitigation planting plans prior to vegetation/ground disturbance and commencing work and shall be inspected and finalized within six weeks of final construction of the new poles or by November 15, 2020 if the project is completed outside of the planting season.

- B.** A temporary, 4-foot high, bright orange construction fencing shall be placed along the Limits of Construction Disturbance line prior to commencing work or cutting/removing vegetation, as depicted on Exhibit C2 Construction Management Plan, to separate approved construction areas from areas to remain undisturbed prior to any construction or vegetation/ground disturbance.
1. All measures provided for sediment control 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.
 3. Trees shall be protected according to tree protection measures provided in Title 11 Tree Code, Chapter [11.60.030 Tree Protection Specifications](#), with 6-foot tall metal chain link fencing. All the trees shall be protected in Exhibit C1, Proposed Development and Tree Preservation Plans, except for Tree 12, 18, 19, and 20.
- C.** The applicant shall obtain a BDS Zoning Permit for approval and inspection of a mitigation plan for a total of 10 arborous shrubs as shown on Exhibit C3 Figure 4D, 369 shrubs, and 5,705 square feet of native ground cover seed, in substantial conformance with Exhibit C3 Mitigation Plan. Any plant selections or 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. The location of the arborous shrubs, shrubs and ground covers required by this condition to be planted in the mitigation area and labeled as "new required landscaping". The plans shall be to scale, and shall illustrate a naturalistic arrangement of plants and should include the location, species, quantity and size 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 trees removed for construction of this project, with trunks greater than 12 inches in diameter, shall be retained on the site and within the resource area of the Environmental zone.
 5. 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.
 6. After installing the required mitigation plantings, the applicant shall request inspection of mitigation plantings and final the BDS Zoning Permit.
 7. All mitigation and remediation shrubs and trees shall be marked in the field by a tag attached to the top of the plant for easy identification by the City Inspector; or the applicant shall arrange to accompany the BDS inspector to the site to locate mitigation plantings for inspection. If tape is used it shall be a contrasting color that is easily seen and identified.
- D.** Prior to final inspection approval of the zoning permit, the applicant shall submit a memorandum from a licensed surveyor for review and approval by BDS Site Development documenting that the temporary access road fills within the flood hazard area have been removed, site grades in the flood hazard area have been restored to original grades, and balanced cut and fill within the flood hazard area has been met.
- 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 plantings remain. Any required plantings that have not survived 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. Required plants that die shall be replaced in kind.
- 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.

Staff Planner: Clare L. Fuchs

Decision rendered by:  **May 27, 2020**

By authority of the Director of the Bureau of Development Services

Decision mailed: May 29, 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 February 10, 2020, and was determined to be complete on March 27, 2020.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on February 10, 2020.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: July 25, 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.

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. Contact LUBA at 775 Summer St NE Suite 330, Salem, OR 97301-1283 or phone 1-503-373-1265 for further 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>.

Recording the final decision.

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

- *Unless appealed*, the final decision will be recorded after **June 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:

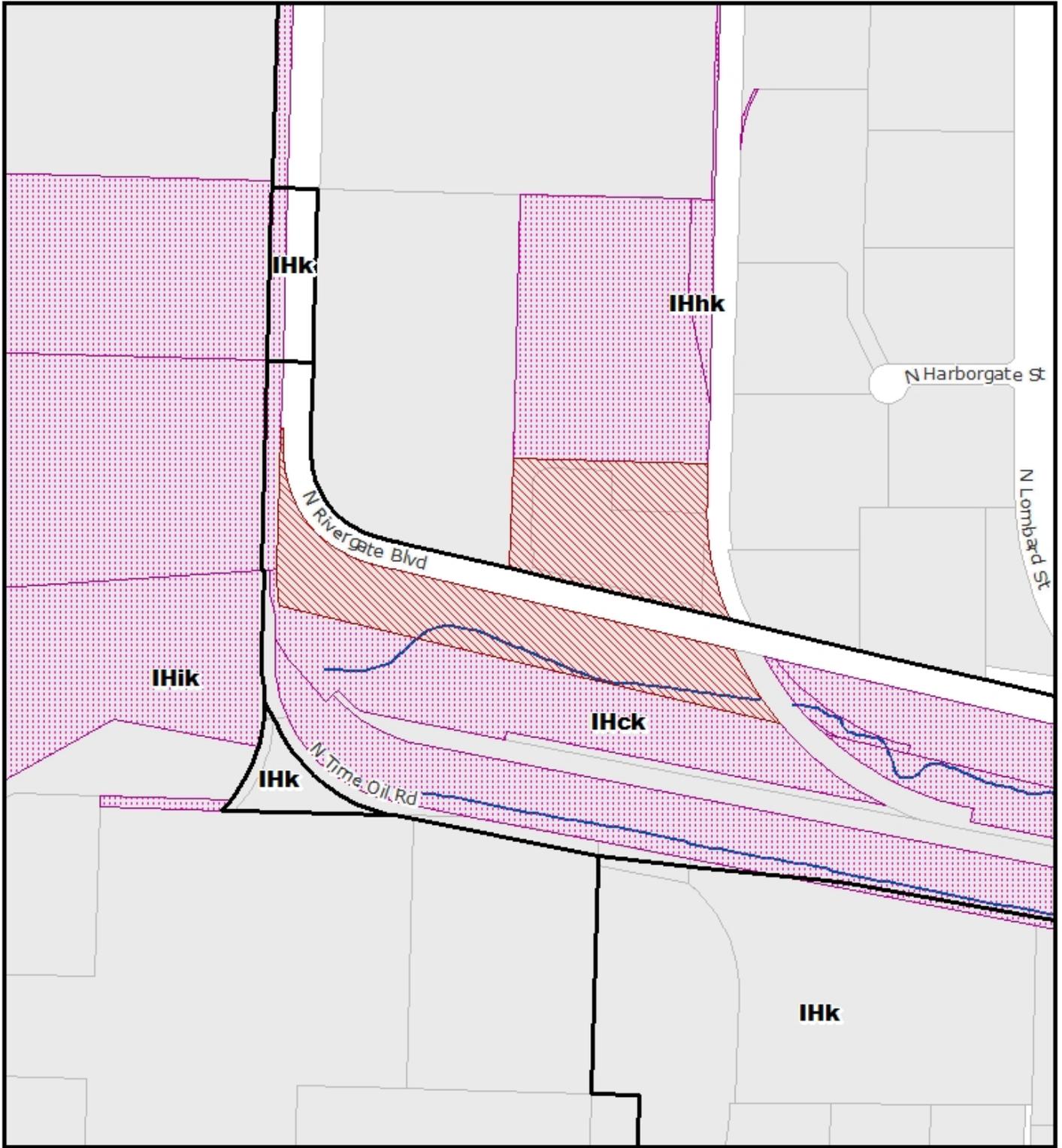
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code for the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Approval Criteria Narrative
 2. Project Background Narrative
 3. Property Deed and Easement Memo
 4. Incomplete Response Memo
 5. Storm Drain Location Exhibit for BES
 6. Affected Parcel Overview Map
 7. Existing Conditions Plan
 8. Wetland Delineation Map
 9. March 27, 2020 Proposed Development Plan
 10. March 27, 2020 Construction Management Plan
 11. March 27, 2020 Mitigation Plan
 12. Final Proposed Development and Tree Preservation Plan
Including North of Rivergate Blvd
 13. Final Proposed Construction Management Plan Including North of Rivergate Blvd
 14. Final Proposed Mitigation Plan Including North of Rivergate Blvd
 15. May 22, 2020 Submittal Memo
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Final Proposed Development and Tree Preservation Plans
(the 1st page, the Overview Plan, is attached)
 2. Final Construction Management Plans (the 1st page, the Overview Plan, is attached)
 3. Final Mitigation Plans (the 1st page, the Overview Plan, is attached)
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Fire Bureau
 3. Site Development Review Section of BDS
 4. Bureau of Parks, Forestry Division
 5. Life Safety Section of BDS
- F. Correspondence: (None)
- G. Other:
 1. Original LU Application
 2. Incomplete Letter

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



ZONING

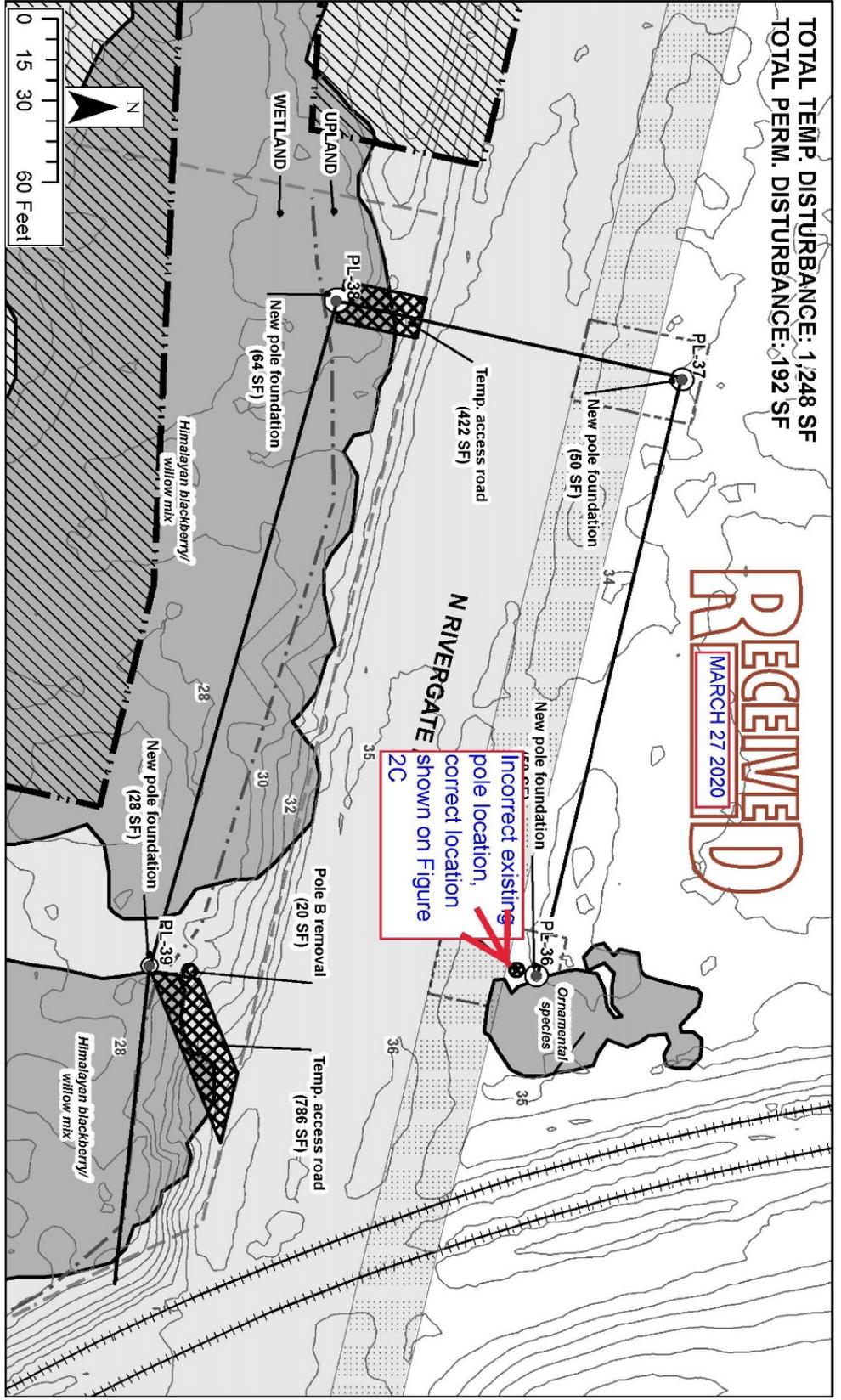


-  Site
-  Also Owned Parcels
-  Stream

File No.	LU 20 - 116877 CN
1/4 Section	1719
Scale	1 inch = 400 feet
State ID	2N1W35 100
Exhibit	B Apr 01, 2020

TOTAL TEMP. DISTURBANCE: 1,248 SF
TOTAL PERM. DISTURBANCE: 192 SF

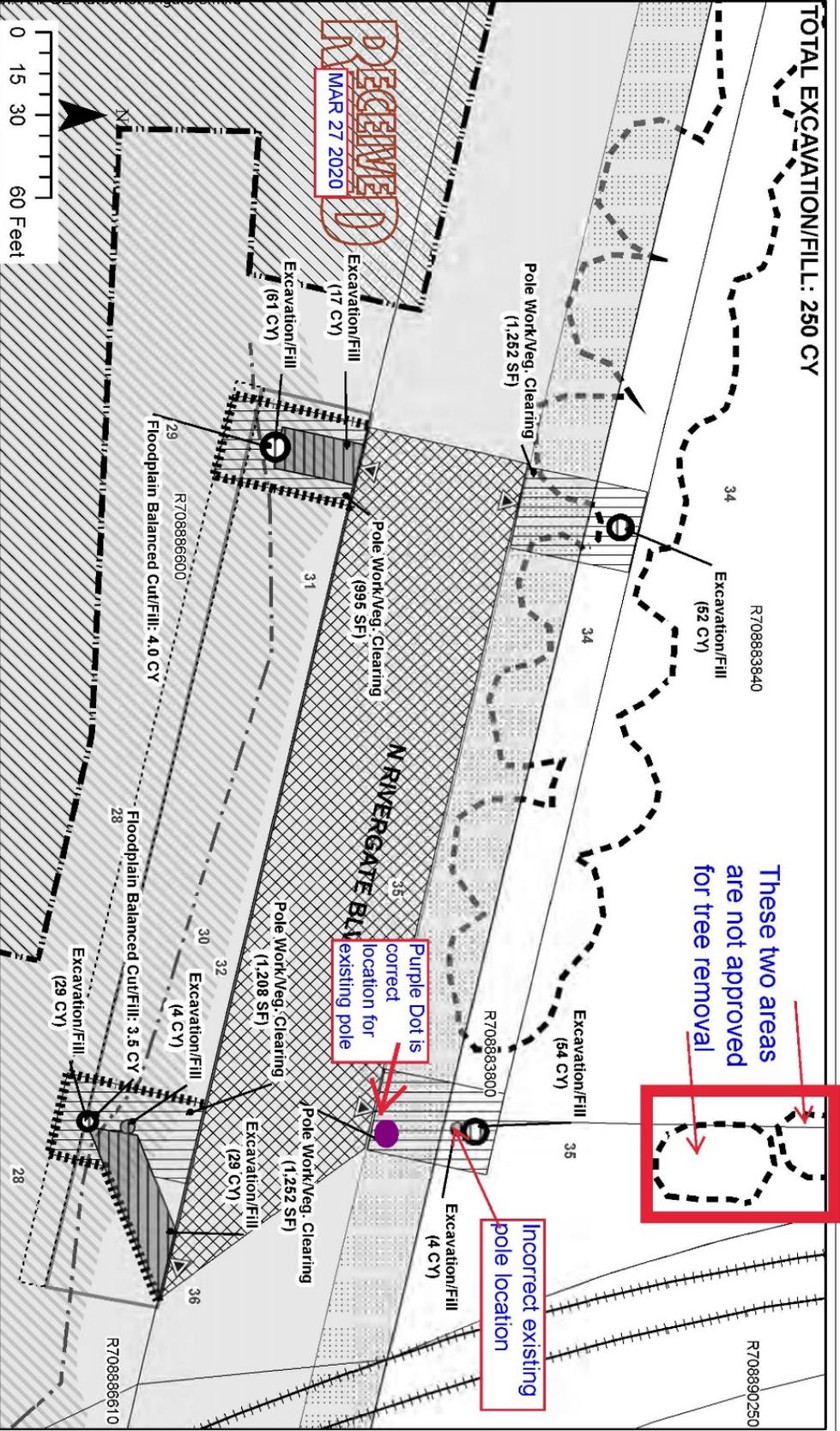
RECEIVED
 MARCH 27 2020



- LEGEND**
- Wetland Study Area (PGE)
 - - - Delineated Wetland Boundary (PGE)
 - New Transmission Line Route
 - New Poles
 - Tax Lots
 - ++++ Railroads
 - 2-ft. Contours
 - ▨ 25-ft. Transition Zone
 - Conservation E-Zone (City)
 - New Pole Foundation (Perm. Impact)
 - ▨ Ground Disturbance (Temp. Impact)
 - ▨ Pole Work/Veg. Cutback Area
 - ▨ Shrubs to Remain
 - ▨ West Wye Mitigation Area

Figure 2
PROPOSED DEVELOPMENT SITE PLAN
20-116877-CN
Proposed Development and Tree
Preservation Plan
Exhibit C1

TOTAL EXCAVATION/FILL: 250 CY



- LEGEND**
- Ground Disturbance (Temp. Impact)
 - Pole Work/Veg. Clearing Area
 - New Pole Foundation (Perm. Impact)
 - Construction Access Point
 - Excavation/Fill Area
 - Construction Staging Area
 - Compost Sock
 - Trees to be Removed *
 - Tax Lots
 - Delimited Wetland Boundary (PGE)
 - Permanent Easement - 40 ft
 - Temporary Easement - 10 ft
 - Railroads
 - Conservation E-Zone (City)
 - 25-ft Transition Zone
 - 100-Year Flood Zone
 - West Wye Mitigation Area

- Excavation/Fill (17 CY)
- Excavation/Fill (61 CY)
- Floodplain Balanced Cut/Fill: 4.0 CY
- Excavation/Fill (995 SF)
- Pole Work/Veg. Clearing (1,252 SF)
- Excavation/Fill (62 CY)
- Excavation/Fill (64 CY)
- Excavation/Fill (54 CY)
- Excavation/Fill (1,208 SF)
- Excavation/Fill (29 CY)
- Excavation/Fill (4 CY)

CONSTRUCTION MANAGEMENT PLAN

Figure 3

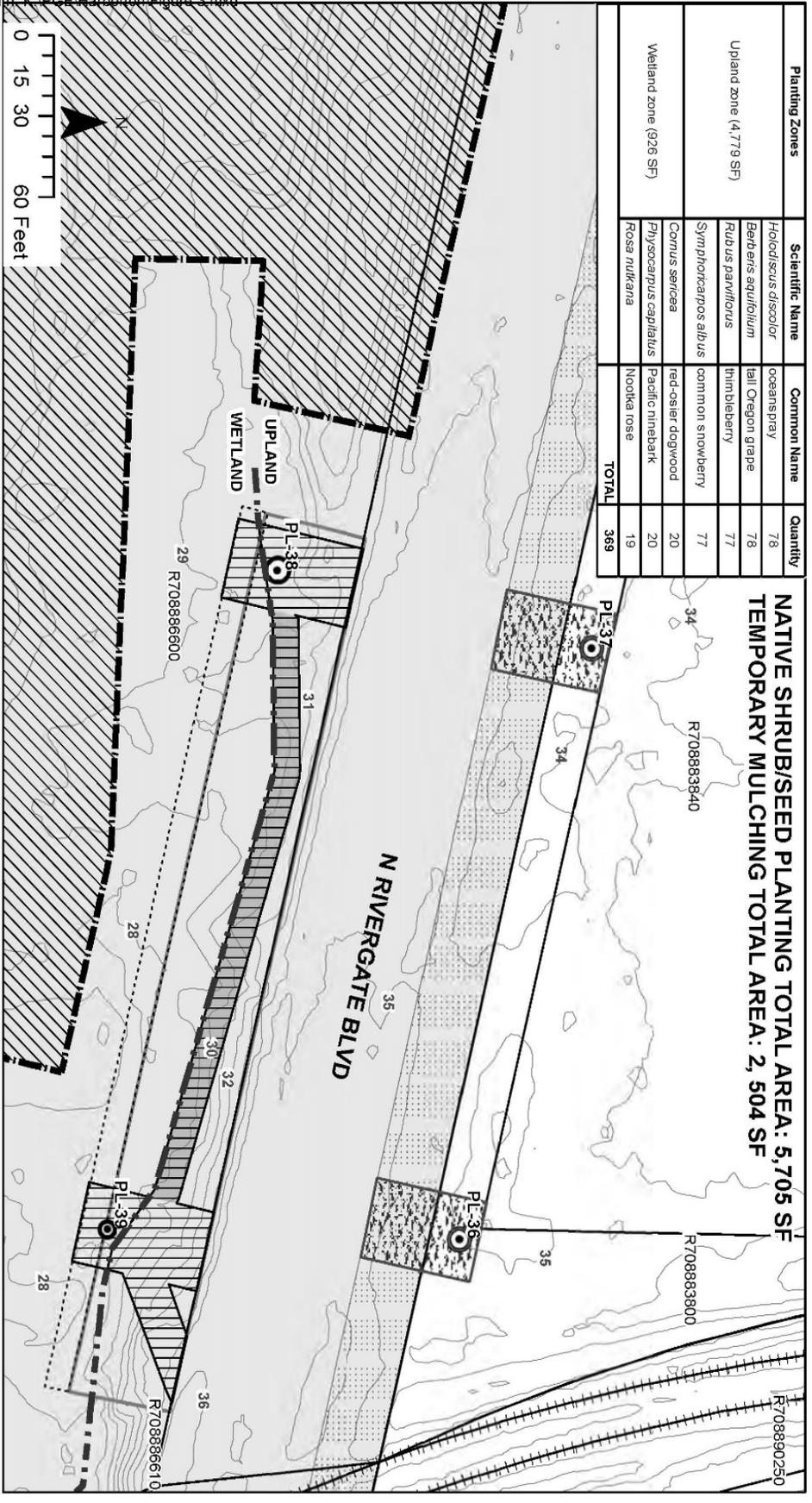
Kelly Point Transmission Line Re-Route Project
 Type Ix Land Use Review Application
 Portland, Oregon

20-116877-CN
Construction Management Plan
Exhibit C2

*Note: All trees are proposed for removal by the City to accommodate the Rivergate Boulevard Overcrossing Project. Tree removal is not considered a PGE.

Planting Zones	Scientific Name	Common Name	Quantity
Upland zone (4,779 SF)	<i>Holodiscus discolor</i>	oceanspray	78
	<i>Berberis aquifolium</i>	hail Oregon grape	78
	<i>Rubus parviflorus</i>	humbleberry	77
Wetland zone (926 SF)	<i>Symphoricarpos albus</i>	common snowberry	77
	<i>Cornus sericea</i>	red-osier dogwood	20
	<i>Physocarpus capitatus</i>	Pacific ninebark	20
	<i>Rosa nutkana</i>	Nootka rose	19
TOTAL			369

NATIVE SHRUB/SEED PLANTING TOTAL AREA: 5,705 SF
TEMPORARY MULCHING TOTAL AREA: 2,504 SF



- LEGEND**
- New Pole
 - New Pole Foundation (Perm. Impact)
 - ▨ Native Shrub and Seed Planting Area
 - ▩ Non-Native Veg. Clearing
 - ▧ Temporary Mulch Area
 - ▤ Delineated Wetland Boundary (PGE)
 - Conservation E-Zone (City)
 - ▤ 25-ft. Transition Zone
 - ▨ Temporary Easement - 10 ft
 - ▩ Permanent Easement - 40 ft
 - Tax Lots
 - ▤ West Wye Mitigation Area

Figure 4
VEGETATION RESTORATION PLAN
 Kelly Point Transmission Line Re-Route Project
 Type Ix Land Use Review Application
 Portland, Oregon

Prepared for Portland
 January 2019

20-116877-CN
Mitigation Plan
Exhibit C3