



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

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**Date:** October 7, 2020  
**To:** Interested Person  
**From:** Morgan Steele, Land Use Services  
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## **NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

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

### **CASE FILE NUMBER: LU 20-182557 EN GW UNINCORPORATED MULTNOMAH COUNTY**

#### **GENERAL INFORMATION**

**Applicant/Owner:** Calvin & Karen Reno  
12790 Fielding Road | Lake Oswego, OR 97034-1138

**Representative:** Tina Farrelly | Pacific Habitat Services  
9450 SW Commerce Circle Suite 180 | Wilsonville, OR 97070  
503.570.0800 | [tf@pacifichabitat.com](mailto:tf@pacifichabitat.com)

**Site Address:** 12790 S FIELDING ROAD

**Legal Description:** TL 1200 1.06 ACRES, SECTION 35 1S 1E  
**Tax Account No.:** R991350010  
**State ID No.:** 1S1E35CD 01200  
**Quarter Section:** 4231, 4232, 4331, & 4332

**Neighborhood:** None  
**Business District:** None  
**District Coalition:** None

**Plan District:** None  
**Other Designations:** Unincorporated Multnomah County; 100-Year Floodplain

**Zoning:** *Base Zone:* Residential 20,000 (R20)  
*Overlay Zones:* Environmental Conservation (c), Greenway River General (g)

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

**Proposal:**

The applicant is requesting a Greenway Review and Environmental Review to allow for the replacement of an existing gangway, anchoring system, shore connection, and relocation of an existing dock on the Willamette River adjacent to a property located at S Fielding Road in the Dunthorpe area of Unincorporated Multnomah County. The project is needed to maintain aquatic recreation and temporary boat moorage because the existing gangway is deteriorating and contributing to local degradation of the aquatic environment. The removal of the existing floating gangway, concrete footing, guide pile, and dock anchors and the installation of the proposed gangway and four piles will be conducted from a temporary work barge in the river (no land access needed). Only the area east of the existing seawall contains undeveloped areas and will have new disturbance associated with the project.

The total anticipated disturbance resulting from the proposed project, as depicted on the applicant's Site Plan, amounts to 1,163 square feet. In order to provide adequate mitigation for project-related impacts within the Environmental and Greenway overlay zones, the applicant is proposing to plant a total of two trees and 30 shrubs in addition to 500 square feet of native seed mix installation. Further, to help prevent impacts to shallow water habitat, the applicant proposes to move the dock 20 feet further into the river, siting it in deeper waters than it currently resides.

The proposed gangway, anchoring system, shore connection, and relocation of the existing dock are considered alterations to existing development and will be in the resource area of the Environmental Conservation (c) overlay zone. Certain environmental standards must be met to allow the work to occur by right. In this case, the proposed development will exceed the standards for maximum disturbance area allowed by 33.430.140.D; therefore, a Type II Environmental Review is required. In addition, the site lies within the Greenway River General (g) overlay zone and the proposed gangway, anchoring system, shore connection, and dock occur within and riverward of the greenway setback. Greenway Review applies to changes to the land and structures in the water within the Greenway overlay zones, including excavations and fills, and docks; therefore, a Type II Greenway Review is also required.

**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 subject property is situated in an unincorporated area of Multnomah County between the city boundaries of Portland and Lake Oswego. The property fronts onto S Fielding Road, and the west bank of the Willamette River. The project area contains a single-family residence and associated development and landscaping. The project site does not have a public recreational trail symbol shown on the Official Zoning Map and is not within the Willamette River Greenway Plan area so is not designated with a viewpoint symbol or identified as a view corridor on the Willamette River Greenway Plan map.

The proposed project is located on the west bank of the lower Willamette River (river mile 19.3); approximately 900 feet southwest of Elk Rock Island. The property was developed in 1913 and is partially within the Federal Emergency Management Agency (FEMA) Special Flood Hazard Area and Floodway associated with the Willamette River. The surrounding area is generally developed with single-family residential uses.

**Zoning:** The site is zoned Residential 20,000 (R20) base zone, with Greenway River General (g) and Environmental Conservation (c) overlay zones (see zoning on Exhibit B).

The Residential 20,000 base zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 12,000 square feet. The regulations of this zone will be shown to be met at building permit time; these provisions are not specifically addressed through this Greenway and Environmental Review.

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

Environmental overlay zones ("c" and "p") protect environmental resources and functional values that have been identified by the City as providing benefits to the public. The environmental regulations encourage flexibility and innovation in site planning and provide for development that is carefully designed to be sensitive to the site's protected resources. They protect the most important environmental features and resources while allowing environmentally sensitive urban development where resources are less sensitive.

The purpose of this land use review is to ensure compliance with the regulations of the Greenway and Environmental zones.

**Environmental and Greenway Resources:** The application of the environmental and greenway 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 these zones are described in inventory reports for the separate study areas.

Natural resources typically observed within the project vicinity as detailed in the *Inventory of Natural, Scenic and Open Space Resource for Multnomah County Unincorporated Urban Areas*, Resource Site 117-A, Dunthorpe, include the following:

**Resource Types:** Perennial and seasonal streams, palustrine wetlands, springs, forest, fish and wildlife, special status species, groundwater, open space.

**Functional Values:** Primary: water quality, flood attenuation/storage, fish and wildlife habitat (including special status species), slope stabilization/soil anchoring, groundwater recharge and discharge, water supply, heritage. Secondary: sediment trapping and pollution/nutrient removal, storm drainage, land use buffering, education, recreation, and scenic amenities.

**Terrestrial Habitat:** Mixed forest assemblages: Douglas-fir (*Pseudotsuga menziesii*) / vine maple (*Acer circinatum*), – hazelnut (*Corylus cornuta*) / sword fern (*Polystichum munitum*) / English ivy (*Hedera helix*) and Oregon white oak (*Quercus garryana*) – Pacific madrone (*Arbutus menziesii*) / snowberry (*Symphoricarpos albus*).

**Aquatic Habitat:** Perennial, seasonal streams; springs; lady fern (*Athyrium filix-femina*) – skunk cabbage (*Lysichiton americanus*) and sitka willow (*Salix sitchensis*) / reed canarygrass (*Phalaris arundinacea*) wetlands

- Riverine, Tidal, Open Water, Permanent (Willamette River)
- Riverine, Unconsolidated Bottom, Permanently Flooded
- Riverine, Intermittent Streambed, Seasonally Flooded
- Palustrine, Scrub-Shrub and Emergent, Seasonally Flooded

**Habitat Rating:** 55 (the habitat rating range for all City and County sites is 6-106)

**Land Use History:** City records indicate there are prior land use reviews for this site, including:

- ❖ LU 81-100088 (MCF 35-81 HV), LU 81-100103 (MUP 35-81 HV), LU 85-100086 (MUP 6-85 HV). These reviews occurred under Multnomah County jurisdiction and have no effect on the current proposal.

- ❖ LU 05-131194 AD – Approval of an Adjustment Review to allow the second story addition to be aligned with the existing structure. The request is to reduce the side (south) building setback to 8 feet for the building walls and to 6 feet for the eaves. This land use review has no effect on the current proposal.

**Impact Analysis and Mitigation Plan:** A full description of the proposal was provided on page 2 of this report. The following discusses development alternatives that were considered by the applicant. The following additionally describes the proposed construction management plan and mitigation proposal.

**Development Alternatives:**

**Alternative Sites:**

The applicant has owned the subject property since 2005 and the existing dock was present at that time. As such, alternative sites were not considered.

**No build:**

The no-build alternative would continue to utilize the existing gangway for dock access until it deteriorates to failure or is unsafe. The no-build alternative aligns with the project-specific criteria as follows:

1. Recreational access to the river would continue until the gangway fails or becomes unsafe. The gangway would not be safely accessible during the highest river flows (the landward end of the gangway is at approximately 17 feet elevation (NAVD88).
2. The existing dock does not encroach into the federal navigation channel or beyond 25 percent of the channel width.
3. There would be no new impacts to the aquatic environment, though the existing functional impacts resulting from the existing tire-supported floating gangway would continue.
4. The no-build alternative does not include riparian plantings or functional improvements associated with the build alternatives.

**Build Alternatives:**

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 safe recreational river access. The primary constraining factors for the project design are the location of Ordinary High Water (OHW) and the location and design of the existing dock.

Because the existing dock is in good condition and does not require replacement, the project does not evaluate alternative dock designs. The applicants are aware that when the existing dock needs to be replaced, they must evaluate dock designs and components that minimize impacts to the aquatic environment. Two build alternatives were evaluated.

Alternative 1: Alternative 1 utilizes two elevated gangway segments that replace the existing floating gangway in place. A minimum of two pilings would be required at the connection point between the two gangway segments. A concrete footing with guide piles would be installed at the landward end of the new gangway (still below OHW). Two additional piles would replace the existing dock anchors if determined necessary by the geotechnical engineer.

Alternative 2 (Preferred Alternative): Alternative 2 utilizes two 95-foot long elevated gangway segments. A concrete footing with guide piles will be installed above the OHW elevation at the landward end of the new gangway. Two additional piles will replace the existing dock anchors in the dock's new position, which will be approximately 20 feet east of its current location.

Applicant's Conclusion: Alternative 2 best meets the project criteria and is also the least impactful, practicable alternative. Although there are no new impacts from the No Build alternative, the existing floating gangway is contributing to ongoing local impacts to the functions of the Willamette River. Alternative 1 removes the floating gangway and does not increase the amount of overwater structure; however, the gangway landing for Alternative 1 would remain below the OHW elevation. As such, both the No Build alternative and Alternative 1 do not fully meet project criterion #1, as safe access to the dock during high water is not possible.

By increasing the gangway length, Alternative 2 has slightly more overwater structure area. This is offset by allowing for the gangway landing to be installed above the OHW elevation and moving the dock into deeper water. As such, Alternative 2 has the most functional uplift and the least long-term impacts to shallow water habitat.

**Construction Management Plan:** The Construction Management Plan is shown graphically on Exhibits C.5 and C.6. The installation of the proposed rock path extension and concrete landing with guide piles and the removal of the rock path below OHW will be conducted by hand within the limits of temporary construction and erosion control fencing. The replacement of the existing gangway and relocation of the existing dock, including the removal of existing anchors and concrete footing with guide pile will be conducted from a temporary work barge in the river. Nuisance plant removal and restoration planting and/or seeding will be conducted by hand without the use of mechanized equipment.

The portion of the existing rock path to be removed and any existing soil in the location of the proposed concrete landing will be excavated by hand. All excavated rock and soil will be bagged and carried to the staging area where it will be transported to an off-site, permitted disposal facility. The proposed concrete landing will be reinforced concrete tied to the underlying basalt with permanent shear pin rock bolts. Concrete forms will be erected 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 construction activities conducted from the water, no staging or materials storage will be allowed outside of the temporary work barge. All heavy equipment necessary for the removal of existing features, installation of the gangway, relocation of the dock, and installation of pilings (i.e., crane, vibratory hammer, impact hammer) will access the project area via a floating barge. The first in-water construction activity for the project will be to detach and remove the existing gangway. Next, the new piles will be installed for the relocation of the existing dock and for the proposed elevated gangway. The four new pilings will be installed using a vibratory hammer and impact hammer, as necessary to proof the piles. The piling installation will be conducted using a barge-mounted crane.

**Unavoidable Impacts and Proposed Mitigation:** The total anticipated permanent disturbance resulting from the proposed project amounts to 1,055 square feet. In order to provide adequate mitigation for project-related impacts within the Environmental and Greenway overlay zones, the applicant is proposing to plant a total of two trees and 30 shrubs in addition to 500 square feet of native seed mix installation. Further, to help prevent impacts to shallow water habitat, the applicant proposes to move the dock 20 feet further into the river, siting it in deeper waters than it currently resides.

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed **September 4, 2020**. The following Bureaus have responded with no issues or concerns:

- Bureau of Transportation
- Life Safety
- Fire Bureau

The Bureau of Environmental Services responded with the following comment. Please see Exhibit E.1 for additional details.

*BES does not object to approval of the Greenway and Environmental Review application. The proposed development will be subject to BES standards and requirements during the permit review process.*

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

*Site Development does not object to the proposed development. Site Development will address key aspects of the building code and construction-related City codes during building permit review.*

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on **September 4, 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

### 33.430.250 Environmental Review Approval Criteria

**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 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;**

**Findings:** The purpose of this criterion is to recognize that some form of development is allowed, consistent with the base zone standards. Impacts of the proposed development are measured relative to the impacts associated with the development normally allowed by the base zone; in this case, the Residential 20,000 base zone where household living is allowed by right.

Project features in the resource area of the Environmental Zone, including pathway, landing, and gangway are accessory to the household living use at the site and were designed and located to minimize the loss of resources and functional values. The gangway is approximately 5 feet wide and the concrete landing is the minimum size that will provide an adequate anchor point for the gangway. Temporary disturbance areas associated with these features are the minimum necessary to allow for hand-held equipment and materials to be carried by hand into the work area. No mechanized equipment will be allowed within the Environmental Zone. All temporary disturbance areas will be restored with a native seed mix.

The proposed development minimizes the loss of resources and functional values, consistent with allowing those uses generally permitted or allowed in the base zone, *and this criterion is met.*

**2. Proposed development locations, designs, and construction methods are less detrimental to identified resources and functional values than other practicable and significantly different alternatives;**

**Findings:** This criterion requires the applicant to demonstrate alternatives were considered during the design process, and that there are no practicable alternatives that would be less detrimental to the identified resources and functional values located onsite. According to the *Inventory of Natural, Scenic and Open Space Resources for Multnomah County Unincorporated Urban Areas (2002)*, natural resources typically observed within the project vicinity within Resource Site 117-A, Dunthorpe, include perennial and seasonal streams, palustrine wetlands, springs, forest, fish and wildlife, special status species, groundwater, and open space.

The applicant provided an alternatives analysis (Exhibit A.1) that is summarized in this report on pages 4 and 5. The applicant explored four alternatives, two of which were practicable build alternatives. The alternative site and no-build alternative were rejected and deemed impracticable. The build alternative,

other than the preferred alternative, was determined to be too impactful to resources, specifically the Willamette River.

By increasing the gangway length, the Preferred Alternative (Build Alternative 2) has slightly more overwater structure area than the existing conditions or Build Alternative 1. However, this is offset by allowing for the gangway landing to be installed above the OHW elevation and moving the dock into deeper water. As such, the Preferred Alternative offers the most functional uplift and the least long-term impacts to onsite resources than other practicable alternatives while still accomplishing the project purpose of providing river recreation to the existing residential use at the site.

The Preferred Alternative not only satisfies the project purpose, it minimizes impacts, to the greatest extent practicable, to identified resources and functional values. *This criterion is met.*

### **3. There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed;**

**Findings:** This approval criterion requires the protection of resources outside of 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 stormwater runoff and erosion off the site. The applicant has provided an in-depth Construction Management Plan which can be found in the Application Case File (Exhibit A.1) and is summarized on page 5 of this report.

The applicant offers that through the Construction Management Plan there will be no temporary or permanent disturbance outside of the construction area, designated by the temporary construction fence. Access for the removal of the rock path and vegetation management will be by foot through the existing stairs and proposed concrete landing. Because rock path removal and vegetation work will be conducted by hand without the use of mechanized equipment, additional construction fencing and erosion control features are not proposed. For all other construction activities, access to the project area will be from a temporary work barge in the Willamette River.

Given these construction management measures, it is anticipated that there will be no significant detrimental impacts to resources and functional values in areas designated to be left undisturbed. With conditions for conformance to the proposed Construction Management Plan, *this criterion can be met.*

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

**Findings:** The total anticipated new disturbance resulting from the proposed project, as depicted on Exhibit C.4, amounts to 1,055 square feet (beyond that already occupied by existing development). The applicant proposes to offset these new impacts with 2 trees, 30 shrubs, and 500 square feet of seed mix for soil stabilization within the Greenway and Environmental Zones.

As detailed in the applicant's narrative (Exhibit A.1), the Mitigation Plan has been developed to provide adequate mitigation for project-related impacts. Project impacts within the Environmental Zone include the removal of 375 square feet of the existing gangway and its replacement with 615 square feet of new gangway. In the Greenway, 753 square feet of existing development associated with the replacement of the existing gangway and relocation of the existing dock will be replaced by 1,055 square feet of permanent development associated with the new gangway and dock relocation. Approximately 108 square feet of temporary disturbance will result from the construction of the proposed rock path extension and concrete landing with guide piles and the installation of temporary erosion controls and construction fencing.

The mitigation plan more than adequately compensates for all significant detrimental impacts on resources and functional values. To achieve this goal, the mitigation approach includes the following within the Environmental Zone:

- Use of grated walk surface on replacement gangway;

- Removal of floating gangway that bottoms out in shallow water habitat;
- Reduction of 375 square feet of float area in the Environmental Zone (753 square feet total reduction);
- Nuisance plant removal and native plantings in restoration and nuisance plant removal areas (Total 500 square feet);
- Native plantings (2 trees, 30 shrubs) within the riparian corridor;
- Removal of existing concrete footing with guide pile (Total 35 square feet / 4.2 cubic yards);
- Removal of remaining rock path (Total 230 square feet / 6 cubic yards);
- Restoration seeding and/or plantings in 108 square feet of temporary disturbance area, 230 square feet in rock path removal area, 35 square feet of concrete footing removal area where soil is present, and 127 square feet of nuisance plant removal area.

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

With conditions to ensure that at least the minimum number of replacement plantings are planted on the site, and that plantings required are maintained and inspected, *this criterion can be met.*

**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.**

**Findings:** The proposed mitigation will occur within the project parcel and the applicant owns the mitigation site. *These criteria are met.*

### **33.440.350 Greenway Review Approval Criteria**

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

**Response:** The proposed project is for the replacement of an existing gangway, anchoring system, shore connection, and relocation of an existing dock within and riverward of the greenway setback. The project site does not have a public recreational trail symbol shown on the Official Zoning Map and is not designated with a viewpoint symbol or identified as a view corridor on the Willamette River Greenway Plan map. Further, the proposed project does not breach the monetary threshold for required landscape treatments at the site.

The applicable approval criteria for the proposed project are 33.440.350.A, E, and F.

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

**Findings:** The Willamette Greenway Design Guidelines address the quality of the environment along the river and require public and private developments to complement and enhance the riverbank area. The

Design Guidelines are grouped in a series of eight Issues. Issues A, B and F apply when the Greenway Trail is mapped on the property. Issue D applies to proposed bank treatments. Issues G and H apply to mapped viewpoints and view corridors. And Issue E applies to Landscape Treatments required per Zoning Code Section 33.440. Therefore, only Issue C applies to this proposal.

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

**Guidelines:**

**1. Natural Riverbanks.** The natural riverbank along the Willamette River should be conserved and enhanced to the maximum extent practicable. Modification of the riverbank should only be considered when necessary to prevent significant bank erosion and the loss of private property, or when necessary for the functioning of a river-dependent or river-related use.

**2. Riparian Habitat.** Rank I riparian habitat areas, as identified in the wildlife habitat inventory, should be conserved and enhanced with a riparian landscape treatment. Other riparian habitat should be conserved and enhanced through riparian landscape treatments to the maximum extent practical. Conservation however does not mean absolute preservation. Some discretion as to what vegetation should remain and what can be removed and replaced should be permitted. Riparian habitat treatments should include a variety of species of plants of varying heights that provide different food and shelter opportunities throughout the year.

**Findings:** The riverbank within the project area contains an existing seawall, stairs, rock path, floating gangway, dock, and associated anchoring systems. Vegetation coverage lacks trees and shrubs and is dominated by non-native herbaceous species. The proposed project will replace existing development associated with the dock. The replacement of the existing floating gangway with an elevated gangway will enhance the natural riverbank by eliminating the on-going disturbance resulting from the floating gangway bottoming out during low water. The riverbank will be enhanced by the removal of unnecessary existing development, nuisance vegetation removal, and native groundcover plantings and/or seeding.

The Lower Willamette River Wildlife Habitat Inventory area did not include the project area. Rank I riparian habitat areas are “those sites which, if left unaltered, have an extremely significant combination of features which attract a diverse array of wildlife. The sites are essentially natural in character, although some disturbance (natural or human) exists in all of these sites.” Given the surrounding residential land use; existing development (seawall, stairs, and dock); and dominance of nuisance and non-native plants, the riverbank in the project area should not be considered Rank I riparian habitat; therefore, *these guidelines do not apply.*

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

**Findings:** The Lower Willamette River Wildlife Habitat Inventory area does not include the project area. Rank I riparian habitat areas are “those sites which, if left unaltered, have an extremely significant combination of features which attract a diverse array of wildlife. The sites are essentially natural in character, although some disturbance (natural or human) exists in all of these sites.” Rank II riparian habitat areas “are of essentially natural character but are smaller in size than Rank I sites. These sites also attract a wide variety of wildlife, but less so than the Rank I sites.”

The Greenway Setback in the project area has been greatly altered and is surrounded by residential land uses. Development, including a seawall and the existing dock and associated features is present and lack of vegetation cover, which is limited to herbaceous species dominated by non-native plants. As such, the

portion of the proposed project within the Greenway Setback will not have significant detrimental environmental impact on Rank I and II wildlife habitat areas on the riverbank, *and this criterion is met.*

**33.440.350.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;***

**Findings:** Project impacts within the Greenway overlay zone include the replacement of 753 square feet of existing development associated with the existing gangway with 1,055 square feet of development associated with the new gangway, concrete landing, and rock path extension. Approximately 108 square feet of temporary disturbance will result from the construction of the rock path extension, proposed concrete landing with guide piles, and the installation of temporary erosion controls and construction fencing.

The project will result in a local improvement to shallow water habitat. Though the new overwater structure will be approximately 300 feet larger in size than the current float area, the new concrete landing is above the OHW elevation, and the new dock location will be in deeper water. The existing floating gangway, which is supported by degrading tires and bottoms out during low flow conditions, will be replaced with elevated gangways. Overwater structures, especially those that do not allow light penetration, are associated with use by juvenile salmonid predator species including smallmouth and largemouth bass. As such, the reduction in floating overwater structure area and the increased light penetration of the new gangways will result in indirect benefits to juvenile salmonids compared with the existing condition by reducing predator-preferred overwater structure area.

Approximately 265 square feet of existing development will be removed. Native riparian habitat will be restored in the development removal areas (265 square feet), 108 square feet of temporary disturbance area, and 127 square feet nuisance plant removal area. Additionally, two trees and 30 shrubs will be installed just below top of bank and generally above OHW, providing much needed vegetation to a currently unvegetated site.

The small increase in overwater structure area is offset by the improvements proposed, including the use of grating for the gangway walk surfaces, the use of properly encapsulated high-water floats on the gangway, the replacement of the floating gangway with an elevated gangway, the relocation of the dock float into deeper water, the removal of development associated with the old gangway and dock location, and mitigation, restoration, and nuisance plant removal.

Based on the foregoing, the project will not result in the significant loss of biological productivity in the river, *and this criterion is met.*

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

**Findings:** The riverbanks within the project area experience significant wave and wake action from boat traffic on the Willamette River. The existing riverbank does not include armoring to protect it from wave and wake damage, and the proposed project does not include protection measures. The applicant's use of the proposed dock is not expected to increase the amount of wave and wake action in the project area as boat speeds around the dock will be slow. As such, there is expected to be no change in the amount of wave and wake damage to the riverbank in the project area resulting from the proposed project, *and this criterion is met.*

***3. The proposal will not:***

***a. Restrict boat access to adjacent properties;***

**Findings:** The proposed dock will be situated approximately 20 feet further riverward of the project parcel than its current location. The nearest docks are approximately 60 feet north and 200 feet south of the existing dock location. The proposed dock location will be no closer to the nearest docks than the existing location, which has been adequate to provide boat access to the adjacent properties, *and this criterion is met.*

***b. Interfere with the commercial navigational use of the river, including transiting, turning, passing, and berthing movements;***

**Findings:** The Willamette River channel is approximately 1,000 feet wide in the project area. Because there are no navigation buoys or boating restrictions in the river adjacent to the project parcel, the space between the existing dock and the nearest dock across the river (approximately 650 feet) roughly defines the navigational use area. The proposed dock location will reduce this space by approximately 20 feet; however, it is reasonably certain that the reduced navigational area (approximately 630 feet) will be adequate to avoid interference with the commercial navigational use of the river, or transiting, turning, passing, and berthing movements, *and this criterion is met.*

***c. Interfere with fishing use of the river;***

**Findings:** The Willamette River channel is approximately 1,000 feet wide in the project area. The proposed dock will be approximately 215 feet riverward of the OHW, which is roughly 22 percent of the channel width. Because there are no navigation buoys or boating restrictions in the river adjacent to the project parcel, the space between the existing dock and the nearest dock across the river (approximately 650 feet) roughly defines the fishing use area. The proposed dock location will reduce this space by approximately 20 feet; however, it is reasonably certain that the reduced width (approximately 630 feet) will be adequate to avoid interference with the fishing use of the river, and this criterion is met.

***d. Significantly add to recreational boating congestion; and***

**Findings:** The Willamette River in the project reach is frequently used by paddle craft and motorized fishing and recreational boats. The Portland Spirit, Christmas Ships on the Milwaukie/Oregon Yacht Club route, and Willamette Jet boat tours each pass the project area. The Willamette River channel is approximately 1,000 feet wide, though the portion of the river used by recreational watercraft is roughly 650 feet wide, defined by existing dock and the nearest dock across the river channel. The proposed dock will encroach approximately 20 feet further into the portion of the channel used by recreational boats; however, it is reasonably certain that this reduced width (3 percent reduction in useable width) will not result in a significant increase in recreational boating congestion in the project area, *and this criterion is met.*

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

**Findings:** The nearest public beach is on the opposite bank of the Willamette River at the Spring Park Natural Area, approximately 800 feet east - northeast of the proposed dock location. In addition, the proposed dock is only intended to service the applicants' personal watercrafts. As such, it is reasonably certain that the proposed dock will not interfere with beaches that are open to the public, *and this criterion is 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 development standards of Title 33 can be met or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

## CONCLUSIONS

The applicant proposes a new gangway and boat dock on the Willamette River to allow river recreation and private boat moorage. The proposed dock system will consist of an upland concrete landing within an existing landscaped area, connected to two elevated gangway segments and an intermediate elevated river landing that will access the proposed dock at the river level. The dock will be 40 feet long by 8 feet wide (320 square feet in area), secured by 3 (12-inch diameter) steel river piles, and will be located approximately 57 feet from the river's ordinary low water level. The proposed dock will have at least 50 percent of the float surface composed of grating with 60 percent open surface area. The proposed landing on shore will be constructed of concrete and will be cast in place by hand. Construction will be conducted by hand in the upland area, and from a floating barge for the river components, resulting in reduced impacts to the upland, nearshore, and aquatic environments. The applicant will mitigate the minimal impacts with native plantings of 2 trees, 30 shrubs and 500 square feet of native seed dispersion.

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 an Environmental and Greenway Review for:

- Installation of a new anchoring system, access path, and shore connection;
- Replacement of an existing gangway; and
- Relocation of an existing dock

within the Greenway River General and Environmental Conservation overlay zones, and in substantial conformance with Exhibits C.3 through C.8 as approved by the City of Portland Bureau of Development Services on **October 5, 2020**. Approval is subject to the following conditions:

- A. A BDS Zoning Permit is required for inspection of required mitigation plantings, and a separate BDS building permit is required for development].** The Conditions of Approval listed below, shall be noted on appropriate plan sheets submitted for permits (building, Zoning, grading, Site Development, erosion control, etc.). Permit plans shall include the following statement, ***"Any field changes shall be in substantial conformance with approved LU 20-182557 EN GW Exhibits C.3 through C.8."***

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

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

- B.** Temporary, 4-foot high, bright orange construction fencing shall be placed as depicted on Exhibit C.6 Construction Management Plan.
1. 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.
- C.** The applicant shall obtain a BDS Zoning Permit for approval and inspection of a mitigation plan for a total of 2 trees, 30 shrubs, and 500 square feet of seeding, in substantial conformance with Exhibit C.8, Mitigation Plan. Any plant substitutions shall be selected from the *Portland Plant List* and shall be substantially equivalent in size to the original plant.
1. Permit plans shall show:
    - a. Permit plans shall show the general location of the trees, shrubs and ground covers required by this condition to be planted in the mitigation area and labeled as "new required landscaping."
    - 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 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. 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.

**E.** Failure to comply with any of these conditions may result in the City's reconsideration of this land use approval pursuant to Portland Zoning Code Section 33.700.040 and /or enforcement of these conditions in any manner authorized by law.

**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: Morgan Steele**

**Decision rendered by:**  **on October 5, 2020**

By authority of the Director of the Bureau of Development Services

**Decision mailed: October 7, 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 20, 2020, and was determined to be complete on September 1, 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 August 20, 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: December 30, 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 October 21, 2020. **Towards promoting social distancing during the COVID-19 pandemic, the completed appeal application form must be emailed to [LandUseIntake@portlandoregon.gov](mailto:LandUseIntake@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 IIx 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 paper 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>.

**Appeal fee waivers.** Multnomah County may cover the appeal fees for their recognized associations. An appeal filed by a recognized association must be submitted to the City with either the appropriate fee or the attached form signed by the County. Contact Multnomah County at 503-988-3043, 1600 SE 190<sup>th</sup>, Portland, OR 97233.

**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 **October 21, 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:

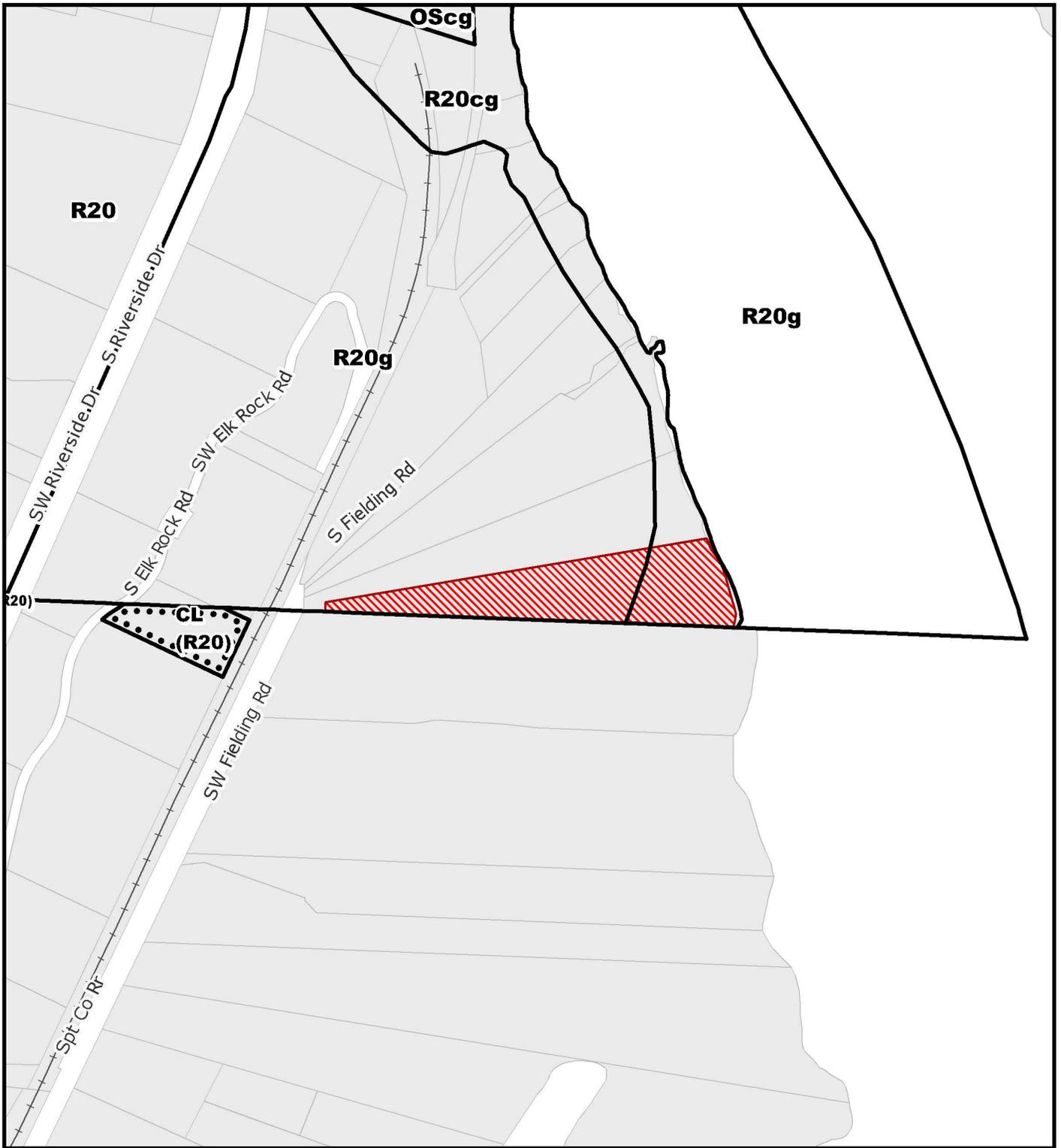
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

## EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Applicant's Narrative
  - 2. Site Photos & Supplemental Site Plans
  - 3. Geotechnical Report
  - 4. Wetland Determination
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Existing Conditions Site Plan
  - 2. Existing Conditions Site Plan
  - 3. Proposed Development Site Plan
  - 4. Proposed Development Site Plan (attached)
  - 5. Construction Management Site Plan
  - 6. Construction Management Site Plan
  - 7. Construction Management Plan & Construction Management Notes
  - 8. Mitigation Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation
  - 3. Life Safety
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
- F. Correspondence: None received
- G. Other:
  - 1. Original LU Application

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



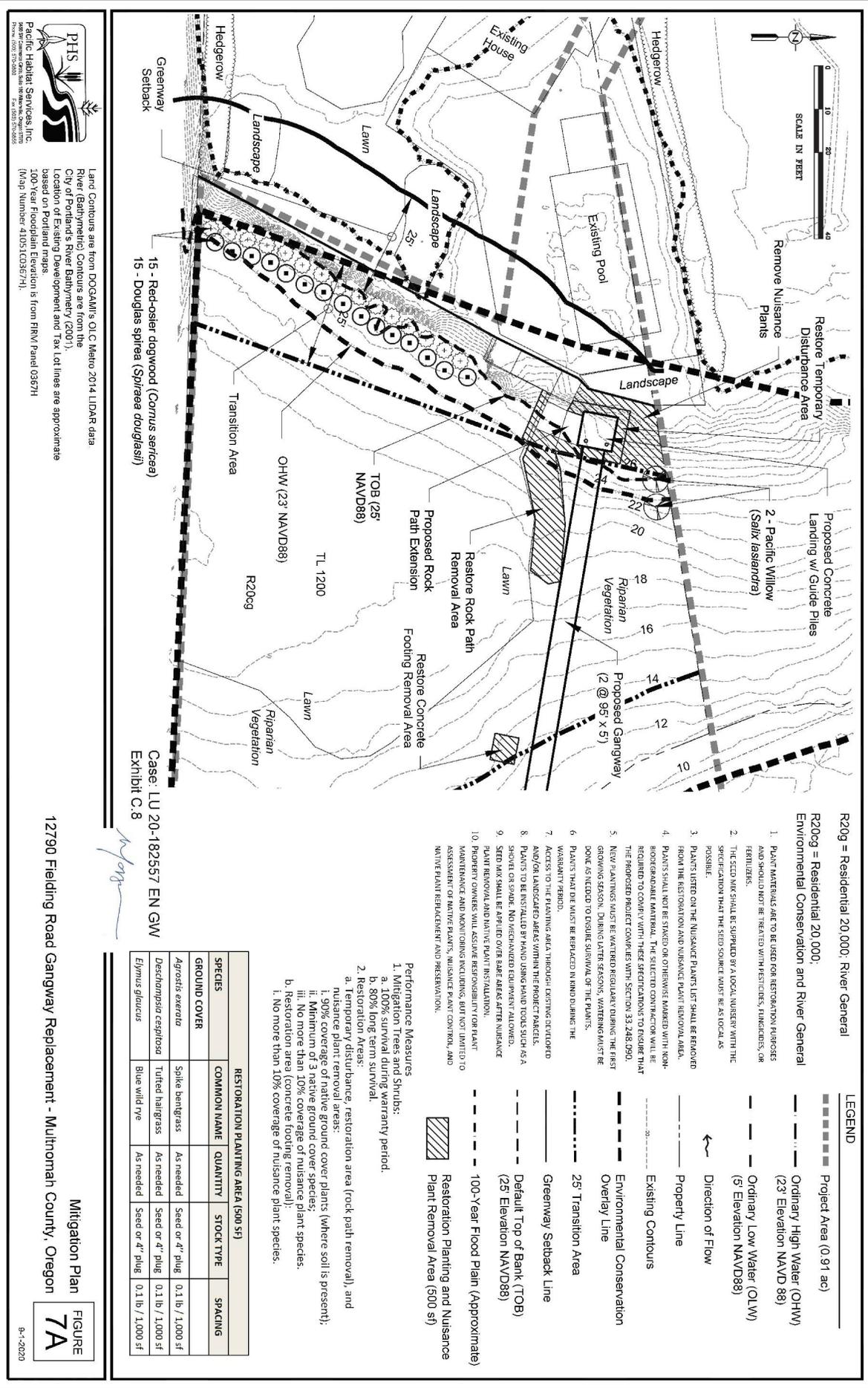
# ZONING



THIS SITE IS IN UNINCORPORATED  
MULTNOMAH COUNTY

File No.	LU 20 - 182557 GW EN
1/4 Section	4231-32;4331-32
Scale	1 inch = 200 feet
State ID	1S1E35CD 1200
Exhibit	B Aug 24, 2020





Land Contours are from DOGAMI's OLC Metro 2014 LIDAR data.  
 River (Bathymetric) Contours are from the City of Portland's River Bathymetry (2001).  
 Location of Existing Development and Tax Lot lines are approximate based on Portland maps.  
 100-Year Floodplain Elevation is from FIRM Panel 0367H.  
 (Map Number 410510367H)

Case: LU 20-182557 EN GW  
 Exhibit C.8

12790 Fielding Road Gangway Replacement - Multnomah County, Oregon  
 Mitigation Plan  
**FIGURE 7A**  
 9-1-2020

- R209g = Residential 20,000, River General  
 R209g = Residential 20,000.  
 Environmental Conservation and River General
1. PLANT MATERIALS ARE TO BE USED FOR RESTORATION PURPOSES AND SHOULD NOT BE TREATED WITH PESTICIDES, FUNGICIDES, OR FERTILIZERS.
  2. THE SEED MIX SHALL BE SUPPLIED BY A LOCAL NURSERY WITH THE SPECIFICATION THAT THE SEED SOURCE MUST BE AS LOCAL AS POSSIBLE.
  3. PLANTS LISTED ON THE NUISANCE PLANTS LIST SHALL BE REMOVED FROM THE RESTORATION AND NUISANCE PLANT REMOVAL AREA.
  4. PLANTS SHALL NOT BE STAKED OR OTHERWISE MARKED WITH NON-Biodegradable MATERIAL. THE SELECTED CONSTRUCTION SHALL BE REQUIRED TO COMPLY WITH THESE SPECIFICATIONS TO ENSURE THAT THE PROPOSED PROJECT COMPLIES WITH SECTION 33.246.050.
  5. NEW PLANTINGS MUST BE WATERED REGULARLY DURING THE FIRST GROWING SEASON. DURING LATER SEASONS, WATERING MUST BE DONE AS NEEDED TO ENSURE SURVIVAL OF THE PLANTS.
  6. PLANTS THAT ARE NOT BE REPLACED IN KIND DURING THE WARRANTY PERIOD.
  7. ACCESS TO THE PLANTING AREA THROUGH EXISTING OR FUTURE AND/OR LANDSCAPED AREAS WITHIN THE PROJECT PARCELS.
  8. PLANTS TO BE INSTALLED BY HAND USING HAND TOOLS SUCH AS A SHOVEL OR SPADE. NO HEAVY MAINTAIN EQUIPMENT ALLOWED.
  9. SEED MIX SHALL BE APPLIED OVER BARE AREAS AFTER NUISANCE PLANT REMOVAL AND NATIVE PLANT INSTALLATION.
  10. PROPERTY OWNERS WILL ASSUME RESPONSIBILITY FOR PLANT MAINTENANCE AND MONITORING INCLUDING, BUT NOT LIMITED TO, ASSESSMENT OF NATIVE PLANTS, NUISANCE PLANT CONTROL, AND NATIVE PLANT RESEEDMENT AND RESTORATION.

- LEGEND
- Project Area (0.91 ac)
  - Ordinary High Water (OHW) (23' Elevation NAVD 88)
  - Ordinary Low Water (OLW) (5' Elevation NAVD88)
  - Direction of Flow
  - Property Line
  - Existing Contours
  - Environmental Conservation Overlay Line
  - 25' Transition Area
  - Greenway Setback Line
  - Default Top of Bank (TOB) (25' Elevation NAVD88)
  - 100-Year Flood Plain (Approximate)
  - Restoration Planting and Nuisance Plant Removal Area (500 sf)

- Performance Measures
1. Mitigation Trees and Shrubs:
- a. 100% survival during warranty period.
  - b. 80% long term survival.
2. Restoration Areas:
- a. Temporary disturbance, restoration area (rock path removal), and nuisance plant removal areas:
    - i. 90% coverage of native ground cover plants (where soil is present);
    - ii. Minimum of 3 native ground cover species;
    - iii. No more than 10% coverage of nuisance plant species.
  - b. Restoration area (concrete footing removal):
    - i. No more than 10% coverage of nuisance plant species.

RESTORATION PLANTING AREA (500 SF)			
SPECIES	COMMON NAME	QUANTITY	STOCK TYPE
<i>Agrostis exaristata</i>	Softie bentgrass	As needed	0.1 lb / 1,000 sf
<i>Deschampsia cespitosa</i>	Tufted hairgrass	As needed	Seed or 4" plug / 1,000 sf
<i>Elymus glaucus</i>	Blue wild rye	As needed	Seed or 4" plug / 1,000 sf