



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

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Date: October 8, 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 20-102237 GW

GENERAL INFORMATION

Applicant: Art Dahlin | Foss Maritime Company
9030 NW St Helens Road | Portland, OR 97231

Owner/Agent: William Roberts | Brix Maritime Company
9030 NW St Helens Road | Portland, OR 97231

Representative: Sydney Gebers | Grette Associates
151 S Worthen Street | Wenatchee, WA 98801
509-663-6300 | sydg@gretteassociates.com

Site Address: 9030 NW ST HELENS ROAD

Legal Description: TL 800 4.46 ACRES LAND ONLY SEE R324090 (R961110391) FOR IMPS DEPT OF REVENUE, SECTION 11 1N 1W

Tax Account No.: R961110390
State ID No.: 1N1W11 00800
Quarter Section: 2120

Neighborhood: Linnton, contact Richard Barker at chair@linntonna.org
Business District: None
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

Plan District: None
Other Designations: 100-Year Floodplain; *Lower Willamette River Habitat Inventory* – Site 5.4D (Rank V)

Zoning: *Base Zone:* Heavy Industrial (IH)
Overlay Zones: Greenway River Industrial (i), Prime Industrial (k), Scenic (s)

Case Type: GW – Greenway Review

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

PROPOSAL:

The applicant requests approval to repair and stabilize a 290-foot section of actively eroding riverbank at the Foss Maritime Tug Terminal located in the Portland Harbor within NW Portland. The Project involves rebuilding the riverbank to its original profile and re-armoring the newly constructed surface with an articulated concrete block mat or blanket (ACB mat). The ACB mat will extend from approximately elevation 31 feet to the toe of the slope.

To reconstruct the bank, up to 1,900 cubic yards of rock will be placed along the shoreline. In areas located above elevation 15.5 feet the fill used to repair the slope will be topped or amended to contain at least 20 percent fines (i.e. planting medium) to support the establishment of riparian vegetation. The repaired riverbank will then be armored with a manufactured articulated concrete block retention system or mat (ACB mat). The product will consist of an open cell block design to maximize the amount of permeable surface and revegetation capacity.

The bank repair work will require the removal of three, 6-inch native trees and 31 saplings riverward of the top of bank. Upon project completion all disturbed areas between the top of the bank (+40 ft) and elevation +15.5 feet (the lowest elevation where woody vegetation is expected to persist) will be revegetated. Because the planting plan includes revegetating a portion of the riverbank that is currently unvegetated, the planting plan will increase the vegetated area which, in total, will include 95 trees and 835 shrubs.

The site is within the City's Greenway overly zone. Zoning Code Section 33.440.310.B requires Greenway Review for exterior alterations to development, including the removal of trees within the Greenway overlay zones. The work must therefore be approved through a Greenway Review.

RELEVANT APPROVAL CRITERIA:

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

- ❖ Greenway Review Approval Criteria, Zoning Code Section 33.440.350
- ❖ *Willamette Greenway Design Guidelines*

ANALYSIS

Site and Vicinity: The subject site is a developed industrial site that encompasses 4.46 acres over approximately 600 linear feet of the western bank of the Lower Willamette River, at approximately river mile (RM) 5.5. The property is the main headquarters for tugboat services in Portland Harbor and includes a tug terminal, floating maintenance facility, office building and warehouse storage.

Riverward of the top of the bank, is a semi-vegetated riverbank, sloped at 2H:1V. The initial 40-50 feet of the bank slope is armored with riprap and varied vegetation that includes landscaping, native, and non-native species. Species include Himalayan blackberry (*Rubus armeniacus*), common rush (*Juncus effusus*), shore pine (*Pinus contorta*), western red cedar (*Thuja plicata*), and beaked hazelnut (*Corylus cornuta*).

Other development in the vicinity is heavily industrial in use, including tank farms, docks, and other industrial uses. The Willamette River in this area has also been substantially shaped by a century of industrial uses and is highly channelized. Significant portions of the riverbanks in the vicinity consist of riprap, sheet pile walls, and other developed pier structures.

Zoning: The Heavy Industrial base 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 standards of this Base Zone are generally met by this proposal; these provisions are not specifically addressed through this Greenway Review.

The Prime Industrial overlay zone protects land that has been identified in the Comprehensive Plan as Prime Industrial, and to prioritize 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. These freight-hub districts include Oregon's largest seaport, rail hub, and airport. The standards of this overlay zone do not apply to this proposal; these provisions are not specifically addressed through this Greenway Review.

The Greenway overlay zones protect, conserve, enhance, and maintain the natural, scenic, historical, economic, and recreational qualities of lands along Portland's rivers. The greenway regulations implement the City's Willamette Greenway responsibilities as required by ORS 390.310 to 390.368, as well as the water quality performance standards of Metro's Title 3. The purpose of this land use review is to ensure compliance with the regulations of the greenway overlay zones.

The Scenic Resource overlay zone is intended to: enhance the appearance of Portland to make it a better place to live and work; create attractive entrance ways to Portland and its districts; improve Portland's economic vitality by enhancing the City's attractiveness to its citizens and to visitors; and implement the scenic resource policies and objectives of Portland's Comprehensive Plan. The purposes of the Scenic Resource overlay zone are achieved by establishing height limits within view corridors to protect significant views and by establishing additional landscaping and screening standards to preserve and enhance identified scenic resources. This overlay zone includes development standards which are addressed in this report and which must be met at building permit application.

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

CU 78-78 – Approval of a Conditional Use to construct an office building, parking lot, underground tank storage, warehouse and open storage within the Willamette River Greenway.

GP 002-88 – Approval of a Greenway permit to install a 30 foot by 60-foot office trailer to support a tugboat operation.

LUR 96-00943 GW – Approval of a Greenway Review for replacement of a storm water drain.

PR 16-170618 NCU – Confirmation of Nonconforming Upgrades Option 2 Request. Approves delaying nonconforming upgrades until August 19, 2018.

LU 16-186108 GW – Approval of a Greenway Review for alterations to the existing building as well as parking lot improvements. Plantings required per Condition C of this decision will be affected as a result of the proposed bank stabilization project. Three 6-inch trees and 31 saplings are in the bank failure area and will need to be removed during bank reconfiguring and installation of the bank stabilization mat. Staff has found that the work cannot occur in areas that would not affect past conditions of approval based on the area of the bank failure and that the applicant has provided enough plantings to compensate for the removal of the trees.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **June 8, 2020**. The following Bureaus have responded with no issues or concerns:

- Life Safety
- Water Bureau
- Fire Bureau
- Urban Forestry

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 proposed greenway review. This addendum response provides an update regarding proposed work around the BES-maintained outfall structure

and within a storm sewer easement granted to BES. Further details regarding this work will be reviewed by BES through the permit application(s).

The revised plans show a structural connection from the proposed slope protect mat to the existing BES-owned storm outfall structure. BES' preference is for the proposed mat to be isolated from the outfall structure to avoid potential impacts to that structure. If this is not feasible, then BES needs confirmation that our outfall won't be impacted if the mat moves, creeps, or slumps. It's important that the applicant confirms that the mat structure is adequately supported and will not impact the outfall structure. If it will be bolted to the BES outfall, then BES may require a signed agreement saying that the owner will be responsible for replacing the public outfall if it is damaged by the mat structure in the future.

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

A Site Development permit from the Bureau of Development Services will be required for this project.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **June 8, 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

Title 33.440.350 Approval Criteria for Greenway Review

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 applicable approval criteria are met.

Findings: The approval criteria which apply to the bank stabilization project are found in Section 33.440.350. The applicant has provided findings for these approval criteria and BDS Land Use Services staff has revised these findings where necessary to meet the approval criteria.

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

Findings: The Willamette Greenway Design Guidelines address the quality of the environment along the river and require public and private developments to complement and enhance the riverbank area. A complete description of the Design Guidelines and their applicability is provided in Appendix C of the *Willamette Greenway Plan*.

The Design Guidelines are grouped in a series of eight Issues as discussed below. The Guidelines have been regrouped according to similarity of Issues:

Issue A. Relationship of Structures to the Greenway Setback Area: This issue “applies to all but river-dependent and river-related industrial use applications for Greenway Approval, when the Greenway Trail is shown on the property in the *Willamette Greenway Plan*.” These guidelines call for complementary design and orientation of structures so that the Greenway Setback area is enhanced:

Guidelines:

- 1. Structure Design**
- 2. Structure Alignment**

Issue B. Public Access: This issue “applies to all but river-dependent and river-related industrial use applications for Greenway Approval, when the Greenway Trail is shown on the property in the *Willamette Greenway Plan*.” These guidelines call for the integration of the

Greenway Trail into new development, as well as the provision of features such as viewpoints, plazas, or view corridors:

Guidelines:

- 1. Public Access**
- 2. Separation and Screening**
- 3. Signage**
- 4. Access to Water's Edge**

Issue F. Alignment of Greenway Trail: This issue “applies to all applications for Greenway Approval with the Greenway Trail shown on the property in the *Willamette Greenway Plan*.” These guidelines provide direction for the proper alignment of the greenway trail, including special consideration for existing habitat protection and physical features in the area of the proposed alignment:

Guidelines:

- 1. Year-round Use**
- 2. Habitat Protection**
- 3. Alignment**

Findings: The *Willamette Greenway Plan* does not show the Greenway Trail on this site. Therefore, Issues A, B, and F are not applicable.

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

Guidelines:

- 1. Natural Riverbanks.** The natural riverbank along the Willamette River should be conserved and enhanced to the maximum extent practicable. Modification of the riverbank should only be considered when necessary to prevent significant bank erosion and the loss of private property, or when necessary for the functioning of a river-dependent or river-related use.
- 2. Riparian Habitat.** Rank I riparian habitat areas, as identified in the wildlife habitat inventory, should be conserved and enhanced with a riparian landscape treatment. Other riparian habitat should be conserved and enhanced through riparian landscape treatments to the maximum extent practical. Conservation however does not mean absolute preservation. Some discretion as to what vegetation should remain and what can be removed and replaced should be permitted. Riparian habitat treatments should include a variety of species of plants of varying heights that provide different food and shelter opportunities throughout the year.

Findings: The riverbank at the subject site is not currently in a natural state and is in fact heavily altered to facilitate the industrial use at the site. Further, the site is identified in the *Lower Willamette River Wildlife Habitat Inventory* as Site 5.4D, a Rank V site. Therefore, since this site does not contain a Rank I habitat designation nor a riverbank that is currently in a natural state, *this issue does not apply*.

Issue D. Riverbank Stabilization Treatments: This Issue “applies to all applications for Greenway Approval.” This guideline promotes bank treatments for upland developments that enhance the appearance of the riverbank, promote public access to the river, and incorporate the use of vegetation where possible:

Guidelines:

- 1. Riverbank Enhancement.** Riverbank stabilization treatments should enhance the appearance of the riverbank, promote public access to the river, and incorporate the use of vegetation where practical. Areas used for river-dependent and river-related industrial uses are exempted from providing public access

Findings: The purpose of this proposal is to provide stabilization to a currently failing riverbank. The proposed riverbank stabilization combines vegetation and hard armoring

stabilization treatments to achieve a stable and aesthetically pleasing riverbank. The proposal includes stabilizing the repaired slope with a prefabricated articulated concrete block (ACB) blanket. The ACB blanket has approximately 20 percent open space and is ideal for revegetating shorelines in high energy environments. Overall, the proposal and associated revegetation will stabilize the riverbank, enhance wildlife habitat, and improve the appearance of the riverbank. The use at the site is river-dependent and river-related; therefore, no public access is required.

Based on the foregoing, *this issue is met.*

Issue E. Landscape Treatments: This Issue “applies to all applications for Greenway Approval which are subject to the landscape requirements of the Greenway chapter of Title 33 Planning and Zoning of the Portland Municipal Code.” These guidelines call for landscaping treatments that create a balance between the needs of both human and wildlife populations in the Greenway Setback area or riverward of the Greenway Setback:

Guidelines:

1. Landscape Treatments. The landscape treatment should create an environment which recognizes both human and wildlife use. Areas where limited human activity is expected should consider more informal riparian treatments. Areas of intense human use could consider a more formal landscape treatment. The top of bank may be considered a transition area between a riparian treatment on the riverbank and a more formal treatment of the upland.

2. Grouping of Trees and Shrubs. In areas of more intense human use, trees and shrubs can be grouped. The grouping of trees and shrubs allows for open areas for human use and has the secondary value of increasing the value of the vegetation for wildlife.

3. Transition. The landscape treatment should provide an adequate transition between upland and riparian areas and with the landscape treatments of adjacent properties.

Findings: The proposed landscape treatments required per Zoning Code Section 33.440.230, *Landscaping* will be implemented entirely riverward of the top of the bank and will consist of a riparian treatment targeted towards providing improved fish and wildlife habitat. This treatment is suitable for the steep nature of the slope and the banks limited value for public river access. The applicant has provided a sufficient number of plantings to satisfy the quantity as required by the above referenced code section. *Therefore, Issue E is met.*

Issue G. Viewpoints: This issue “applies to all applications for Greenway Approval with a public viewpoint shown on the property in the *Willamette Greenway Plan* and for all applications proposing to locate a viewpoint on the property.” These guidelines provide direction about the features and design of viewpoints, as required at specific locations:

Guidelines:

1. Design

2. Facilities

Findings: No Scenic Viewpoints are mapped directly on the subject site. However, Scenic Viewpoints VB 09-13 and VB 04-03 are mapped on nearby properties in the *Scenic Resource Protection Plan*, and associated view corridors are mapped across the subject site with a 100-foot height restriction placed on the site. Since no viewpoints are mapped directly on the site, Issue G does not apply. *Therefore, guideline G is not applicable.*

Issue H. View Corridors: This issue “applies to all applications for Greenway Approval with a view corridor shown on the property in the *Willamette Greenway Plan*.” These guidelines provide guidance in protecting view corridors to the river and adjacent neighborhoods:

Guidelines:

1. Right-of-way Protection

2. View Protection

3. Landscape Enhancement

Findings: No scenic viewpoints are mapped directly on the subject property. However, Scenic Viewpoints VB 09-13 and VB 04-03 are mapped on nearby properties in the *Scenic Resource Protection Plan* (page 47), and associated view corridors are mapped across the subject site with a 100-foot height restriction placed on the site. To protect the view corridors, only tree species with a mature height of 100-feet or less are included in the planting plan. *Therefore, guideline H is met.*

Summary of Issue Findings: The design guidelines in Issues A through C, G, and F are not applicable. The design guidelines in Issues D, E, and H are met by the proposal. *Therefore, this criterion is met.*

- B. River frontage lots in the River Industrial zone.** In the River Industrial Zone, uses that are not river-dependent or river-related may locate on river frontage lots when the site is found to be unsuitable for river-dependent or river-related uses. Considerations include such constraints as the size or dimensions of the site, distance or isolation from other river-dependent or river-related uses, and inadequate river access for river dependent uses.

Findings: The subject property is located within the River Industrial overlay zone; however, the current use at the site is river-dependent and the dredging activities and bank stabilization proposal is necessary for the continued use at the site. *Therefore, this criterion is not applicable.*

- C. Development within the River Natural zone.** The applicant must show that the proposed development, excavation, or fill within the River Natural Zone will not have significant detrimental environmental impacts on the wildlife, wildlife habitat, and scenic qualities of the lands zoned River Natural. The criterion applies to the construction and long-range impacts of the proposal, and to proposed remediation measures. Excavations and fills are prohibited except in conjunction with approved development or for wildlife habitat enhancement, riverbank enhancement, or mitigating significant riverbank erosion.

- D. Development on land within 50 feet of the River Natural zone.** The applicant must show that the proposed development or fill on land within 50 feet of the River Natural zone will not have a significant detrimental environmental impact on the land in the River Natural zone.

Findings: The site does not have a River Natural designation and is not located within 50 feet of a River Natural designation. *Therefore, Criteria C and D do not apply.*

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

Findings: The subject site is not located in a Rank I or II wildlife Habitat Area; *therefore, this criterion does not apply.*

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

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

Findings: Three native trees, each six inches, will be removed as a result of the bank stabilization project. Additionally, 31 saplings planted per LU 16-186108 GW Condition of Approval C will also be removed. All trees are in the immediate vicinity of the bank stabilization area. To avoid significant loss of biological productivity in the river, all disturbed areas of the riverbank will be revegetated. Trees removed will be replaced at a higher density than the current conditions (95 trees will be planted to replace the 34 trees

removed as part of the project). All trees included in the planting plan are recognized as native to the lower Willamette River and are on the *Portland Plant List*.

Below the elevation where vegetation is expected to persist, the voids of the ACB mat will be filled with habitat substrate. The habitat substrate consists of gravel and mixed fines and has been included to boost salmonid prey densities, thereby improving biological productivity over an unimproved hardened surface.

Considering the stabilization of a currently failing bank, the installation of habitat substrate, and the planting of native species to replace lost vegetation, the proposal 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 project purpose is to repair and protect an actively eroding portion of the riverbank from further slope loss. The armoring is robust and has been sized to withstand conditions present at the site (flooding, wind and wake waves etc.). *This criterion is met*.

3. The proposal will not:
 - a. Restrict boat access to adjacent properties;
 - b. Interfere with the commercial navigational use of the river, including transiting, turning, and berthing movements;
 - c. Interfere with fishing use of the river;
 - d. Significantly add to recreational boating congestion; and

Findings: The proposal will not restrict boat access to adjacent properties, interfere with commercial navigational or fishing use of the river nor significantly add to recreational boating congestion. The bank stabilization project will stabilize a failing slope at a site currently used for river-dependent/river-related industrial use and is not proposing to install anything within the river itself or alter the use at the site. *This criterion is met*.

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

Findings: There are no public beaches at or in the immediate vicinity of the subject site, *this criterion is met*.

G. Development within the River Water Quality overlay zone setback. If the proposal includes development, exterior alterations, excavations, or fills in the River Water Quality overlay zone setback the following approval criteria must be met:

Findings: The site does not have a River Water Quality designation. *Therefore, this criterion is not applicable*.

H. Mitigation or remediation plans. Where a mitigation or remediation plan is required by the approval criteria of this chapter, the applicant's mitigation or remediation plan must demonstrate that the mitigation will occur on-site or as close to it as possible; that the applicant owns the mitigation site; and that the mitigation plan contains a construction timetable as well as monitoring and maintenance plans.

Findings: Mitigation/remediation is not required by the subject criteria. *Therefore, this criterion is not applicable*.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all 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 standards in Zoning Code chapter 33.480 (Scenic Resource Zone) apply to the site: Development and vegetation on the site is subject to a 100-foot height limit since the property is located within a view corridor for the following scenic viewpoints: VB 09-13 and VB 04-03, as outlined in the *Scenic Resource Protection Plan* (Page 47).

CONCLUSIONS

Through this Greenway Review, the applicant requests approval for placement of bank stabilization treatment and tree removal. The applicant has shown how the bank stabilization measures and native plantings will minimize impacts to the Willamette River to the extent practicable. With the condition for conformance with the site plans and to ensure the plantings are installed, inspected, and maintained, the above findings have shown that applicable approval criteria are met; therefore, this proposal should be approved.

ADMINISTRATIVE DECISION

Approval of a Greenway Review for:

- Reconfiguration of a failing bank and installation of bank stabilization treatment; and
- Removal of 3 trees and 31 saplings (4 inches dbh or less)

all within the Greenway River Industrial overlay zone, and in substantial conformance with Exhibits C.2 to C.6, as approved and signed by the City of Portland Bureau of Development Services on **October 05, 2020**. Approval is subject to the following conditions:

- A. A BDS construction 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.). Plans shall include the following statement, "**Any field changes shall be in substantial conformance with approved LU 20-102237 GW Exhibits C.2 through C.6.**"
- B.** Temporary, 4-foot high, bright orange construction fencing shall be placed along the Limits of Construction Disturbance line, as depicted on Exhibit C.3, to separate approved construction areas from areas to remain undisturbed.
 1. No mechanized construction vehicles are permitted outside of the approved "Limits of Construction Disturbance" delineated by the temporary construction fence. All planting work, invasive vegetation removal, and other work to be done outside the Limits of Construction Disturbance, shall be conducted using handheld equipment.
- C.** The BDS Construction permit shall include inspection and approval of a planting plan for a total of 95 trees, 835 shrubs, and .36 acres of seed mix in substantial conformance with Exhibits C.4 and C.5, Planting Plan. Any plant substitutions shall be selected from the *Portland Plant List* and shall be substantially equivalent in size to the original plant. Conifers must be replaced with conifers.
 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 and labeled as "new required landscaping". The plans shall include a "typical," scalable planting layout for each planting zone, and shall illustrate a naturalistic arrangement of plants and should include a planting table listing the species, quantity, spacing and sizes of plants to be planted.
 - b. The applicant shall indicate on the plans selection of either tagging plants for identification or accompanying the BDS inspector for an on-site inspection.
 2. Plantings shall be installed between October 1 and March 31 (the planting season).
 3. Prior to installing required plantings, non-native invasive plants shall be removed

from all areas within 10 feet of plantings, using handheld equipment.

4. If plantings are installed prior to completion of construction, a temporary orange, 4-foot high construction fence shall be placed to protect plantings from construction activities.
5. All required 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.
6. After installing the required plantings, the applicant shall request inspection of mitigation plantings and final the BDS Zoning Permit.

D. The landowner shall maintain the required plantings to ensure survival and replacement. The landowner is responsible for ongoing survival of required plantings during and beyond the designated two-year monitoring period. After the 2-year initial establishment period, the landowner shall:

1. Obtain a Zoning Permit for a final inspection at the end of the 2-year maintenance and monitoring period. The applicant shall arrange to accompany the BDS inspector to the site to locate plantings for inspection. The permit must be finalized no later than 2 years from the final inspection for the installation of planting, for the purpose of ensuring that the required plantings remain. Any required plantings that have not survived must be replaced.
2. All required landscaping shall be continuously maintained, by the landowner in a healthy manner, with no more than 15% cover by invasive species. Required plants that die shall be replaced in kind.

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

Staff Planner: Morgan Steele

Decision rendered by:  **on October 5, 2020**
By authority of the Director of the Bureau of Development Services

Decision mailed: October 8, 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 January 7, 2020, and was determined to be complete on June 4, 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 January 7, 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 requested that the 120-day review period be extended 120 days, as stated within Exhibit A.7. Unless further extended by the applicant, **the 120 days will expire on: January 30, 2021.**

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 22, 2020. **The completed appeal application form must be emailed to 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 Office of Community and Civic Life 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 this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

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 22, 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:

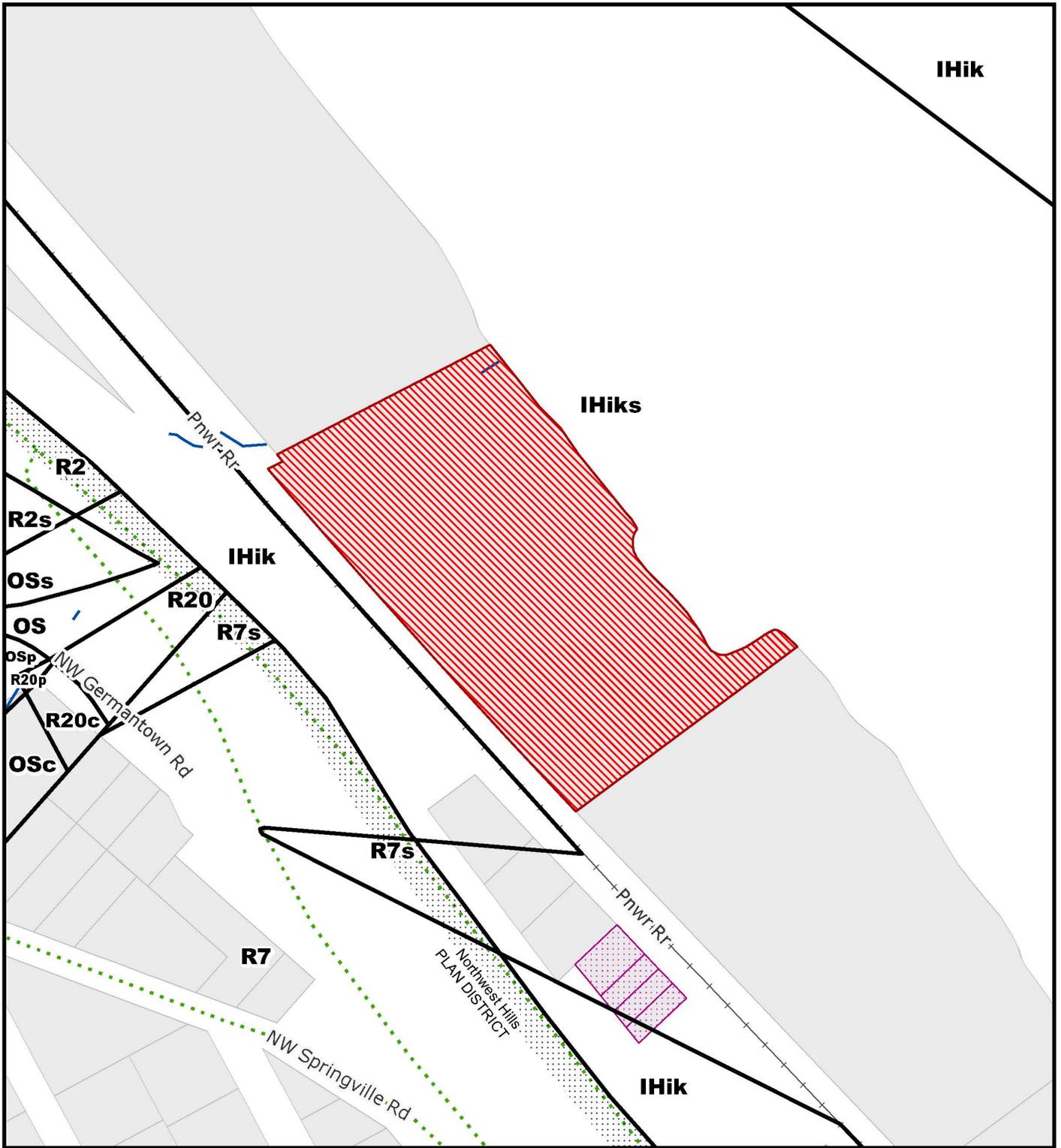
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 1. Applicant's Original Narrative & Site Plans, December 2019
 2. Flood Hazard Memorandum, March 2020
 3. Applicant's Revised Narrative & Response to Approval Criteria, June 2020
 4. Site Photos
 5. Planting Plan
 6. Supplemental Site Plans
 7. Extension to the 120-Day Review Period
- B. Zoning Map (attached)
- C. Plans/Drawings:
 1. Existing Conditions Site Plan
 2. Proposed Development Site Plan (attached)
 3. Construction Management Site Plan
 4. Proposed Planting Plan (attached)
 5. Planting Detailing Plan
 6. Proposed Tree Plan
- D. Notification information:
 1. Mailing list
 2. Mailed notice
- E. Agency Responses:
 1. Bureau of Environmental Services
 2. Bureau of Transportation
 3. Life Safety
 4. Fire Bureau
 5. Site Development Review Section of BDS
 6. Bureau of Parks, Forestry Division
- F. Correspondence: None received
- 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).

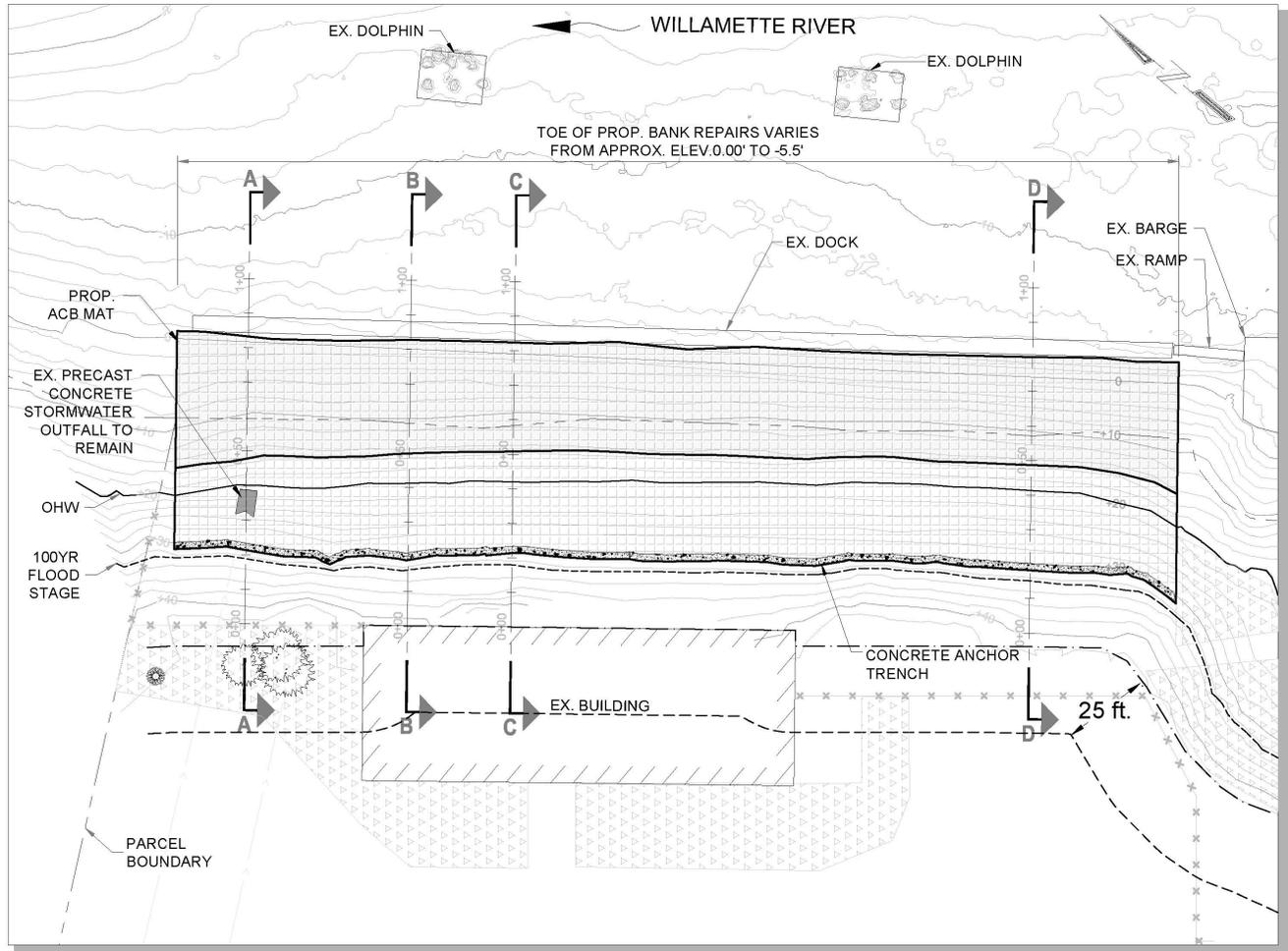


ZONING



- Site
- Also Owned Parcels
- Stream
- Recreational Trails

File No.	LU 20 - 102237 GW
1/4 Section	2120
Scale	1 inch = 163 feet
State ID	1N1W11 800
Exhibit	B Jan 09, 2020



PROPOSED DEVELOPMENT SITE PLAN



KEY

- Greenway setback (25 ft from top of bank)
- OHW (20.1 ft NAVD88)
- 100-Year Flood (32.5 ft NAVD88)
- Top of Bank (~41 ft NAVD88)
- Stormwater line and flow direction
- Existing trees to preserve
- Articulated concrete block slope protection with habitat substrate (toe to 15.5 ft)
- Articulated concrete block slope protection with planting soil (15.5 ft to 31 ft)
- Existing landscaping to preserve

NOTES:

1. Existing trees above the top of the bank will be retained. See the Planting Plan (Sheet 6) for proposed re-vegetation below the top of the bank.
2. The Project is located within a secure facility and no public access or Greenway trails are proposed.

FIGURE: 2
OF: 5
DATE: 6.1.20

PROPOSED DEVELOPMENT SITE PLAN

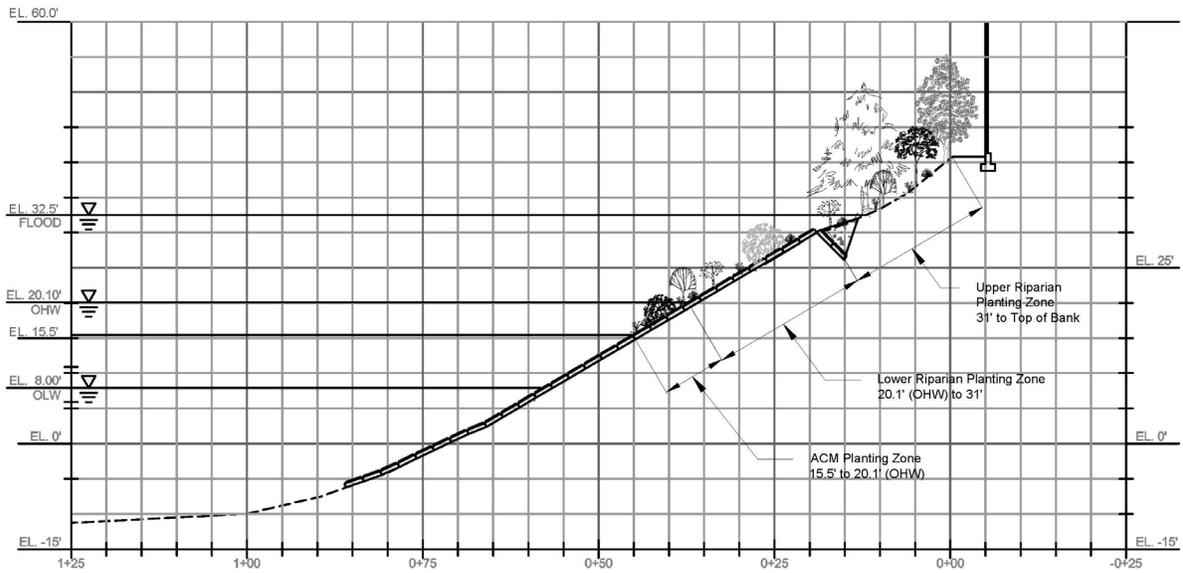
FOSS RIVERBANK REPAIR PROJECT

APPLICANT: ART DAHLIN: FOSS MARITIME CO. 9030 NW ST. HELENS RD. PORTLAND, OR 97231	AUTHORIZED AGENT: SYDNEY GEBERS: GRETTTE ASSOCIATES 151 S. WORTHEN ST, SUITE 101 WENATCHEE, WA 98801
SITE ADDRESS: 10304 NW ST. HELENS RD. PORTLAND, OR	DRAWING SCALE: 1" = 100'
DATUMS: NAVD88	



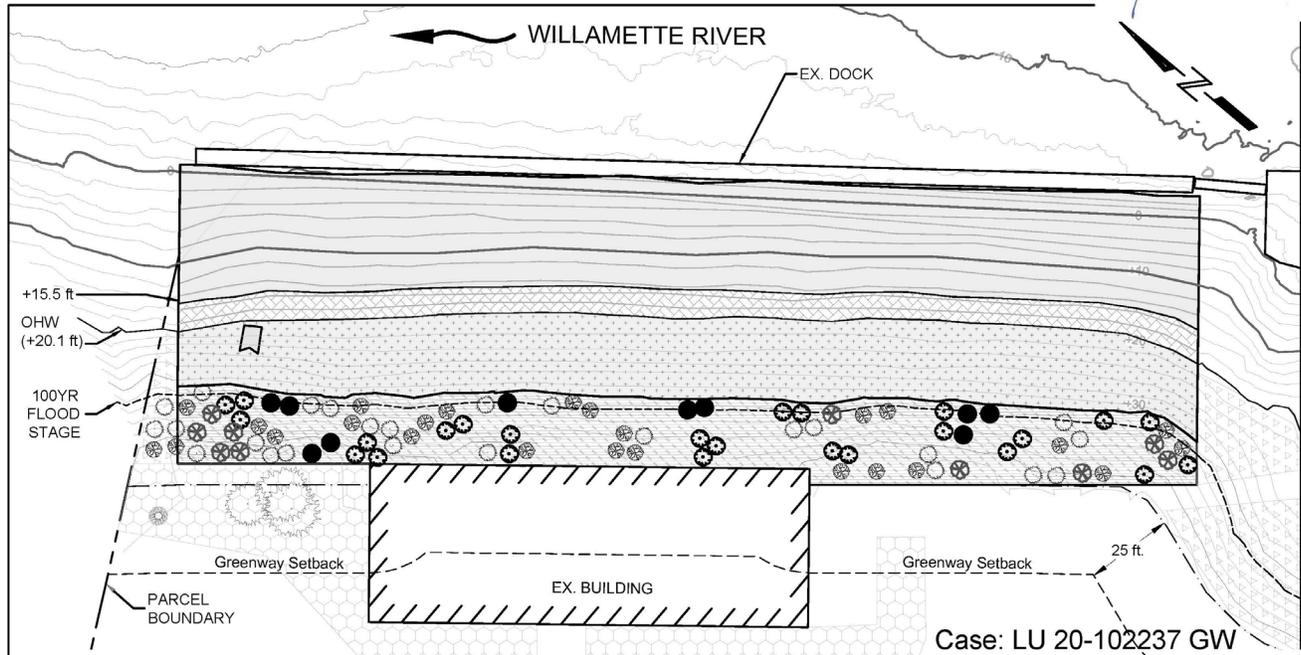
1736 Fourth Avenue S., Suite A
 Seattle, Washington 98134
 P: 206.624.1387
 www.pndengineers.com





SECTION - TYP.
1" = 25'

Case: LU 20-102237 GW
Exhibit C.2



Case: LU 20-102237 GW
Exhibit C.4

KEY

- Unvegetated (0.20 ac.)
- ACM Zone (0.06 ac. dense planting)
- Lower Riparian Zone (0.15 ac. dense planting)
- Upper Riparian Zone (0.15 ac. dense planting)
- Greenway setback (25 ft from top of bank)
- OHW (20.1 ft NAVD88)
- 100-Year Flood (32.5 ft NAVD88)
- Top of Bank (~41 ft NAVD88)

PLANTING PLAN



- Proposed trees
- Existing Landscaping to remain
- Existing trees to remain

NOTES:

1. Plant materials are to be used for restoration purposes.
2. Plant materials will be native, selected from the Portland Plant List, non-clonal in origin, from a local seed source, and nursery propagated.
3. Plants listed on the Nuisance Plants List are prohibited and must be cleared prior to revegetation.
4. Use of plant supports (stakes, guy wires) will be minimized. If needed, supports will be removed as soon as the plant can support itself.
5. Plants will be irrigated for a minimum of one growing season and as necessary thereafter.

FIGURE 4
OF 5
PROPOSED
PLANTING PLAN

DATE: 6.1.20

FOSS RIVERBANK REPAIR PROJECT

APPLICANT:
ART DAHLIN, FOSS MARITIME CO.
9030 NW ST. HELENS RD.
PORTLAND, OR 97231

SITE ADDRESS:
10504 NW ST. HELENS RD.
PORTLAND, OR

AUTHORIZED AGENT:
SYDNEY GEBERS, GRETT ASSOCIATES
151 S. WORTHEN ST. SUITE 101
WENATCHEE, WA 98801

DRAWING SCALE:
VARIES

DATUMS:
NAVD88



1736 Fourth Avenue S., Suite A
Seattle, Washington 98134
P: 206.624.1387
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