



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

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Date: May 12, 2021
To: Interested Person
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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 21-014816 GW

GENERAL INFORMATION

Applicant/Owner: University of Portland | Attn: David Hobbs
5000 N Willamette Boulevard | Portland, OR 97203
503.943.7306 | hobbsd@up.edu

Representative: Renee France | Radler, White, Parks & Alexander LLP
111 Columbia Street, Suite 700 | Portland, OR 97201

Site Address: 5828 N Van Houten Place (University of Portland)

Legal Description: TL 100 33.59 AC, SECTION 18 1N 1E
Tax Account No.: R941180100
State ID No.: 1N1E18 00100
Quarter Section: 2223, 2224, 2323, 2324

Neighborhood: University Park, contact Tom Karwaki at karwaki@yahoo.com.
Business District: University Park Business District, contact at
<https://www.facebook.com/UPBizDist/>

District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at
503-823-8877.

Plan District: NONE
Other Designations: Special Flood Hazard Area; Regulatory Landslide Hazard Area; East Buttes, Terraces, and Wetlands Conservation Plan (1993) – Site #140, Overlook Bluff; *Lower Willamette River Wildlife Inventory* – Site 8.1A, Western Terminals Property

Zoning: *Base Zone:* General Employment 2 (Vested per LU 12-166257 CU MS AD)
Overlay Zones: Greenway River General (g), Greenway River Natural (n)

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

Proposal:

The University of Portland (University) proposes to construct a rowing dock to be used by the University's rowing team at the Franz Campus (formerly known as River Campus). The team currently practices on Vancouver Lake as there is no suitable river access nearby. The proposed rowing dock will allow the team to access the river for practice on campus and avoid traveling to an off-campus location and the uncertainty of the availability of Vancouver Lake as a practice location. A previous approval for this work occurred under LU 18-132118 GW; however, due to a significant change in scope, a new Greenway Review is required.

To offset impacts of the proposed dock installation, the applicant offers the following:

- ❖ Removal of an existing dock in shallow water habitat. The combined overwater coverage of the dock to be removed is 4,300 square feet (0.099 acres). The pilings supporting the docks will also be removed and consist of 30 steel piles and 100 treated-timber piles.
- ❖ Removal of approximately 121 free-standing treated timber piles located near the proposed rowing dock and adjacent shoreline.
- ❖ Removal of 8 treated-timber dolphins
- ❖ Removal of rubble along the shoreline.
- ❖ Placement of a thin layer of clean sand after pulling piles in active cleanup areas where sediment has been disturbed.
- ❖ Planting of additional plants within a riparian area along the shoreline. The riparian plantings will include a mix of native trees and shrubs suitable for the habitat. Native herbaceous ground cover will be planted to provide ground cover and reduce invasive weeds.
- ❖ Installation of wooden split rail type fence up to 4 feet in height around the upland perimeter of the riparian planting area to protect the plants from pedestrian disturbance.
- ❖ Irrigation piping from existing groundwater well to irrigate the planting areas.

The 2013 *University of Portland Master Plan* (LU 12-166257 CU MS AD) specifically addressed the Greenway elements of the plan. The current project area includes the top-of-bank of the Willamette River that was established as part of LU 12-166257 CU MS AD, and areas riverward of top-of-bank. Master Plan Condition F states that "Development occurring on the portion of the campus mapped with a Greenway overlay zone, including the Etzel Field and field lighting, is subject to the Greenway Review requirements of Zoning Code Section 33.440.310 (When Greenway Review Applies)." Whereas this proposal does not meet any of the exemptions from Greenway Review, it is subject to the approval criteria listed in Section 33.440.350 for 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; and
- *Willamette Greenway Design Guidelines*

ANALYSIS

Site and Vicinity: The University of Portland (University) is located on the east bank of the Willamette River in North Portland. The upper campus is 108 acres in area and includes the Main Campus and the West Campus. The Main Campus extends north to N Willamette Boulevard, west to N Portsmouth Avenue, with the river bluffs defining the campus to the east and south. The approved Master Plan also incorporated the River Campus (now known as Franz Campus) within the Master Plan boundaries. The Franz Campus includes the 35-acre Triangle Park site located directly south of the West Campus, extending to the Willamette River, and the 45-acre McCormick & Baxter site, located west of the Triangle Park site. The McCormick & Baxter site extends south to the river, west to the railroad main line and north to the railroad branch line.

The project site is within the portion of the University of Portland's Master Plan area designated as the Franz Campus (formerly River Campus). This area is below the bluffs from the main and west campus areas, closer to the Willamette River. Like much of the Willamette riverfront in this part of Portland, the land has an industrial past, and the University has been conducting substantial environmental remediation efforts in recent years.

The neighborhood surrounding the campus is largely characterized by low-density, single-dwelling development. Zoning on property in the nearby vicinity surrounding the existing and proposed campus boundaries includes residential zoning for properties north of N Willamette Boulevard, industrial zoning to the east and south, and open space zoning to the west of the McCormick & Baxter site.

Zoning: The zoning designations on the site include the General Employment 2 (EG2) base zone, with the Greenway River General (g) and Greenway River Natural (n) overlay zones.

The EG2 base zone allows a wide range of employment opportunities without potential conflicts from interspersed residential uses. The emphasis of the zone is on industrial or industrially-related uses. EG2 areas have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverages and buildings which are usually set back from the street. Allowed uses are listed in PCC 33.140 Table 410-1 and College use is allowed outright. PCC 33.920.410 further defines the College use characteristics and accessory uses. Sports facilities are listed as a permitted accessory use. Therefore, the proposed rowing dock is allowed outright in the EG2 base zone. There is no proposed change in use at the site and the provisions of the EG2 zone are not specifically addressed through this Greenway 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.

- River General. The River General zone allows for uses and development which are consistent with the base zoning, which allows for public use and enjoyment of the waterfront, and which enhance the river's natural and scenic qualities.
- River Natural. The River Natural zone protects, conserves, and enhances land of scenic quality or of significant importance as wildlife habitat.

The purpose of this Decision report is to address the requirements of the Greenway overlay zones and demonstrate how they are met by the proposal.

Land Use History: Approvals of quasi-judicial land use reviews run with the land and are transferred with ownership. Associated conditions or restrictions continue to apply. City records indicate that prior land use reviews have been conducted for this site. City records indicate that prior land use reviews include the following:

- **LUR 93-00355 CU MS:** Approval of a Conditional Use Master Plan for the University.
- **LUR 98-00812 CU MS CP ZC AD:** Approval of major amendments to the Conditional Use Master Plan for the University, a Comprehensive Plan Map Amendment and Zone Change to R2 and R2c for portions of the campus, and Adjustments to perimeter building setbacks for future development.
- **LU 03-153861 CU MS AD:** Approval of amendments to the Conditional Use Master Plan for the University.
- **LU 06-132925 CP ZC:** Approval of a Comprehensive Plan Map and Zoning Map Amendment for the Triangle Park portion of the proposed River Campus. The approval included several conditions related to future uses: limitations to retail sales and service, as well as office uses; additional requirements for dormitory development; and requirements for future conditional use reviews. These conditions do not apply to this greenway review.
- **LU 06-137142 CU MS:** Approval of amendments to the Conditional Use Master Plan for the University

- **LU 12-166257 CU MS AD:** Approval of a new Conditional Use Master Plan for the University. Approval of this plan replaced the previous plan and modifications. Condition “F” of this review requires Greenway Review for development occurring on the portion of the campus mapped with a Greenway overlay zone. Condition “E” establishes the Top of Bank and sets expectations regarding allowed uses within the greenway setback. Condition “OO” clarifies when and where the planting standards of PCC 33.440.230 apply.
- **LU 13-117294 CU:** Approval for a wireless communications facility on top of the Buckley Center Building.
- **LU 14-166497 GW:** Approval of a Greenway Review for a 113-stall parking lot, including the associated pedestrian walkways, landscape areas, and a stormwater facility.
- **LU 16-238857 LC:** Lot consolidation related to a street vacation for portions of N Van Houten Court, N McKenna Ave, and an unnamed alley within the River Campus area.
- **LU 17-152507 GW:** Approval of a Greenway Review for a synthetic turf athletic field and grass turf athletic field with fencing and field lighting; an access road and pedestrian paths; stormwater management facilities associated with the athletic fields and access road; and grading associated with fields and access roads.
- **LU 18-132118 GW:** Approval of a Greenway Review for removal of docks, dolphins, pilings, and other structures in the water and along the banks of the Willamette River including placement of a thin layer of sand along the riverbank. Construction of a rowing dock, split rail fence, groundwater well, irrigation piping, and installation of Greenway plantings. This current land use decision is being requested by the applicant due to the significant change in scope of the previously approved Greenway Review.
- **LU 19-105254 EN GW:** Approval of an Environmental and Greenway Review deep soil mixing (DSM) ground improvements, construction of a physical plant, tennis center, track and field facility, boat house, associated parking areas and access drives, Greenway trail, elevated pedestrian walkway, lighting along Bluff Road, improvements to N Van Houten Place including a new railroad crossing, associated stormwater facilities, a well control station, sewer pump station buildings, and associated utilities.

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on March 12, 2021.

1. Agency Review: Several Bureaus and agencies have responded to this proposal. Please see the E Exhibits in the application case file for details. Where applicable, agency comments are discussed in findings for the approval criteria, below.

BDS Site Development staff provided the following information. The full summary can be found in the application case file (Exhibit E.5).

A demolition permit will be required for the removal of the pile supported structures and piles. A separate building permit will be required for the rowing dock and associated improvements. Site Development takes no exceptions to the approval of this land use and does not request any conditions of approval.

Portland Parks & Recreation provided the following information. The full summary can be found in the application case file (Exhibit E.7).

Encroachment into the planting area for development of a future Greenway Trail is allowed per the following:

The construction area for the future Greenway Trail shall not cover more than 6,000 square feet within the riparian planting area approved by this Greenway Review, and the encroachment shall not occur farther than 300 feet northwest of the southeast boundary of the Greenway Review project limits as shown on [Exhibit C.13].

2. Neighborhood Review: No written responses were received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

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 of the approval criteria are met.

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:

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. The Greenway Setback area should be complemented and enhanced by designing, detailing, coloring, and siting structures and their entrances to support the pedestrian circulation system, including both the Greenway trail and access connections.

2. Structure Alignment. Where surrounding development follows an established block pattern, alignment with the block pattern should be considered in structure placement. Structure alignment should also take into account potential view corridors from existing public rights-of-way or acknowledged viewpoints. The pedestrian access system should be designed to take advantage of these alignments.

Findings: The primary structure proposed through this Greenway Review is the private rowing dock that will be used as a sports facility related to the University’s intercollegiate rowing program. The dock has been designed and sited to minimize in-water and riparian habitat impacts and still meet the purpose of the rowing dock. The location and design of the dock does not interfere with the approved Greenway Trail location and provides an access path that minimizes impacts to surrounding vegetation. The proposed gravel path leading to the dock structure will allow the athletes and coaches to safely access the dock in a way that avoids impacts to the surrounding riparian habitat.

The University is also proposing a wooden split rail fence no taller than 4 feet around the perimeter of the riparian planting area. The purpose of the fence is to prevent pedestrian impacts to the riparian planting areas. The fence will be made of natural materials to blend with the surrounding vegetation and will complement the Greenway Setback area.

The University has installed a groundwater well to provide irrigation water to the riparian plantings. As depicted on the Proposed Development Site Plan (Exhibits C.3 and C.4), the well is located near the Greenway Trail alignment, but does not interfere with the trail or any pedestrian circulation on the Franz Campus.

For the reasons stated above, the proposed habitat improvement and rowing dock project is consistent with the structure design and structure alignment guidelines; *therefore, Issue A is met.*

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 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. New developments should integrate public access opportunities to and along the river into the design of the Project. This includes the Greenway trail, formal viewpoints, access connections to the Greenway trail, and internal site pedestrian circulation.

2. Separation and Screening. The pedestrian circulation system, including Greenway trail, viewpoints, and trail access connections, should be designed to ensure adequate separation and screening from parking, loading, circulation routes, external storage areas, trash dumpsters, exterior vents, mechanical devices, and other similar equipment.

3. Signage. Access connections should be clearly marked.

4. Access to Water's Edge. Where site topography and conservation and enhancement of natural riverbank and riparian habitat allow, safe pedestrian access to the water's edge is encouraged as part of the Project.

Findings: The Greenway Trail was approved through a prior land use review (LU 19-105254 EN GW) and is not located within the boundaries of this project (excepting the underground irrigation pipes). Additionally, the gravel path leading to the rowing dock will be part of the internal site pedestrian circulation on the Franz Campus. Therefore, the proposed habitat improvement and dock project is consistent with the public access guideline.

The only development in close proximity to the approved Greenway Trail alignment is the groundwater well. The University agrees to screen any visible element of the wells at the time the Greenway Trail is developed. This proposal does not include any other facilities that would need to be screened from the Greenway Trail or any trail access connections.

This project includes extensive riverbank and riparian landscaping as well as other habitat restoration work along the Franz Campus shoreline and is consistent with the fact that the Franz Campus area has been identified as an appropriate area for protected riparian habitat. The approved Greenway Trail alignment confirms that the appropriate location for public access in this area is landward of top-of-bank. The University will be providing safe pedestrian access to the rowing dock so that the rowing program participants can safely access the water with minimal impacts on the surrounding riparian habitat.

Based on the foregoing, *Issue B is met.*

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.

and

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 University modified and restored the riverbank under an Order with the Environmental Protection Agency (EPA) as part of a remediation project. The restoration included disconnecting the dilapidated docks from the shoreline to accommodate the new bank grade, regrading the riverbank to improve riparian wildlife and shallow water fish habitat, as well as an extensive planting plan for areas along the riverbank. Preliminary plantings were completed in 2012.

The current habitat improvement project will further and significantly enhance the riverbank area. As described above, the habitat improvement project includes removal of an existing dock, pilings and rubble that are remnants from the site's industrial history. The project also includes an extensive riparian planting plan that greatly exceeds the City's greenway landscaping standards. This combined work will significantly enhance the existing riverbank.

Further, the University will not disturb the existing riverbank except in those limited areas where disturbance is necessary to remove pilings, the existing dock or other rubble, and construct the new dock. In those cases, the University will generally smooth areas to match the slope created as part of the EPA remediation. Additionally, the University will place a thin layer of clean sand after pulling piles in active clean-up areas where sediment has been disturbed and monitor and maintain the EPA-mandated shoreline cap where necessary.

The rowing dock will require placement of a 11-foot by 26-foot concrete abutment riverward of the top-of-bank. However, the abutment and associated gangway will protect the surrounding riparian area from disturbance. Additionally, the abutment is necessary for the functioning of the dock, a river dependent use.

The Franz Campus riverbank area is not a Rank I riparian habitat area in the *Lower Willamette River Wildlife Habitat Inventory* (Inventory). The proposed habitat enhancement and dock project is in an area identified as Site No. 8.1A in the Inventory. The Inventory assigns 8.1A a habitat value of 16 out of scale from 0 to 114. As result, the subject area is a Rank V riparian habitat area in the Inventory. The Inventory states that Rank V habitats have the greatest potential for wildlife enhancement landscapes, such as the habitat improvement project proposed through this Greenway Review.

The habitat improvement component of this project includes approximately 6.4 acres of riparian landscape treatments that greatly exceed the City's minimum greenway landscaping requirements. The habitat improvement planting plan includes a wide variety of native trees and shrubs to create the desired range of heights and habitat opportunities. The only area within the project boundary and riverward of top-of-bank that will not include riparian plantings is the area within the footprint of the dock abutment and path. However, as noted above, the dock design and path are intended to minimize or eliminate any impacts to surrounding riparian habitat, and the footprint of both the dock and path are the minimum necessary to meet the project purpose.

For these collective reasons, the proposed habitat improvement and dock project *is consistent with Issue C*.

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: As discussed above and as acknowledged in the Master Plan, the University modified and restored the riverbank under an Order with the EPA as part of a remediation project. The restoration included disconnecting the dilapidated docks from the shoreline to accommodate the new bank grade, a significant lying back of the bank to create a more fish-friendly and riparian habitat, and an extensive planting plan within the identified site restoration area. The landscaping and structure removal proposed through this project will further and significantly enhance the riverbank area. As described above, the habitat improvement project includes removal of an existing dock and pilings that are remnants from the site's industrial history. The project also includes an extensive riparian planting plan that greatly exceeds the City's greenway landscaping standards. This combined work will significantly enhance the existing riverbank.

Additionally, the University will not disturb the existing riverbank as part of the Project except in those limited areas where disturbance is necessary to remove pilings and one of the existing docks. Where structures must be removed within the shoreline remediation cap, the University intends to repair/replace the shoreline remediation cap to match the adjacent cap grades. In areas outside the remediation cap, the shoreline will be regraded consistent with the surrounding grade. Additionally, the University will place a thin layer of clean sand after pulling in-water piles where sediment has been disturbed. Monitoring and maintenance of the EPA-mandated shoreline cap will be completed where necessary. The rowing dock will require placement of an 11-foot by 26-foot concrete abutment above ordinary high water. The abutment and associated gangway will protect the surrounding riparian area from disturbance. Additionally, the abutment is necessary for the functioning of the dock, a river-dependent use.

Based on the foregoing, Issue D 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.” This Issue calls 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 University will install approximately 6.4 acres of riparian landscaping within three identified planting areas within the project boundary. All the landscaping areas identified in the Planting Plan (Exhibits C.8 and C.9) are areas where there will be limited or no human activity. Therefore, the informal riparian treatments are appropriate, and the proposed landscaping is consistent with the landscape treatments guideline.

The project area for this Greenway Review will not be an area of intense human use. As described in the Planting Plan notes, the plant placement will be consistent with naturally occurring plant communities. Trees and shrubs shall be placed in singles or in clusters of the same species to provide a natural planting scheme. The clustered trees and shrubs will enhance the wildlife value of the landscaping.

To confirm appropriate and timely placement, and adequate coverage of riparian plantings, the applicant will be required to have the plantings inspected upon installation. Then, to confirm establishment of the required plantings, the applicant will be required to submit two monitoring and maintenance reports over a two-year monitoring period to document survival and replacement.

With conditions to ensure that plantings required for this Greenway Review are installed, maintained, and inspected, *Issue E will be met.*

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. The Greenway trail should be located so as to be open for public use year round. The trail may be constructed along the top of bank, on a floating platform, or in a series of tiers adjacent to the river, provided that at least one of these levels will remain unsubmerged.

2. Habitat Protection. The Greenway trail should be routed around smaller natural habitat areas to reduce the impact on the habitat area.

3. Alignment. The Greenway trail alignment should be sensitive to and take advantage of topographical and environmental features of the site, views of the river, existing and proposed vegetation, and sunlight.

Findings: The Greenway Trail alignment, as shown on Exhibit C.3, was approved through a previous Greenway Review (LU 19-105254 EN GW) As discussed above, and consistent with this guideline, the Greenway Trail is located landward of top-of-bank and outside of the boundaries of this project except where the underground irrigation pipe crosses the approved trail alignment (Exhibits C.13 & C.14). Additions to the Greenway Trail are not specifically proposed as part of the habitat improvement and dock project. Therefore, Issue F is not directly applicable to this Greenway Review. However, to ensure continuity of a future Greenway Trail that will connect to the approved alignment and continue east along Waud Bluff, Portland Parks & Recreation has requested a condition of approval that allows future trail encroachment into the proposed planting area.

The applicant's site plans (Exhibit C.12) demonstrate that the riparian restoration proposal does not preclude future dedication and development of the Greenway Trail across the Franz Campus. To ensure adequate room exists to dedicate and develop the trail, a condition will be added to allow encroachment into the riparian planting area for construction of the trail. And to ensure the easement is granted in accordance with Parks & Recreation requirements, the applicant shall present a fully executed Greenway Trail easement prior to the issuance of any building or construction permits. With these conditions, *Issue F will be 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;

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;

Findings: There are no mapped viewpoints or view corridors on the Franz Campus. *Therefore, Issue G and Issue H guidelines do not apply.*

- 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 site does not include the Greenway River Industrial zone, *and this criterion does not apply.*

- 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 criteria apply to the construction and long-range impacts of the proposal, and to any proposed mitigation measures. Excavations and fills are prohibited except in conjunction with approved development or for the purpose of 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: Although a portion of the site lies within the Greenway River Natural overlay zone, none of the proposed work described in this report will occur within that area, or within 50 feet of the River Natural overlay zone, *and these criteria 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: As described above, the Franz Campus riverbank is identified as a Rank V wildlife habitat area in the *Lower Willamette River Wildlife Habitat Inventory*, the lowest available ranking. Therefore, this criterion is not applicable. However, it is the case that the proposed development will not have a significant detrimental impact on the riverbank habitat. In fact, the primary purpose of the habitat improvement element of the project is to enhance the wildlife habitat through the removal of existing structures to fully mitigate for the impacts of the new dock and a robust riparian planting. While the rowing dock will have some impact on habitat, the dock has been carefully designed to minimize the impact on habitat. The University will use the conservation measures and Best Management Practices (BMPs) during construction to limit any temporary impacts. Additionally, any impacts will be mitigated through the riparian plantings and other habitat improvement work.

Therefore, although this approval criterion is not technically applicable, *it is met by the proposal.*

- 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: The proposed project includes the permanent impacts of the dock structure and dock operations and temporary impacts from dock construction and dock and pile/dolphin removal. These impacts, however, will be fully mitigated by 1) removal of an existing, 4,300 square foot dock and the supporting structures for the dock, which includes 30 steel pipes and 100 treated timber piles; 2) removal of 121 free standing treated timber piles, 8 dolphins comprised of multiple timber treated piles, and other rubble and debris along the shoreline; 3) planting approximately 6.4 acres of riparian vegetation across three planting areas; and 4) implementing BMPs during removal and construction activities and during dock operations. The impacts of the dock construction and the structure removal actions, as well as the conservation measures and BMPs to avoid, minimize and mitigate impacts are discussed in detail in the applicant's narrative as well as the National Marine Fisheries Service's (NMFS) Biological Opinion (Exhibits A.1 and A.3, respectively) and shown graphically on the Construction Management Plans (Exhibits C.5 to C.7). The following is a summary of the aspects of the project that will avoid significant impacts on biological productivity in the river.

The potential impacts of the dock and removal of in-water structures on habitat and biological productivity are described below. The description of each effect is followed by a description of the elements of the project and measures that avoid significant impacts on biological productivity. Finally, the biological productivity benefits of the habitat restoration work and plantings are identified.

Water Quality/Turbidity

The project may result in temporary, localized increases in turbidity during installation of piles to support the rowing dock and pile extraction as part of the habitat restoration project. Temporary and localized increases in turbidity may occur during the in-water placement of material for the thin sand cap or following inundation of gravel remediation cap materials placed below OHWM during construction of the dock.

As described in the NMFS Biological Opinion (BiOp), of key importance in considering the detrimental effects of elevated total suspended solids (TSS) on fish are the frequency and duration of the exposure, as well as TSS concentration. The frequency and duration, as well as the concentration, will be minimized in this project for a number of reasons. First, any increases in turbidity would persist only during active pile installation or extraction or during construction of the dock. Therefore, the frequency of the exposure will be limited to the one-time construction and removal period. Turbidity concentrations should return to pre-construction concentrations almost immediately after pile

installation or extraction is completed. Any increases in turbidity following placement of the sand cap or the inundation of remediation cap material placed along the shoreline should be temporary and should rapidly dissipate. Therefore, the duration of exposure will be relatively short. Second, elevated TSS is likely to occur over a small area when piles are being removed or installed, or when the thin sand layer is being placed. The dock specifically has been designed to minimize the size and resulting impact on habitat and biological productivity. The size is the minimum size necessary to accomplish the goals of the University rowing program, and the dock has been designed and located within the embayment to minimize the number of pilings. Therefore, a small area of river will be affected and depending on the concentrations, fish will either seek refuge in adjacent areas with less turbidity, or remain in the area, taking advantage of additional cover. Third, dock construction and structure removal will only occur during the summer in-water work window from July 1st through October 31st. The BiOp specifically found that death or injury to salmonids from increases in TSS is not likely during the summer in-water work window when densities of juvenile fish are low. Finally, as required by the 401 Water Quality Certification for the project, turbidity must be monitored every two hours during in-water work, and activity restrictions apply if the turbidity level exceeds 5 NTU above background. BMPs to minimize turbidity and for piling removal referenced in the 401 Certification must also be implemented.

Given the small area of river affected, the temporary duration (weeks) of the construction activities that would cause turbidity, and the small number of impacted fish, and the required monitoring and BMPs, the temporary turbidity caused by dock construction and structure removal will not result in the significant loss of biological productivity in the Willamette River.

Hydroacoustic Effects

The project includes the removal of approximately 121 steel and treated timber piles as part of the habitat restoration work and the installation of 6 steel pipe piles for the rowing dock and associated structures. Pilings will be removed by vibratory hammer from a barge, and dock pilings will be installed using vibratory insertion methods to the greatest extent feasible to minimize the need for an impact hammer. As detailed in the BiOp, fishes with swim bladders (including salmonids) are sensitive to underwater impulsive sounds and sounds with a sharp pressure peak can cause fish fatality. The BiOp indicates that based on conservative estimates of sound exposure level and the number of pile strikes per day, injury to juvenile listed salmonids could occur up to 82 feet from the pile driving location. The BiOp further indicates that there may also be effects to salmonid behavior due to underwater noise up to 824 feet upstream and downstream from the pile driving. As noted in the BiOp, compared with impact hammers, vibratory hammers make sounds that have a longer duration and have more energy in the lower frequencies, thereby minimizing the potential to physically harm juvenile fish. Fish avoid sounds like those of a vibratory hammer and use of the vibratory hammer could cause temporary displacement and temporarily disrupt foraging behavior and efficiency in the area.

During dock construction and piling removal, there may be some adverse impacts on biological productivity due to hydroacoustic effects of pile insertion and removal. However, as noted above, the potential impacts of an impact hammer will be minimized by using vibratory insertion methods whenever feasible. Hydroacoustic effects will be minimized further by using bubble curtains as sound attenuation devices. As noted, in the BiOp, a bubble curtain may not bring the sound pressure levels below biological thresholds. However, they will minimize the peak sound pressure levels to reduce impacts. Impacts will be further reduced by limiting in-water work to the summer in-water window when fish densities are lowest and through dock design and location that minimizes the number of pilings needed for the dock and associated structures. Finally, temporary impacts on biological productivity will be off-set by the long-term enhancements to biological productivity created by removal of existing dock structures, pilings, rubble and the extensive riparian plantings included in the project.

Dock Effects

As detailed in the BiOp, the physical presence of the rowing dock and associated structures along the shoreline and shallow water habitat will alter shoreline processes, local winds, and currents, thus affecting wave energy and the distribution of shallow water substrates. The structures will also

increase the amount of shade and reduce ambient light beneath them and in the surrounding areas, thus increasing the likelihood of predation and reducing the abundance of food available for juvenile fish that migrate and rear in the area. Fish could also be impacted by the movement of watercraft associated with the dock.

The impacts of the dock structures will be minimized by the dock design that limits dock and associated structure size to the minimum necessary to the University's rowing team goals. Impacts of the dock structures will be further minimized by the use of grated decking to allow light transmission to the underlying substrate. Finally, the effects of the presence of the dock will be fully offset by the removal of a greater area of a remnant dock in shallow water habitat on the Franz Campus shoreline. The total area of the proposed rowing dock, including the dock, the gangway, and the gangway landing float, is 2,356 square feet (.054 acres), while the total area of the dock to be removed is 4,300 square feet (.099 acres).

Use of the dock will be limited to the University rowing team. Most of the boats using the dock will be human powered shells. Coaches will use motorized aluminum skiffs that are powered by 15-20 horsepower outboard motors that have a shallow draft of about .5-1 foot, so they ride relatively high in the water. It is unlikely that motors will generate enough power to result in prop-wash disturbance of the underlying benthic habitat.

The presence of the dock will have some impact on biologic productivity in the river. However, that impact is minimized by dock design, and will be fully off-set by removal of an existing dock and the associated support structures, as well as the in-water removal of an additional 121 piles and 8 dolphins and additional rubble and debris along the shoreline. Motor impacts will be minimized by the use of low powered aluminum skiffs. For these reasons, the presence of the dock will not result in the significant loss of biological productivity in the river.

Effect on Salmonid Prey

The BiOp also identifies the effects of the project on salmonid prey specifically, indicating that planktonic feeding of juvenile salmonids is likely to be disturbed due to suspended sediment caused by the project, and benthic prey are likely to be temporarily reduced due to sediment disturbance from pile removal and installation, as well as the placement of a thin layer of clean sand after pulling piles. As discussed above and in the BiOp, particulates should settle out of the water quickly, limiting disruptions to planktonic feeding in the action area. NMFS also concludes that benthic species would be able to recolonize the sediment soon after the action is complete.

The BiOp further states that prey base are likely to have minor, localized effects on juvenile salmonids rearing in the project area for a period of a week to months during and following the project activity. As noted, the importance of the site as a rearing area for juvenile salmonids is limited, however, and the change in prey availability at the site will not alter generally available feeding opportunities for salmonids in the lower river. Finally, NMFS concludes it is unlikely that the proposed project will result in measurable reductions to the forage community over the long term, and there even may be some increase in prey due to removal of the docks.

Effects on Listed Species

Most of the fish present in the construction area will incur short-term stress due to loud sounds, reduced water quality, and reduced forage during and for a short time after dock demolition and construction as well as pile installation and removal. However, any non-lethal stress experienced by individual fish is likely to be brief and construction work is proposed for the period when the overall number of listed salmonids in the lower Willamette River is at its lowest. The BiOp found that considering the low abundance and short residence time of juvenile ESA-listed salmonids in the area during the in-water work window, any effects to the growth, survival, and distribution of ESA-listed salmonids in the action area will be small and isolated. These effects are unlikely to be significant at either the local or population scale.

Habitat Benefits

The project includes several actions that will create habitat benefits for the riparian area that will in turn benefit biological productivity in the river. Specifically, and as discussed in the Application Narrative, the project includes the removal of a remnant dock totaling 4,300 square feet. The project also includes the removal of a total of approximately 121 in-water treated timber piles, including the solitary piles, multi-pile dolphins, and the piles supporting the dock (30 steel piles and 100 treated timber piles). This will create a net reduction in shading of shallow water habitat which should lead to a slight decrease in predation and increase in prey availability, as well as a potential reduction in minor migration delays for adult and juvenile salmonids swimming through the area due to removal of the structures. The removal of treated wood piles will also remove a potential source of contaminants from the river. Additionally, the planting plan includes approximately 6.4 acres of riparian vegetation within three planting areas. The planting area closest to the water includes 2.4 acres of riparian vegetation. These improvements to the habitat in the water and across the shoreline will enhance biological productivity and help off-set the impacts identified above.

For the collective reasons identified above and in the applicant's narrative, the proposed 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: A significant percentage of the shoreline is already protected from wave and wake damage by the existing embayment. Extensive plantings of shoreline vegetation as described above will further stabilize the riverbank and protect it from wave and wake damage. During vegetation planting and removal and dock construction activities above the OHWM, wattles or a silt fence will be placed along the downslope side of work activities as necessary to contain runoff.

For these collective reasons, the riverbank will be protected from wave and wake damage, *and 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, passing, and berthing movements;**
- c. Interfere with fishing use of the river;**
- d. Significantly add to recreational boating congestion; and**

Findings: The proposed rowing dock is located as far from the navigation channel as practicable to reduce the potential for large vessel wakes effecting the dock structure integrity and risk to rowers when launching or docking boats. The selected configuration keeps the dock inside the small embayment present at the University's property, keeping boats docking and launching out of the main traffic channel on the river and likely away from large vessel wakes. Because of the embayment and the configuration of the shoreline generally in this stretch of the river, the dock will not restrict boat access to properties north or south of the Franz Campus. Other locations along the University's shoreline were considered to have a greater potential for rowers being exposed to unacceptable boat wakes when docked. The dock configuration allows boats to approach from either the north or the south and provide safe docking conditions for rowers during varying weather and river flow conditions. The selected location in the embayment along the University's shoreline provides the required access and reduces the rower's exposure to potentially unsafe waves and currents. In addition, this location was previously occupied decades ago by a large commercial dock; thereby reducing the impacts of construction to other areas of the site.

The new rowing dock does not interfere with fishing use or add to recreational boating congestion because it only relocates an existing activity that is already occurring on the Willamette River. The rowing team currently practices at the Portland Boathouse. This boathouse is located 7 miles from the campus across the central east side of Portland and adds considerable time and logistics to the team's allotted daily practice to transport the rowers to and from that location. A dock at the University of Portland would additionally:

- Reduce travel for the rowers and coaches to get to and from practice and thereby increase time available to student athletes and decrease vehicle trips.
- Provide long-term assurance of a dedicated space for the team to practice and allow rowing to continue on the Willamette River.
- Increase the community aspect of the sport, placing the team's activities on and adjacent to the campus.

This criterion is met.

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

Findings: The Franz Campus and surrounding properties do not have beaches used by or generally open to the public. Therefore, the proposed dock project and associated mitigation will not interfere with public access, *and this criterion is met.*

G. Development within the River Water Quality overlay zone setback.

H. Mitigation or remediation plans.

Findings: The Franz Campus and surrounding properties are not within the River Water Quality overlay zone or its setback area, *and these criteria do not apply.*

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 11 can be met, and those 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 to plant over 6.4 acres of riparian trees, shrubs, and ground covers on the bank of the Willamette River on the Franz Campus of the University of Portland, along with removal of a dilapidated dock, multiple pilings, and other detritus from the nearshore areas and the banks of the Willamette River. The applicant also proposes to construct a 120-foot-long rowing dock for use by the University's rowing team. The dock will allow the team to moor two rowing shells. The decking on the dock will be open grading to allow light to pass through to reduce negative impacts on shallow water fish habitat.

The extensive riparian plantings proposed by the applicant, in addition to removal of dilapidated structures and pilings from the river will enhance fish and wildlife habitat in these areas and will exceed the Zoning Code requirements for Greenway landscaping along the riverbank. The rowing dock design (open graded decking, relatively small area of dock coverage), along with proposed construction methods (the use of floating silt fences in the River, installation of piles with a vibratory hammer, the use of bubble curtains to minimize sound impacts on fish, limiting construction periods to the summer months), will all minimize negative impacts on fish and benthic organisms in the Willamette River.

Further, the site plans provided by the applicant and marked up by staff allow for the future location of the Greenway Trail and demonstrates that the riparian restoration proposal does not preclude future dedication and development of the trail across the Franz Campus.

The applicant has provided findings for the approval criteria for Greenway Review, and with conditions stated below, the applicable approval criteria will be met.

ADMINISTRATIVE DECISION

Approval of Greenway Review for:

- Removal of a dilapidated dock, detritus, dolphins, and pilings from the water and banks of the Willamette River;

- Construction of a rowing dock and associated components on the Willamette Riverbank on the Franz Campus at the University of Portland, along with a gravel access pathway;
- Riparian plantings on the Franz Campus at the University of Portland along the Willamette River banks, and construction of split rail fencing adjacent to the plantings; and
- Placement of groundwater well irrigation piping to irrigate the riparian planting area;

all within the Greenway overlay zone, and in substantial conformance with Exhibits C.3 through C.12, as approved by the City of Portland Bureau of Development Services/Land Use Services on **May 10, 2021**. Approval is subject to the following conditions:

- A. A BDS Zoning Permit is required for inspection of required mitigation plantings, and a separate BDS construction permit may be required for development.** The Conditions of Approval listed below, shall be noted on appropriate plan sheets submitted for permits (building, Zoning, grading, Site Development, erosion control, etc.). Plans shall include the following statement, ***"Any field changes shall be in substantial conformance with approved LU 21-014816 GW Exhibits C.3 through C.12."***

Building Permits [or Construction 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.** Sediment fencing and tree protection fencing shall all be installed, in substantial conformance with exhibits C.5 through C.7 (Construction Management Plans).
- C.** The applicant shall obtain a BDS Zoning Permit for approval and inspection of Riparian Plantings including 2,053 trees, 5,656 shrubs, and native seeded ground covers, in substantial conformance with Exhibits C.8 to C.10, Riparian Planting Plan. Any plant substitutions shall be selected from the *Portland Plant List* and shall be substantially equivalent in size to the original plant.
1. 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. Encroachment by the Greenway Trail is permitted into the planting areas as allowed below by Condition D and as depicted on Exhibit C.12.
 3. Plantings shall be installed between October 1 and March 31 (the planting season).
 4. Prior to installing required plantings, non-native invasive plants shall be removed from all areas within 10 feet of mitigation plantings.
 5. If plantings are installed prior to completion of construction, a temporary bright orange, 4-foot high construction fence shall be placed to protect plantings from construction activities.
 6. 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.
 7. After installing the required plantings, the applicant shall request inspection of plantings and final the BDS Permit.
- D.** Prior to the issuance of any permits, the applicant must submit a finalized Greenway Trail Easement as approved by Portland Parks & Recreation and as depicted on Exhibit C.12.
- E. The landowner shall monitor and maintain the required plantings** for two years to ensure survival and replacement as described below. The landowner is responsible for ongoing survival of required plantings during and beyond the designated two-year monitoring period. The landowner shall:
1. Submit two monitoring and maintenance reports for review and approval to the Land Use Services Division of the Bureau of Development Services containing the monitoring

information described below. Submit the first report within 12 months following the final inspection approval of the Construction Permit required under Condition C. Submit a second report 12 months following the date of the first monitoring report. Monitoring reports shall contain the following information.

- a. A count of the number of planted trees that have died. One replacement tree must be planted for each dead tree (replacement must occur within one planting season).
 - b. The percent coverage of native shrubs and ground covers. If less than 80 percent of the mitigation planting area is covered with native shrubs or groundcovers at the time of the annual count, additional shrubs and groundcovers shall be planted to reach 80 percent cover (replacement must occur within one planting season).
 - c. A list of replacement plants that were installed.
 - d. Photographs of the mitigation area and a site plan, in conformance with approved Exhibits C.8 to C.10, Riparian Planting Plan, showing the location and direction of photos.
 - e. An estimate of percent cover of invasive species (English ivy, Himalayan blackberry, reed canarygrass, teasel, clematis) within 10 feet of all plantings. Invasive species must not exceed 15 percent cover during the monitoring period.
- F.** Failure to comply with any of these conditions may result in the City's reconsideration of this land use approval pursuant to Portland Zoning Code Section 33.700.040 and /or enforcement of these conditions in any manner authorized by law.

Staff Planner: Morgan Steele

Decision rendered by:  **on May 10, 2021**
By authority of the Director of the Bureau of Development Services

Decision mailed: May 12, 2021

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on February 12, 2021, and was determined to be complete on March 10, 2021.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore, this application was reviewed against the Zoning Code in effect on February 12, 2021.

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 14 days (Exhibit A.7). Unless further extended by the applicant, **the 120 days will expire on: July 22, 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 to the Hearings Officer, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portland.gov/bds/zoning-land-use/land-use-review-fees-and-types/appeals-fees-and-fee-waivers>. Appeals must be received **by 4:30 PM on May 26, 2021. 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 **May 26, 2021** 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, February 2021
 - 2. DSL Removal/Fill Permit
 - 3. NMFS Biological Opinion (BiOp)
 - 4. Master Plan Application Exhibit H-17a
 - 5. Master Plan Application Exhibit H.11, Figure 2
 - 6. Colorized Site Plans
 - 7. 120-Day Timeline Extension
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions Site Plan
 - 2. Existing Conditions Site Plan
 - 3. Development Proposal Site Plan
 - 4. Development Proposal Site Plan
 - 5. Construction Management Site Plan (attached)
 - 6. Construction Management Site Plan (attached)
 - 7. Construction Management Notes & Details
 - 8. Riparian Planting Plan (attached)
 - 9. Riparian Planting Plan (attached)
 - 10. Riparian Planting Details
 - 11. Rowing Dock Details
 - 12. Greenway Trail Encroachment Allowance
 - 13. Irrigation Pipes Site Plan
 - 14. Irrigation Pipes Site 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
 - 7. Portland Parks & Recreation
- 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).