



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

Dan Ryan, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portland.gov/bds

Date: May 21, 2021
To: Interested Person
From: Morgan Steele, Land Use Services
503-865-6437 / Morgan.Steele@portlandoregon.gov

NOTICE OF A TYPE I_x 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 21-009791 EN

GENERAL INFORMATION

Applicant: Benjamin Brodsky | Prologis, L.P., A Limited Partnership of Delaware
12720 Gateway Drive, Suite 110 | Tukwila, WA 98168
206.414.7630 | bbrodsky@prologis.com

Owner: Prologis NE Columbia Boulevard, LLC
1800 Wazee Street, Suite 500 | Denver, CO 80202

Representative: John Staveren | Pacific Habitat Services, Inc
9450 SW Commerce Circle, Suite 180 | Wilsonville, OR 97070

Site Address: 3509 NE Columbia Boulevard (former Broadmoor Golf Course)

Legal Description: TL 100 86.05 ACRES SPLIT MAP R315222 (R941130540), SECTION 12 1N 1E; TL 1100 37.75 ACRES SPLIT MAP R315193 (R941121180), SECTION 13 1N 1E; TL 100 0.18 ACRES, SECTION 13 1N 1E; TL 200 0.20 ACRES, SECTION 13 1N 1E

Tax Account No.: R941121180, R941130540, R941132220, R941132270
State ID No.: 1N1E12D 00100, 1N1E13A 01100, 1N1E13AB 00100, 1N1E13AB 00200
Quarter Section: 2234, 2334

Neighborhood: Sunderland, contact sandral@cnncoalition.org
Business District: Columbia Corridor Association, contact at info@columbiacorridor.org
District Coalition: Central Northeast Neighbors, contact Alison Stoll at 503-823-2778.

Plan District: Portland International Airport - Middle Columbia Slough Subdistrict & Portland International Airport - Airport Subdistrict

Other Designations: 100-Year Floodplain; *Middle Columbia Corridor/Airport Natural Resources Inventory* – Site CS1: Buffalo Slough/Peninsula Canal

Zoning: *Base Zones:* General Industrial 2 (IG2), Open Space (OS)

Overlay Zones: Environmental Conservation (c), Airport Height (h), Prime Industrial (k), Environmental Protection (p), PDX Noise Impact (x)

Case Type: EN – Environmental Review
Procedure: Type Ix, an administrative decision with appeal to the Oregon Land Use Board of Appeals (LUBA).

Proposal:

The applicant is requesting approval for the creation of a 38.3-acre wetland within the central portion of the former Broadmoor Golf Course site. The project will require impacts to the Environmental Zones in order to enhance hydrology at the site by grading to a local water table capable of supporting hydrophytic vegetation within a created wetland area. The wetland creation project aims to provide a net gain in total functional value and improvement in the quality and quantity of resources on the site. A similar resource enhancement project was recently approved for the northern portion of the site (LU 20-147136 EN) and a development project was also recently approved for the southern portion of the site (LU 20-161013 EN AD).

The major components of the wetland creation resource enhancement project include excavation and grading for hydrology function creation and installation of bridge crossings along the haul route to ensure safe access over the slough crossings. These project components will result in impacts to the Environmental Zone including the removal of 30 native trees and 1,435,526 square feet of permanent disturbance within the resource areas of the Environmental Conservation and Environmental Protection overlay zones. As part of the wetland creation and mitigation for impacts, the applicant proposes to plant a total of 105,153 native trees and shrubs in addition to the installation of native seed mix and habitat features such as large woody debris. Furthermore, the applicant proposes to remove existing development (pump house and golf cart path) adjacent to the slough and restore the area with native plantings.

The site is within the City's Environmental Conservation and Environmental Protection overlay zones as well as the Portland International Plan District. Certain standards must be met to allow the work to occur by right. If the standards are not met, an Environmental Review is required. In this case, the resource enhancement will require native tree removal and work within a waterbody; therefore, Standards 33.565.500.B, 33.430.170.C.1, and .3 are not met by the proposal. For these reasons, an Environmental Review is required.

Relevant Approval Criteria:

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

- ❖ **33.430.250.A – Driveways**
- ❖ **33.430.250.B – Resource Enhancement Projects**

ANALYSIS

Site and Vicinity: The project area is a portion of a larger property that contains a former 18-hole golf course, a pro shop, and a restaurant with a paved parking area (Broadmoor Golf Course). The majority of the subject site is zoned open space (OS) with several drainageways and small wetlands. Two sloughs run east/west on the site and there are four slough vehicle crossings that were used by golfers and for maintenance operations. The course also includes many gravel and paved paths that served as golf cart routes. The golf course ceased operations in the fall of 2020.

The existing topography is generally rolling to flat with the exception of a significant fall towards the southerly Buffalo Slough from NE Columbia Boulevard. The subject site is generally vegetated, with manicured grass and rows of trees that line fairways and displays the typical undulation of a golf

course except for some steeper slopes from the golf course fairways to the water level of the sloughs themselves.

The site drainage comprises overland flows to the nearest slough. There is no formal storm conveyance system known onsite, but it is likely that some French drains have been installed over the years to assist in golf course drainage. The soils are highly variable, consisting of silts sand and clays and comprising man-made fills and young alluvium of the Columbia River and basin fill sediment deposited by the catastrophic Plio-Pleistocene Missoula outburst flood.

Excepting the former golf course, the surrounding development consists generally of industrial uses to the east and west, airport use to the north and east and residential uses to the south. A large, Metro-owned wetland complex, known as Catkin Marsh, is located immediately southwest of the project area.

Zoning: The zoning designation on the project site includes the General Industrial 2 (IG2) and Open Space (OS) base zones with Environmental Conservation (c) and Environmental Protection (p), Airport Height (h), Prime Industrial (k), and PDX Noise Impact (x) overlay zones and within the Portland International Airport Plan District- Airport Subdistrict (see zoning on Exhibit B).

The Open Space base zone is intended to preserve public and private open and natural areas to provide opportunities for outdoor recreation and a contrast to the built environment, preserve scenic qualities and the capacity and water quality of the stormwater drainage system, and to protect sensitive or fragile environmental areas. The new uses proposed within the OS base zone as part of this proposal are allowed by right and will be addressed at the time of permit review.

General Industrial sites have larger lots and occur in irregular or large block patterns. The areas are generally less developed, and lots have low to medium building coverages that are usually set back from the street. The General Industrial 2 Development Standards do not apply to this proposal.

The Aircraft Landing overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation near the airport; the vegetation height regulations have been considered as part of this 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. Most of the work on the site will take place in the Open Space base zone outside of the Prime Industrial (k) overlay zone. The work within the k overlay zone will not impact the use of the site and therefore is not subject to the regulations.

The PDX Noise Impact overlay zone reduces the impact of aircraft noise on development within the noise impact area surrounding the Portland International Airport. The zone achieves this by limiting residential densities and by requiring noise insulation, noise disclosure statements, and noise easements; these regulations do not apply to this proposal.

Environmental overlay zones protect environmental resources and functional values that have been identified by the City as providing benefits to the public. The environmental regulations encourage flexibility and innovation in site planning and provide for development that is carefully designed to be sensitive to the site's protected resources. They protect the most important environmental features and resources while allowing environmentally sensitive urban development where resources are less sensitive. The purpose of this land use review is to ensure compliance with the regulations of the environmental zones.

The Portland International Airport Plan District (33.565) regulations implement elements of the Airport Futures Land Use Plan by addressing the social, economic, and environmental aspects of growth and development at and around Portland International Airport (PDX). Although the site lies within the Airport Subdistrict, the specific Development Standards are not applicable to this proposal and therefore are not addressed in this review.

Environmental Resources: Environmental overlay zones protect environmental resources and functional values that have been identified by the City as providing benefits to the public. The environmental regulations encourage flexibility and innovation in site planning and provide for development that is carefully designed to be sensitive to the site's protected resources. They protect the most important environmental features and resources while allowing environmentally sensitive urban development where resources are less sensitive. The purpose of this land use review is to ensure compliance with the regulations of the Environmental Zones.

The site is described in the *Middle Columbia Corridor/Airport Natural Resources Inventory: Riparian Corridors and Wildlife Habitat* as Resource Site CS1 –Buffalo Slough/ Peninsula Canal. This site includes part of the Middle Slough including Buffalo Slough, Peninsula Canal and portions of the main arm of the Columbia Slough. Multiple secondary drainageways are found in the site including Elrod Slough, which is an east-west channel that discharges to the Columbia Slough. Subaru Wetlands (approximately 43 acres) and Blue Heron Meadows wetland (approximately 4 acres) are also located within the site boundaries.

Resources features and functional values identified within Resource Site CS1 and generally found at the subject site include:

Resource Features: open water stream/drainageway channels; herbaceous, scrub-shrub and forested wetlands; vegetated flood area; bottomland hard wood forest; grass lands.

Functional Values: microclimate and shade; stream flow moderation and water storage; bank function, and sediment, pollution and nutrient control; large wood and channel dynamics; organic inputs, food web and nutrient cycling; wildlife habitat; habitat connectivity/ movement corridor.

Impact Analysis and Mitigation Plan: The following discusses development alternatives that were considered by the applicant. The following additionally describes the proposed construction management plan, unavoidable impacts, and mitigation and monitoring proposal.

Development Alternatives: The applicant provided an in-depth alternatives analysis included in the application case file (Exhibit A.5) and for the sake of brevity is summarized below.

Haul Route: The primary purpose of the haul route is a pathway suitable for the trucks needed to carry soil loads that must be removed from the resource enhancement project area. It is anticipated that the soil will be used as fill for a proposed industrial development in the southern portion of the site that has been approved under a separate Environmental Review (20-161013 EN AD). The haul route which was approved under the previously proposed resource enhancement project (LU 20-147136 EN), will be slightly revised with this proposal. Once the wetland creation work is completed to the north of Elrod Slough (Drainage Ditch), the haul route will incrementally be deconstructed in a south-ward direction to allow for the proposed grading of the new resource enhancement area south of the Drainage Ditch. The project team first considered an additional haul route east and outside of the newly proposed wetland creation area, but this would increase impacts to Environmental Zones, so the continued use of the existing haul route has been pursued.

Wetland Creation: The purpose of this resource enhancement project is to provide an improved habitat on site adjacent to and expanded from the previously proposed resource enhancement project (LU 20-147136 EN). To satisfy this purpose and enhance hydrology in the area by grading to a local water table, the project requires partial impact to the existing Environmental Conservation and Environmental Protection overlay zones. The Portland area lacks readily available open space appropriate for resource enhancement. As a result, no alternative location was identified for this resource enhancement project since the applicant now owns the property and would like to maximize the resource enhancement benefit by utilizing all available space remaining at the Broadmoor Golf Course.

Given the nature and purpose of the resource enhancement work, the only alternative that would avoid disturbance area in the Environmental Zones would be a no-build alternative. However, a no-build alternative is not consistent with the project purpose and is therefore not a practicable alternative. Additionally, a no-build alternative would leave the central study area a fallow golf

course. The existing canopy, golf cart paths and herbaceous vegetation would remain as-is with no proposed native vegetation enhancement and no changes in topography. The area could serve as a wildlife corridor without golf activities, but the functional value would be limited as non-native and invasive species would dominate fairway areas and potentially out-compete with existing limited native vegetation. As such, a scrub-shrub/forested habitat would likely not establish.

The area of the Environmental Zones proposed for enhancement currently contributes little to the functions of the Middle Columbia Slough and Buffalo Slough due to its disturbed nature, proximity to existing recreational activity (the golf course is now closed), limited vegetation diversity and distance from the edge of sloughs. The proposed project has been designed to focus enhancement areas to the portions of site that provide lower functional values but have the potential to provide improved habitat and water quality benefits. The proposed mitigation plan includes tree replacement quantities that will replace the trees proposed for removal and include the enhancement of habitat with native vegetation selected from the *Portland Plant List*.

Construction Management Plan: The applicant provided an in-depth Construction Management Plan that can be found in the application case file (Exhibit A.5) and is depicted graphically on Exhibits C.8 to C.13. To summarize, the applicant proposes to install erosion and sediment control measures prior to any ground disturbing activities at the site, to control erosion and minimize sediment entry into adjacent waterbodies. Construction entrances (ingress/egress) utilizing the existing golf cart path will be demarcated prior to construction and maintained for the duration of the project. Project staging areas will be clearly identified and placed outside the Environmental Zones. Upon project completion, exposed soils will be stabilized utilizing native trees, shrubs, and seed mix.

Tree removal and ground disturbance within areas of permanent disturbance will be conducted according to the tree protection specifications. Tree removal and pruning is planned to occur outside of the primary nesting season (April 15 – July 31); however, if tree removal and/or pruning must occur during the primary nesting season, trees will be surveyed for nests, and if active nest are found, removal/pruning postponed until after the young have fledged.

Unavoidable Impacts: While the project is intended to enhance environmental resources on the site by creating a 38.3-acre wetland, the project requires the removal of 30 native trees in addition to 1,435,526 square feet of permanent (mainly wetland creation) within the resource areas of the Environmental Conservation and Environmental Protection overlay zones.

Mitigation Plan: After construction, any disturbance will be mitigated through plantings of native vegetation throughout the created wetland as well as temporary disturbance areas which will provide long-term stabilization and other upland and riparian functions. Plantings will stabilize soils and provide habitat functions for local wildlife in addition to providing ecological uplift to multiple resources over existing conditions. All told, a total of 33,229 trees, 71,923 shrubs, and 46.66 acres of native seed mix will be planted in temporary disturbance areas and throughout the site as mitigation for impacts. The majority of removed trees will be kept onsite and used as large woody debris (LWD) to provide habitat for a variety of ground animals as well as insects.

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

- ❖ LU 00-007115 EN – Approval of an Environmental Review for enhancement of natural resources under MCDD purview by restoration of bench wetlands near existing excavated drainage channels.
- ❖ LU 01-177505 EN – Approval of an Environmental Review for MCDD to dredge and restore stream banks along a 7-mile reach of the middle and upper Columbia Slough.
- ❖ LU 03-117802 EN – Approval of an Environmental Review to remove two culverts from the slough and replace with bridges.
- ❖ LU 12-155381 AD – Approval of an Adjustment Review to allow a proposed Property Line Adjustment (PLA) to result in a lot being located within two base zones, the IG2 and OS base zones.

- ❖ LU 20-147136 EN – Approval of an Environmental Review resource enhancement project including the creation of 12.4 acres of wetland, installation of temporary bridges, and removal of native trees. After consultation with the contractor, the applicant proposes to widen the proposed access road in the middle portion of the site which was previously approved under this Environmental Review. Therefore, this current land use approval supersedes approval of previous road width iterations.
- ❖ LU 20-161013 EN AD – Approval of an Environmental Review for the construction of an industrial warehouse including parking, lighting, and retaining wall; removal of native trees; and installation of stormwater facilities and outfall. Approval of an Adjustment Review for exterior lighting in the Middle Columbia Slough Subdistrict.

Agency Review: A Notice of Proposal in your Neighborhood was mailed on **February 26, 2021**. The following Bureaus have responded with no issues or concerns about the proposal:

- Life Safety
- Urban Forestry
- Fire Bureau
- Site Development Section of BDS

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 environmental review application. However, BES has provided recommendations to BDS related to the proposed wetland creation project. The proposed development will be subject to BES standards and requirements during the permit review process. BES easements must be clearly shown and labeled on plans submitted for permit reviews.

The Oregon Department of Aviation responded with the following comment. Please see Exhibit E.6 for additional details.

1. *Prior to issuance of any building permits, the applicant must file and receive a determination from the ODA as required by OAR 738-070-0060 on FAA Form 7460-1 Notice of Proposed Construction or Alteration to determine if any new construction will pose an obstruction to aviation safety at the Portland International Airport.*
2. *Trees and other planted vegetation shall not penetrate FAA Part 77 Imaginary Surfaces.*

Planner Response: The applicant has received the required determination from ODA which can be found in Exhibit A.6.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **February 26, 2021**. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.430.250 Approval Criteria

An environmental review application will be approved if the review body finds that the applicant has shown that all the applicable approval criteria are met. When environmental review is required because a proposal does not meet one or more of the development standards of Section 33.430.140 through .190, then the approval criteria will only be applied to the aspect of the proposal that does not meet the development standard or standards.

33.430.250.A. Public safety facilities, rights-of-way, driveways, walkways, outfalls, utilities, land divisions, Property Line Adjustments, Planned Developments, and Planned Unit Developments. Within the resource areas of environmental zones, the applicant's impact evaluation must demonstrate that all of the general criteria in Paragraph A.1 and the applicable specific criteria of Paragraphs A.2, 3, or 4, below, have been met: Note that since this activity is not a Public Safety Facility, Land Division, Planned Development, or Planned Unit

Development and does not require a Property Line Adjustment, the criteria in Sections 33.430.250.A.2 and A.4 do not apply and are not included.

A.1. General criteria for public safety facilities, rights-of-way, driveways, walkways, outfalls, utilities, land divisions, Property Line Adjustments, Planned Developments, and Planned Unit Developments;

A.1.a. Proposed development locations, designs, and construction methods have the least significant detrimental impact to identified resources and functional values of other practicable and significantly different alternatives including alternatives outside the resource area of the environmental zone;

Findings: The proposed access route, or driveway, necessary for this resource enhancement project was approved through a previous review (LU 20-147136 EN). However, upon consultation with the contractor, the applicant has determined it necessary to widen the access route in the middle portion of the property by approximately 20 feet to accommodate the construction equipment. The proposed widening does not require any tree removal or permanent impact and will be restored upon project completion.

While there are some unavoidable impacts such as temporary disturbance, utilizing the existing infrastructure (haul route) is the practicable alternative with the least detrimental impacts to identified resources, *and this criterion is met.*

A.1.b. There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed;

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

Undisturbed areas will not be impacted and will remain undisturbed to preserve intact wildlife habitat, especially near the slough corridors. As detailed in the Construction Management Plan section (page 5), the areas outside of the identified disturbance areas will be protected by protective fencing, root protection zone criteria, and sediment fencing. A series of gaps will be applied to areas with construction fencing to allow wildlife passage and an open wildlife corridor. Because these areas are to remain undisturbed, there is no anticipated detrimental impact to wildlife habitat or movement corridor or other onsite resources.

With conditions for conformance with the Construction Management Plan, *this criterion can be met by the proposal.*

A.1.c. The mitigation plan demonstrates that all significant detrimental impacts on resources and functional values will be compensated for;

Findings: It is not anticipated that the widened access road will have significant detrimental impacts on resources and functional values. The proposed widening does not require any tree removal and the 12,057 square feet of temporary disturbance will be restored upon project completion.

To the extent that criterion 33.430.250.A.1.b is met, *this criterion is also met.*

A.1.d. Mitigation will occur within the same watershed as the proposed use or development and within the Portland city limits except when the purpose of the mitigation could be better provided elsewhere; and

A.1.e. The applicant owns the mitigation site; possesses a legal instrument that is approved by the City (such as an easement or deed restriction) sufficient to carry out and ensure the success of the mitigation program; or can demonstrate legal authority to acquire property through eminent domain.

Findings: Mitigation for significant detrimental impacts will be conducted on the same site as the proposed development; at the time of construction commencement, the applicant will own the proposed onsite mitigation area.

These criteria are met.

A.3. Rights-of-way, driveways, walkways, outfalls, and utilities;

A.3.a. The location, design, and construction method of any outfall or utility proposed within the resource area of an environmental protection zone has the least significant detrimental impact to the identified resources and functional values of other practicable alternatives including alternatives outside the resource area of the environmental protection zone;

A.3.b. There will be no significant detrimental impact on water bodies for the migration, rearing, feeding, or spawning of fish; and

A.3.c. Water bodies are crossed only when there are no practicable alternatives with fewer significant detrimental impacts.

Findings: The proposed haul route slough crossings were proposed and approved under a prior Environmental Review (LU 20-147136 EN). The proposed widening of the previously approved haul route does not entail the crossing of any water bodies, *and this criterion is not applicable.*

B. Resource Enhancement Projects. In resource areas of environmental zones, resource enhancement projects will be approved if the applicant's impact evaluation demonstrates that all the following are met:

1. There will be no loss of total resource area;

Findings: No loss of resource area is proposed. There will be no anticipated detrimental impact on any resources or their functional values. Only significant improvements are anticipated across all functional values. In fact, the proposal will provide acres of enhanced habitat area, including 38.3 acres of created wetlands.

Since no loss of total resource area will occur as a result of this project, *this criterion is met.*

2. There will be no significant detrimental impact on any resources and functional values;

Findings: The location of the proposed wetland creation area is designed to avoid detrimental impacts to identified resources and functional values on the site. Areas left undisturbed will not be indirectly or negatively impacted by the proposed project per the Construction Management Plan described on page 5 of this report. In fact, upon project completion there may be functional uplift to the connectivity of improved habitat to adjacent undisturbed areas.

The creation of a 38.3-acre wetland will more than adequately compensate for any temporary detrimental impacts caused by the haul route and compensate for the removal of several trees onsite. During construction, fencing will form a continuous barrier along areas to remain undisturbed and contractors will be instructed to stay within designated access, staging, and work areas, and outside of tree protective fencing. In this way, the proposal will not result in detrimental impact to resources and functional values. Mitigation for tree removal will occur within the same watershed, and within the same site as the proposed tree removal.

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

3. There will be a significant improvement of at least one functional value.

Findings: Creating a 38.3-acre wetland at an existing monoculture golf course will provide improvement or ecological uplift to a variety of onsite resources and their functional values. The installation of native plantings including trees, shrubs, and groundcovers will significantly improve the existing resources such as wildlife habitat and wetland, and by extension, their functional values.

The project revegetation plan includes reseeding disturbed areas with native grass seed and the planting of 33,229 trees, 71,923 shrubs and native seed mix throughout the wetland creation area as well as temporary disturbance areas. The installation of LWD will provide habitat for ground animals as well as insects. These actions will significantly enhance the wetland regimes, and the functional values they provide, that currently exist onsite but are severely diminished due to the current use (golf course).

Based on the improvement of resources and their functional values, and with conditions for tree and shrub planting as well as LWD installation, *this criterion can be met.*

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all requirements of Title 11 can be met, and that all development standards of Title 33 can be met or have received an Adjustment or Modification via a land use review, prior to the approval of a building or zoning permit.

CONCLUSIONS

The applicant proposes resource enhancement in the form of wetland creation. All the construction activities will occur within the boundary of a delineated work area, which will localize impacts and protect other natural resources in the vicinity, specifically the slough channels. Subject to conditions related to on-going maintenance activities for the proposed plantings, the project is expected to result in an ecological uplift of multiple resources and functional values within the project area. Therefore, the proposed resource enhancement project should be approved, subject to the conditions stated below.

ADMINISTRATIVE DECISION

Approval of an Environmental Review for:

- Resource Enhancement activities including creation of a wetland;
- Removal of existing development including a pump house and golf cart path;
- Widened haul route access; and
- Removal of native and non-native trees

all within the Environmental Conservation and Environmental Protection overlay zones, and in substantial conformance with Exhibits C.7 through C.26, as signed and approved by the City of Portland Bureau of Development Services. Approval is subject to the following conditions:

- A. A BDS Site Development 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 21-009791 EN Exhibits C.7 through C.26."***
- B.** Temporary, 4-foot high, bright orange construction fencing, silt fencing, or tree protection fencing, shall be placed along the Limits of Construction Disturbance line (labeled as "Project Area Boundary"), as depicted on Exhibits C.13 to C.18, Construction Management Plan, to separate approved construction areas from areas to remain undisturbed. Silt fencing may be used in lieu of traditional chainlink tree protection fencing.
1. No mechanized construction vehicles are permitted outside of the approved "Limits of Construction Disturbance" delineated by the temporary construction fence.
- C.** The Site Development Permit review shall include inspection of a mitigation/planting plan for a total of 33,229 trees, 71,923 shrubs and native seed mix throughout the wetland creation area and temporary disturbance areas as well as the installation of Large Woody Debris in substantial conformance with Exhibits C.20 to C.26, Mitigation/Revegetation/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 in the mitigation area 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 mitigation plantings, non-native invasive plants shall be removed from all areas within 10 feet of mitigation plantings, using handheld equipment.
4. If plantings are installed prior to completion of construction, a temporary orange, 4-foot high construction fence shall be placed to protect plantings from construction activities.
5. All mitigation and restoration 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 mitigation plantings and placing the large wood debris/snags, the applicant shall request inspection of mitigation plantings and final the BDS Site Development Permit.

D. The landowner shall monitor the required plantings for two years to ensure survival and replacement as described below. The landowner is responsible for ongoing survival of required plantings beyond the designated two-year monitoring period. The landowner shall:

1. Submit two annual 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 Site Development permit required under Condition A. 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.20 to C.26, Mitigation/Revegetation/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 19, 2021**

By authority of the Director of the Bureau of Development Services

Decision mailed May 21, 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 January 29, 2021, and was determined to be complete on February 24, 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 January 29, 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 did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: June 24, 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.

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

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

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 21, 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 for the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Applicant's Original Submittal, February 2021
 - 2. Applicant's Revised Submittal, February 2021
 - 3. Applicant's Revised Submittal, March 2021
 - 4. Applicant's Revised Submittal, May 2021
 - 5. Applicant's Narrative, May 2021
 - 6. ODA Determination Letter
 - 7. Geotechnical Report
 - 8. Arborist Report, Tree Inventory, & Tree Removal Table
 - 9. Response to Incomplete Letter
 - 10. Supplemental Site Plans
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Figure 4 – Existing Conditions Site Plan Overview
 - 2. Figure 4A – Existing Conditions Site Plan
 - 3. Figure 4B – Existing Conditions Site Plan
 - 4. Figure 4C – Existing Conditions Site Plan
 - 5. Figure 4D – Existing Conditions Site Plan
 - 6. Figure 4E – Existing Conditions Site Plan
 - 7. Figure 5 – Proposed Development Site Plan Overview (attached)
 - 8. Figure 5A – Proposed Development Site Plan
 - 9. Figure 5B – Proposed Development Site Plan
 - 10. Figure 5C – Proposed Development Site Plan
 - 11. Figure 5D – Proposed Development Site Plan
 - 12. Figure 5E – Proposed Development Site Plan
 - 13. Figure 6 – Construction Management Site Plan Overview
 - 14. Figure 6A – Construction Management Site Plan
 - 15. Figure 6B – Construction Management Site Plan
 - 16. Figure 6C – Construction Management Site Plan
 - 17. Figure 6D – Construction Management Site Plan
 - 18. Figure 6E – Construction Management Site Plan
 - 19. Figure 7 – Resource Enhancement Site Plan Overview (attached)
 - 20. Figure 7A – Resource Enhancement Site Plan
 - 21. Figure 7B – Resource Enhancement Site Plan
 - 22. Figure 7C – Resource Enhancement Site Plan
 - 23. Figure 7D – Resource Enhancement Site Plan
 - 24. Figure 7E – Resource Enhancement Site Plan
 - 25. Figure 7F – Revegetation/Restoration Plan Table
 - 26. Figure 8 – Planting Plan Overview
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Life Safety
 - 3. Fire Bureau
 - 4. Site Development Review Section of BDS
 - 5. Bureau of Parks, Forestry Division
 - 6. Oregon Department of Aviation
- 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).