



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

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Date: July 1, 2021
To: Interested Person
From: Timothy Novak, Land Use Services
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NOTICE OF A TYPE Ix DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 21-018997 EN

GENERAL INFORMATION

Owner/Applicant: Nick Hardigg & Tumurkhuu Davaakhuu | *Audubon Society of Portland*
5151 NW Cornell Rd | Portland, OR. 97210 | (971) 222-6108

Representative: Tim Brooks | *Winterbrook Planning*
610 SW Alder Street, Suite 810 | Portland, OR. 97205
tim@winterbrookplanning.com | (503) 827-4422 ext. 103

Site Address: 5151 NW CORNELL RD

Legal Description: TL 600 0.36 ACRES, SECTION 31 1N 1E

Tax Account No.: R941310570

State ID No.: 1N1E31AC 00600

Quarter Section: 2924 & 3024

Neighborhood: Forest Park, contact Jerry Grossnickle at 503-289-3046.

Business District: NONE

District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

Plan District: Northwest Hills - Balch Creek and Skyline

Other Designations: Resource Site 75 – *Balch Creek Watershed Protection Plan*

Zoning: *Base Zone:* Open Space (OS)

Overlay Zones: Environmental Conservation (c), Environmental Protection (p), Future Urban (f), Scenic Resource (s)

Plan District: Northwest Hills - Balch Creek & Skyline Subdistricts

Case Type: Environmental (EN) Review

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

Proposal:

The applicant requests retroactive approval of three existing bird enclosures that serve as part of the interpretive facilities at Portland Audubon's Wildlife Care Center (WCC). The three bird enclosures are wood post construction with open walls and roofing (wire mesh) and natural base (no flooring). The enclosures create 710 square feet of permanent disturbance, but no trees are proposed for removal and none appear to have been removed at the time of original construction. Important fish and wildlife habitat resources to the north of the site were not be affected by the installation of these enclosures and will continue to be protected. For mitigation, the applicants propose planting five native trees and 33 native shrub plantings, as well as invasive species removal and management in 1,139 square feet of the site.

The whole of the project area is in the resource area of the Environmental Conservation 'c' or Protection 'p' overlay zones. Applicable environmental standards must be met to allow the work to occur by right. For those standards that are not met, Environmental Review is required. In this case, the bird enclosures exceed the maximum disturbance limitations of 33.430.140.D. Therefore, the work must be approved through Environmental Review.

Per 33.430.230.A, Interpretive facilities, such as the bird enclosures that are the focus of this review, are processed through a Type 1x procedure.

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.F - Other Development in the Environmental Protection overlay zone.
- 33.563.120 Additional Approval Criterion in the Balch Creek Subdistrict.

ANALYSIS

Site and Vicinity: The site is located on NW Cornell Road, just west of the Forest Park boundary, which it abuts. Most of the surrounding area is relatively steep and forested. Excepting the development at the subject site and the Adams Community Garden, located about 550 feet east of the subject site, the only development on NW Cornell Road between the subject site and NW Skyline Boulevard, 1.5 miles to the west, is the occasional residence. Otherwise, native first and second growth conifer forest with a hardwood riparian gallery dominate the vicinity.

The site itself is home to the Portland Audubon's Wildlife Care Center and the associated interpretive facilities. The parking area and two larger buildings and covered walkway associated with the center are located close to NW Cornell Road, at the upper most elevations of the site. Balch Creek lies about 130 feet north and 60 feet below the location of the bird enclosures that are the subject of this review. There are numerous seasonal creek channels on the site, as well as an artificial pond. There are numerous soft-surface trails and boardwalks that wind through the site and serve as part of the Audubon's overall environmental education efforts. The site and trails are heavily used and serve de facto as part of the larger Forest Park trail system, which has entry points within 600 feet of the subject site.

Zoning: The zoning designation on the site includes Open Space (OS) base zone with Environmental Conservation (c), Environmental Protection (p), Scenic Resource (s), and Future Urban (f) overlay zones. As well, the site is within the Northwest Hills Plan District, in the Balch Creek and Skyline subdistricts (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. No new uses are proposed within the OS zone and the provisions of the zone do not apply to the proposal. The OS zone regulations are therefore not addressed through this Environmental Review.

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

The Scenic Resource overlay zone is intended to protect Portland's significant scenic resources. The purposes of the Scenic Resource zone, to enhance the city's appearance and protect scenic views, are achieved by establishing height limits, establishing landscaping and screening requirements, and requiring preservation of identified scenic resources.

The Future Urban overlay zone limits development in future urban areas. Future urban areas are, (1) all areas beyond the Metropolitan Service District's Urban Growth Boundary (UGB), and (2) areas within the UGB to which the extension of full urban services would not be cost effective or would cause unacceptable harm to the environment. The Future Urban overlay zone limits development by prohibiting the creation of new lots with a total area of less than 20 acres. No development subject to the regulations of this overlay is proposed; therefore, these regulations are not specifically addressed in this review.

The Northwest Hills plan district protects sites with sensitive and highly valued resources and functional values. The portions of the plan district that include the Balch Creek Subdistrict contain unique, high quality resources and functional values that require additional protection beyond that of the Environmental overlay zone. The plan district also promotes the orderly development of the Skyline subdistrict while assuring that adequate services are available to support development. These regulations provide the higher level of protection necessary for the plan district area.

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

The project area is mapped within the *Balch Creek Watershed Protection Plan* as Site 75. The Inventory's description of the site includes the following:

The site is considered of very high significance. Balch Creek supports Cutthroat trout, but fish habitat is degraded by a culvert which inhibits fish passage. Wildlife habitat is degraded by a high number of trails per unit of area. Nonetheless, the site does have significant natural values and contributes to the values of surrounding sites. The intensity of human use is mitigated by a ban on pets. Finally, the site provides more educational value than any other site in the watershed.

According to the applicant's narrative, Bigleaf maple is the dominant tree species on the site. As well, *the project site contains several medium to large trees, including a 42" coast redwood that likely was planted at the site in the early 1900s. Several snags are also present on site. Non-native invasive species such as Himalayan blackberry have been actively managed at the site, but English ivy is persistent in the area east of the enclosures. Audubon has actively restored habitat values at the site through removal of old buildings, revegetation with native trees and shrubs, and removal of invasive species.*

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 the following alternatives analysis:

The bird enclosures must be located in immediate proximity to the WCC to serve their function, to provide adequate security for the birds, and to facilitate their ongoing care. Other facility locations would be too far from the WCC and not meet the project purpose. In addition, they would require tree removal and/or relocation of parking and existing buildings.

Alternative design and construction options such as wood frame enclosed buildings with roofs and concrete foundations have been used in the past at this site but were not considered for this project in order to reduce impacts on the environment. Prior structures were found to have greater detrimental environmental impacts and have been removed and replaced by the current open air bird enclosures with wire mesh sides and roofs, and natural base flooring. No trees are impacted by the enclosures.

Unavoidable Impacts and Mitigation Plan: The enclosures occupy and create 710 square feet of permanent disturbance area. To mitigate for the additional disturbance, the applicant proposes the following:

A mix of 5 native trees and 33 native shrubs and herbaceous plants will be planted to the east of the bird enclosures. The plantings will enhance wildlife habitat and open space functions locally. Plantings will reflect the existing array of native shrubs and trees found in this area. In addition, English ivy and Himalayan blackberry will be removed from the planting area, releasing the native flora in the understory and protecting the health of established and newly planted trees. The total area of enhancement is 1,139 sq. ft..

Relevant Land Use History: Below are past land use cases the City of Portland has on record for the subject site:

- LU 04-027613 EN – Approval of an Environmental Review for construction of a boardwalk around an existing tree and related disturbance area.
- LU 10-183543 EN – Approval of an Environmental Review for replacement of septic drain fields, septic tanks, and associated development.
- LU 20-118783 CU – Withdrawn Conditional Use Review to renovate the existing Wildlife Care Center.

Agency Review: A Notice of Proposal in your Neighborhood was mailed on **April 28, 2021**. The following Bureaus have responded with no issues or concerns about the proposal:

- Fire Bureau (Exhibit E.2)
- Site Development Section of BDS (Exhibit E.3)
- Bureau of Parks-Forestry Division (Exhibit E.4)
- Life Safety Section of BDS (Exhibit E.5)

The Bureau of Environmental Services, Watershed Review Section responded with information on ecologically-focused site considerations that the project should consider. BES Development Review and BES Source Control both responded with no concerns. Please see Exhibit E.1 for the full response(s).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **April 28, 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 for Environmental Review

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.

Findings: The approval criteria that apply to the retro-active construction of the bird enclosures are found in Section 33.430.250.F. The applicant has provided findings for these approval criteria and BDS Land Use Services staff have revised these findings or added conditions, where necessary to meet the approval criteria.

F. Other development in the Environmental Protection zone. In Environmental Protection zones the applicant's impact evaluation must demonstrate that all of the following are met:

1. All sites within the Portland city limits, in which the proposed use or development is possible, are also in the resource areas of Environmental Protection zones;

Findings: The applicant's representative provided the following findings:

Portland Audubon's [Wildlife Care Center] WCC is unique. The WCC is the busiest wildlife care center in the State of Oregon and treats 3,000-5,000 injured wild animals and responds to more than 15,000 wildlife related requests for assistance each year. This long-established wildlife rehabilitation facility is well known throughout the region. It provides a major public service that could not be uprooted and relocated without major cost and disruption to that service. Relocation of the WCC to another site located outside the EP zone is not a practicable alternative.

The bird enclosures must be in immediate proximity to the WCC in order to provide adequate security for the birds and to facilitate their ongoing care. Alternative locations on site do not meet the project purpose and are therefore not practicable. There are multiple reasons for this. There are effectively two sides of the WCC that are not constrained by EP zoning: one to the west and one to the south. Both these areas are not practicable locations for bird enclosures:

1. *Land to the west of the WCC is fully developed as the core campus of the Audubon Sanctuary, with the Nature Center, outbuildings, parking lot and pedestrian walkways. It is not feasible to shrink or relocate these facilities to make room for the bird enclosures, and even if it were, relocating the birds to the center of activity and traffic is entirely inappropriate.*
2. *Land to the south fronts directly on Cornell Road, a busy road designated as a Neighborhood Collector. Locating birds next to Cornell would expose them to major road traffic noise, lights and vibration, a very inhospitable environment. The limited area between the WCC and the right of way contains significant trees, a required scenic buffer, a pedestrian trail, and a steep embankment up to the road. Relocating the birds to this location is not a practicable alternative.*

In sum, the bird enclosures must be in proximity to the WCC, on the sheltered and undeveloped north/northeast side of the WCC, and it is not reasonably possible to move the WCC to a non-EP site in Portland.

Staff takes no exception to the findings above and finds that there are no possible locations for the bird enclosures outside the Environmental Protection overlay zone in Portland city limits. *This criterion is met.*

2. Of these sites, development on the proposed site would have the least significant detrimental environmental impact;

Findings: As noted in the findings above, the needs of the birds and their reliance on the WCC greatly limited alternative location options. Their location and construction enabled their development with minimal excavation or grading. Furthermore, their close proximity to the WCC building and associated improvements reduced potential impacts on root

systems by reducing the extent of the project's perimeter that was in close proximity to undisturbed and forested area. These factors enabled the project to be carried out without the removal of trees.

Other areas of the site that could possibly be available alternative locations would have more perimeter impacting root systems and would likely be on steeper slopes that would require more grading than the existing location, resulting in increased detrimental impacts compared to the existing location.

Because of the above factors, *this criterion is met.*

3. There is a public need for the proposed use or development;

Findings: The applicant's representative provided the following findings:

Portland Audubon's WCC is unique. It was the first wildlife rehabilitation center in the United States and is the busiest in the State of Oregon. This long-established WCC is well known throughout the Portland metropolitan region as the go-to resource for information on and care for injured native wildlife. It provides an irreplaceable public resource unmatched in the state if not the country. The Audubon WCC represents the only facility of its type in the Portland Metropolitan Region. The bird enclosures are integral, interdependent elements of the WCC functions and play a critical role in Portland Audubon's environmental education program.

The public need for the proposed bird enclosures as an interpretive facility and integral element of the WCC is demonstrated by the thousands of public visitors that use the trails and visit the Ambassador birds each year, including hikers, school classes, participants in Audubon's camps for children, and people attending sanctuary tours. The Ambassador Birds that reside in these enclosures also are brought out for programs onsite and to schools and community events by trained volunteers who talk about the birds and share information about how to support wildlife in the region. The public need is further demonstrated by the WCC's treatment of as many as 5,000 injured wild animals and response to more than 15,000 wildlife related requests for assistance from the public each year. The Ambassador Birds that live in the enclosures and the signage that tells their stories help build awareness and support for Audubon's mission and the wildlife rehabilitation services provided by the WCC.

Staff concurs with the representative's findings that the bird enclosures fill an important public need for environmental education. Therefore, *this criterion is met.*

4. The public benefits of the proposed use or development outweigh all significant detrimental impacts;

Findings: The design of the bird enclosures has minimal impact on stormwater dynamics. The size and location of the enclosures has minimal impacts on wildlife migration since clear routes through the enclosures are maintained. No trees were removed as a result of the development. These facts, combined with the public need that the Audubon's Bird Sanctuary fulfills, as evidenced by the thousands of children and adults that the Portland Audubon Society serves every year (see Exhibit G.3) and that the sanctuary, WCC, and bird enclosures are an integral part of, make clear that the public benefits of the bird enclosures outweigh all of their detrimental impacts.

Therefore, *this criterion is met.*

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

Findings: The applicant's representative provided the following findings:

No heavy equipment is or was required for construction of these facilities. The wood posts, wire mesh and other materials are carried to the site by hand or with the use of a

wheelbarrow. The areas designated as undisturbed will be left untouched except for proposed new native plantings and removal of invasive English ivy and Himalayan blackberry to the east of the facilities. No nearby trees will be impacted and no runoff or erosion is anticipated from these open enclosures.

Staff takes no exception to the findings above. *This criterion is met.*

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

Findings: As noted in the applicant's representative's narrative (Exhibit A.1), five native trees, 18 native shrubs, and 15 native herbaceous plants will be planted to the east of the bird enclosures. Nuisance species, including English ivy and Himalayan blackberry will be removed from the planting area and nearby vicinity prior to planting the native specimens. The total area of these enhancement and mitigation efforts is approximately 1,140 square feet. As noted previously, the total disturbance area from the enclosures is 710 square feet. The loss of native, undisturbed habitat at the enclosures will be compensated for by the restoration of native species and in particular species that will provide food for birds and mammals, as well as the increased availability of shelter, shade, and multi-tiered canopy that comes from the species proposed. The mitigation plant list is as follows:

Species	Common Name	Quantity
<i>Trees</i>		
<i>Pseudotsuga menziesii</i>	Douglas-fir	2
<i>Thuja plicata</i>	Western redcedar	3
<i>Shrubs</i>		
<i>Acer circinatum</i>	Vine maple	3
<i>Berberis nervosa</i>	Cascade Oregon grape	3
<i>Oemleria cerasiformis</i>	Osoberry	3
<i>Rubus parviflorus</i>	Thimbleberry	3
<i>Rubus spectabilis</i>	Salmonberry	3
<i>Symphoricarpos albus</i>	Common snowberry	3
<i>Herbaceous plants</i>		
<i>Polypodium glycyrrhiza</i>	Licorice fern	4
<i>Polystichum munitum</i>	Sword fern	4
<i>Pteridium aquilinum</i>	Bracken fern	4
<i>Urtica dioica</i>	Stinging nettle	3

*Remove English ivy and Himalayan blackberry

In order to ensure that the submitted mitigation plan, provided to meet this criterion, is carried out, staff recommends a condition of approval requiring that a zoning permit for the mitigation work must be obtained and receive final approval. Currently, the applicants have submitted for building permit to construct a large addition to the Wildlife Care Center (21-053106 CO). Staff recommends that the zoning permit receive final approval prior to the WCC addition receiving final approval. Based on the above findings and with the aforementioned condition, *this criterion is met.*

7. 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

Findings: The mitigation is proposed in the same watershed, on the same site, immediately adjacent to the bird enclosures.

This criterion is met.

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

Findings: The applicant owns the mitigation site.

This criterion is met.

33.563.120 Additional Approval Criterion. For sites within the Balch Creek Subdistrict of the NW Hills Plan District. In addition to the applicable approval criteria of Section 33.430.250, an environmental review application will be approved if the review body finds that the location, quantity, and quality of forest and contiguous forest cover will be sufficient to provide habitat for deer and elk and to provide for the passage of deer and elk between Forest Park and Pittock Acres Park.

Findings: As noted above and in the narrative (Exhibit A.1), development of the bird enclosures did not result in the loss or removal of any trees or affect existing forest cover. The mitigation plan will expand forest cover through the proposed 38 native plantings covering approximately 1,139 sq. ft. of land. These plantings will help establish high-quality and contiguous forest cover in the vicinity of the project area and provide additional food sources and covered passage for deer and elk in their range between Forest Park and Pittock Acres Park.

Therefore, *this criterion is met.*

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all 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.

As stated throughout, this review is retroactive and neither of the responses from Site Development (Exhibit E.3) or Life Safety (Exhibit E.5) indicated that the bird enclosures will require a development permit.

CONCLUSIONS

The applicant and their representative request retro-active approval for the construction of three open air, permeable-surfaced bird enclosures behind the Portland Audubon Society's Wildlife Care Center. The applicant's representative has demonstrated that the project and its location within the 'p' overlay is necessary, fills a vital public need for environmental education, and whose impacts have been minimized and can be mitigated for through the removal of nuisance species and the planting of native species in the vicinity of the improvements. To that end, the applicant and their representative, in conjunction with the above findings have shown that the proposal meets the applicable approval criteria. Therefore, this proposal should be approved, subject to the conditions described below.

ADMINISTRATIVE DECISION

Approval of an Environmental Review for:

- Retroactive approval of the construction of three outdoor bird enclosures; and

- Associated mitigation including the removal of nuisance species in a 1,140 square foot area and planting the area with native trees, shrubs, and herbaceous plants all within resource area of the Environmental Protection overlay zone, per the approved site plans, Exhibits C.1 and C.2, as approved by the City of Portland Bureau of Development Services and subject to the following conditions:

A. Prior to issuance of building permit for improvements to the Wildlife Care Center, the applicant shall obtain a BDS Zoning Permit for approval and inspection of a mitigation plan to remove nuisance species from a 1,139 square foot area and to plant the area with a total of 5 trees, 18 shrubs, and 15 herbaceous plants, in substantial conformance with Exhibit C.2, page 2 of 3, Mitigation Plan. Any plant substitutions shall be selected from the Portland Plant List and shall be substantially equivalent in size to the original plant.

1. Permit plans shall show:
 - a. The general location of the trees, shrubs and ground covers required by this condition to be planted in the mitigation areas and labeled as “new required landscaping”. The plans shall 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. After installing the required mitigation plantings, the applicant shall request inspection of mitigation plantings and final the BDS Zoning Permit.
5. All mitigation 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.

B. 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 initial Zoning 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). If at the end of a two-year monitoring period the two trees planted downstream of the landing have not survived, the applicant shall relocate two replacement trees to the adjacent planting area in the yard above top of bank that is just north (landward) of the landing.
 - b. Specify plant replacement location. The second monitoring report shall specify if the alternative planting location was utilized due to inability to establish plants in the preferred planting location.

- c. 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 of shrubs and 100 percent cover of groundcovers (replacement must occur within one planting season).
- d. A list of replacement plants that were installed.
- e. Photographs of the mitigation area and a site plan, in conformance with approved Exhibits C.1 and C.2, Mitigation Plan, showing the location and direction of photos.
- f. An estimate of percent cover of invasive species (e.g. English ivy, Himalayan blackberry) within 10 feet of all plantings. Invasive species must not exceed 15 percent cover during the monitoring period.

Staff Planner: Timothy Novak

Decision rendered by:  **on June 28, 2021**

By authority of the Director of the Bureau of Development Services

Decision mailed: July 1, 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 26, 2021, and was determined to be complete on April 21, 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 26, 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: August 19, 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 St 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 **July 1, 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 Narrative
 - 2. Original Drawings
 - 3. Applicant's Memo addressing Incomplete Letter
 - 4. Site Plan of April 12, 2021
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Existing Conditions & Mitigation Plans, Existing Vegetation Table
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Fire Bureau
 - 3. Site Development Review Section of BDS
 - 4. Bureau of Parks, Forestry Division
 - 5. Life Safety Review Section of BDS
- F. Correspondence: NONE
- G. Other:
 - 1. Original LU Application
 - 2. Incomplete Letter
 - 3. Portland Audubon Society's 'About Us' webpage

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).