



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

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Date: November 12, 2019
To: Interested Person
From: Morgan Steele, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

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

CASE FILE NUMBER: LU 19-234216 EN

GENERAL INFORMATION

Applicant: John Deppa | Alpha Technical Group Inc
2929 NW 29th Avenue | Portland, OR 97210
503.307.6758 | jpdeppa.atgi@gmail.com

Owner: Oregon Department of State Lands
775 Summer Street NE | Salem, OR 97310

Representative: Sarah Joy | JBMI
1881 N Jantzen Avenue | Portland, OR 97217

Site Address: **1501 N JANTZEN AVENUE**

Legal Description: TL 1200 22.70 ACRES EXEMPT ORS 307.168, SECTION 33 2N 1E
Tax Account No.: R951330720
State ID No.: 2N1E33D 01200
Quarter Section: 1829

Neighborhood: Hayden Island, contact jeffgeisler@msn.com.
Business District: Columbia Corridor Association, contact at info@columbiacorridor.org
District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-4099.

Plan District: Hayden Island
Other Designations: 100-Year Floodplain; *Columbia Corridor Industrial & Environmental Mapping Project* – Resource Site #71

Zoning: *Base Zone:* Central Employment (CE)
Overlay Zones: Environmental Conservation (c), Aircraft Landing (h), PDX Noise Impact (x)

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

PROPOSAL:

The applicant, in conjunction with Jantzen Beach Moorage, requests an Environmental Review to replace an existing floating walkway (Row A only) that provides access to moored floating homes. The existing six-foot walkway is currently listing and needs to be replaced to provide safe access for residents of the floating homes. The replacement walkway is proposed to be eight-feet in width and constructed of fiberglass material with an open-decking approach to allow light transmission through to the waterbody. Further, to provide safe access along the walkway for residents as well as emergency response personnel, and to comply with City code for floating structures (Title 28.06.06), light fixtures, housing 40-watt bulbs, are proposed to be placed 15 feet on center along the east side of the walkway.

All construction work will be performed from a floating barge. The contractor will place material on the work barge and disposal will be in accordance with all local, state, and federal regulations. The new floating walkway assemblies will be constructed offsite or on the barge and then bolted in place. This is to prevent construction debris from entering the waterbody.

The site is within the City's Environmental Conservation overlay zone. 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 proposed dock replacement will occur below top of bank of the Columbia River and lighting is proposed every 15 feet on the walkway surface. Standards 33.430.140.F and 33.430.140.R are not met by the proposal; therefore, the work must be approved through an Environmental Review.

RELEVANT APPROVAL CRITERIA:

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

- ❖ [Section 33.430.250.E](#) **Other development in the Environmental Conservation zone**

ANALYSIS

Site and Vicinity: Jantzen Beach Moorage is on West Hayden Island just south of the Jantzen Beach Supercenter, west of Interstate-5. The moorage is situated along the south side of N Jantzen Avenue. The moorage is on the Columbia River, with parking lots, car ports, walkways and landscaped areas dominating the adjacent uplands between the moorage and N Jantzen Avenue.

Zoning:

The Commercial Employment base zone is a medium-scale zone intended for sites along corridors with a Neighborhood Collector or higher traffic classification, especially along civic corridors that are also Major Truck Streets or Priority Truck Streets. The zone allows a mix of commercial uses, including auto-accommodating development and drive-through facilities, as well as some light manufacturing and distribution uses that have few off-site impacts. The emphasis of this zone is on commercial and employment uses, but residential uses are also allowed. The regulations of this zone are not specifically addressed as part of this 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 Aircraft Landing overlay zone limits the height of structures and vegetation in the vicinity of the Portland International Airport; a height contour map is available for review in the Development Services Center. The regulations of this zone are not applicable to the proposed walkway replacement.

The Portland International Airport Noise Impact overlay zone (x) 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 easement. The regulations of this zone are not applicable to the proposed walkway replacement.

The Hayden Island Plan District preserves and enhances both the character and opportunities of Hayden Island. The environmental zoning that applies to much of the plan district will preserve and restore the unique and valuable natural resources of the island, such as the shallow water habitat. The regulations of this zone are not applicable to the proposed walkway replacement.

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

The site is in Resource Site 71 of the *Columbia Corridor Industrial & Environmental Mapping Project*. The habitat in this area is described as highly disturbed, largely developed portion of the Columbia River. Levees maintained by the drainage districts, and vegetation is primarily grasses and shrubs, with occasional small groves of trees.

Impact Analysis: The following discusses development alternatives other than the one proposed, that were considered by the applicant. This section additionally describes the proposed construction management plan.

Development Alternatives:

Walkway: The applicant evaluated pressure treated wood decking (ACZA) for decking replacement (treatment chemicals include copper, arsenic and zinc). However, fiberglass, open type decking material was ultimately chosen in order to lessen environmental impacts. This material will allow for grating which will allow light transmission to the waterbody. The material chosen is a fiberglass product and does not include any treatment materials that could be harmful to fish and their habitat.

Lighting: Lighting on floating structures is required per City code. Specifically, Title 28.06.060.A requires the floating walkway to be illuminated by lights that provide a minimum of 1-foot candle of light per square foot of the walking surface. The proposed lighting was designed to meet this requirement and therefore no other alternatives were explored.

Construction Management Plan:

All construction work will be performed from a floating barge, which will eliminate any land disturbance. Waste materials generated during construction will be the existing floating walkway. The contractor will disconnect and tow the old floating walkway to a nearby dock where they will be lifted from the water onto trucks for final disposal. The new floating walkway will be constructed offsite or on the barge and then bolted in place. This will help prevent construction materials from entering the waterbody.

Proposed Mitigation:

In order to avoid environmental impacts, the applicant's US Army Corps of Engineer's permit Nationwide Permit # NWP-2007-574-4 outlines several "General and Special Conditions" that will be adhered to during construction (see Exhibit A.2). The Corps also made a key determination that the proposed project may affect but is not likely to adversely affect several anadromous fish species protected by the Endangered Species Act (ESA), as well as Essential Fish habitat for salmon species.

No significant detrimental impacts will result from the added two feet of walkway width at the Jantzen Beach Moorage. Therefore, no mitigation or remediation plans are proposed in relation to this project.

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

- ❖ LU 10-129916 EN AD: Approval of an Environmental Review to widen the walkways that are parallel to the bank, throughout the entire moorage area. Concurrent Adjustment Review to reduce/waive the interior parking lot landscaping requirements for the entire parking area.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed on October 11, 2019. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- PBOT
- Life Safety
- Urban Forestry
- Site Development Section of BDS

The Fire Bureau responded with the following condition of approval. Please see Exhibit E.4 for additional details.

If the Moorage standpipe will be taken out of service for the proposed work, a plan shall be approved by the Fire Marshal’s Office, Harbor Master, Sean Whalen. The approval would require all other rows at the moorage and outlet as close as possible on the head walk to the row being replaced.

Planner Note: Harbor Master, Sean Whalen, has approved the applicant’s plan for the moorage standpipe during the proposed work. Correspondence stating such can be found in Exhibit E.4.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on October 11, 2019. 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.

Response: The approval criteria which apply to the proposed floating walkway are found in Section 33.430.250.E. The applicant has provided findings for these approval criteria and BDS Land Use Services staff has revised these findings or added conditions, where necessary to meet the approval criteria. Findings for approval criteria that are similar are grouped together, as appropriate, below.

33.430.250.E. Other development in the Environmental Conservation zone or within the Transition Area only. In Environmental Conservation zones or for development within the Transition Area only, the applicant's impact evaluation must demonstrate that all the following are met:

- 1. Proposed development minimizes the loss of resources and functional values, consistent with allowing those uses generally permitted or allowed in the base zone without a land use review;**
- 2. Proposed development locations, designs, and construction methods are less detrimental to identified resources and functional values than other practicable and significantly different alternatives;**
- 3. There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed;**

Findings: The project entails replacement of an existing walkway (Row A) at the Jantzen Beach Moorage and alternative locations for the walkway are not practicable. The project description above indicated alternative construction materials considered by the applicant, as well as construction techniques that will prevent detrimental environmental impacts. Further, the lighting proposed along the east side of the walkway was specifically selected to meet City code for floating walkways (Title 28) and thus no other alternatives were considered or practicable.

Because the applicant proposes non-toxic constructive materials and construction methods that are less detrimental to resources and functional values than other practicable significantly different alternatives and areas to be left undisturbed will be protected, *these criteria are met.*

4. **The mitigation plan demonstrates that all significant detrimental impacts on resources and functional values will be compensated for;**
5. **Mitigation will occur within the same watershed as the proposed use or development and within the Portland city limits except when the purpose of the mitigation could be better provided elsewhere; and**
6. **The applicant owns the mitigation site; possesses a legal instrument that is approved by the City (such as an easement or deed restriction) sufficient to carry out and ensure the success of the mitigation program; or can demonstrate legal authority to acquire property through eminent domain.**

Findings: The applicant's proposal to widen the existing walkway by two additional feet and install lighting at 15-foot intervals, with construction access via a barge, will not create measurable impacts. No mitigation is therefore proposed, *and these criteria are 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 to replace an existing walkway at the Jantzen Beach Moorage. This project will result in an increase of the floating walkways from 6 feet wide to 8 feet wide. The applicant has demonstrated that their design and construction methods minimize impacts on environmental resources. This proposal has been shown by the applicant to meet the applicable Environmental Review approval criteria and should be approved, subject to the conditions described above and specified below.

ADMINISTRATIVE DECISION

Approval of an Environmental Review for:

- Replacement of a floating walkway at Jantzen Beach Moorage (Row A only); and
- Installation of walkway lighting (40-watt) at 15-foot intervals

all within the Environmental Conservation overlay zone, and in substantial conformance with Exhibits C.3 to C.6, as approved and signed by the City of Portland Bureau of Development Services on **November 06, 2019**. Approval is subject to the following conditions:

- A. **A BDS Construction Permit is required.** These exhibits shall be included on a sheet that is the same size as the plans submitted for the permit and shall include the following statement, **"Any field changes shall be in substantial conformance with approved LU 19-234216 EN Exhibits C.3 to C.6."**

- B.** 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 November 6, 2019**

By authority of the Director of the Bureau of Development Services

Decision mailed: November 12, 2019

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 October 1, 2019, and was determined to be complete on October 8, 2019.

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 October 1, 2019.

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: February 5, 2020.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on November 26, 2019** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional 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.

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 Street 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 **November 26, 2019** 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 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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

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.

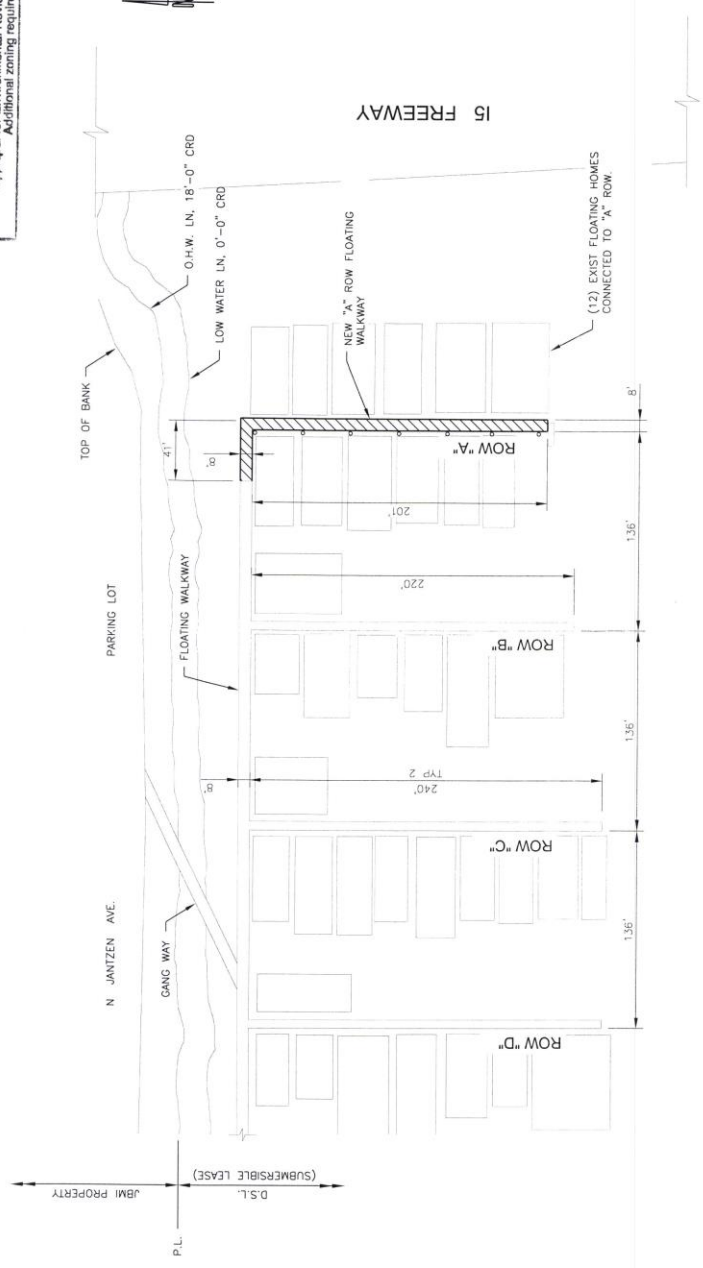
EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Applicant's Narrative & Supplement Memo, September/November 2019
 - 2. Army Corps Permit NWP-2007-574-4, Letter of Permission, June 2019
 - 3. Lighting Specification
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Cover Sheet/Site Plan
 - 2. Existing Conditions
 - 3. Proposed Development (attached)
 - 4. Construction Management
 - 5. Mitigation/Remediation
 - 6. Lighting Plan
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation
 - 3. Life Safety
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
- F. Correspondence: None Received
- G. Other:
 - 1. Original LU Application
 - 2. ODSL Wetland Land Use Notification

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).

"Approved"
 City of Portland - Bureau of Development Services
 LU # 19-234216 EN
 Planner: *W. J. ...* Date: 11.6.19
 * Approval for Environmental Review only. Not a building permit.
 Additional zoning requirements may apply.



ENLARGED SITE PLAN - PROPOSED DEVELOPMENTS


| | | | |
|--|--|--|---|
|  1881 N. JANITZEN AVENUE PORTLAND, OR 97217 | REVISIONS FOR PERMIT: A 07/12/19 | | TITLE: "A" ROW FLOATING WALKWAY REPLACEMENT |
| | ALPHA TECHNICAL 1000 SW 10TH AVE, SUITE 200 PORTLAND, OR 97205 SCALE: AS NOTED DR: HVT CH: JPD ENGR: | | ENG'D PLAN - PROPOSED DEVS DWG NO: 99-01-EV-03 A |

Exhibit C-3
 LU19-234216 EN