



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

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**Date:** June 3, 2021  
**To:** Interested Person  
**From:** Morgan Steele, Land Use Services  
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## **NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

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

### **CASE FILE NUMBER: LU 20-218113 GW**

#### **GENERAL INFORMATION**

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

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

**Consultant:** Sydney Gebers | Grette Associates  
151 S Worthen Street | Wenatchee, WA 98801  
509.663.6300 | [SydG@gretteassociates.com](mailto:SydG@gretteassociates.com)

**Site Address:** 9030 NW ST HELENS ROAD

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

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

**Neighborhood:** Linnton, contact Richard Barker at [chair@linntonna.org](mailto:chair@linntonna.org)  
**Business District:** NONE  
**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

**Plan District:** NONE  
**Other Designations:** 100-Year Floodplain; *Lower Willamette River Habitat Inventory* – Site 5.4D (Rank V); *Scenic Resources Protection Plan* – View Corridor VB 04-03

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

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

**Proposal:**

The applicant requests approval to replace two docks (north dock and south dock) and their components, including piles and a ramp, that support the Foss Maritime Tug Terminal located in the Portland Harbor within NW Portland. Specifically, the project consists of the following components:

- ❖ Removal of the 1,245 square foot South Dock and 858 square foot North Dock including associated piles and dolphins.
- ❖ Removal of 56 square feet of the West Dock.
- ❖ Installation of two (2) new 50 feet x 16 feet (1,600 square feet) steel floats.
- ❖ Installation of one (1) new 25 feet x 4 feet (100 square feet) aluminum ramp.
- ❖ Installation of six (6) new 24-inch steel piles.
- ❖ Installation of a 52-foot x 8-foot (416 square feet) steel float salvaged from the Foss Shipyard in Rainier, Oregon.
- ❖ Removal of eight (8) 18-inch piles from the University of Portland's Restoration Site as mitigation for impacts to the Willamette River as a result of this project.

The site is within the City's Greenway River Industrial overly zone. Zoning Code Section 33.440.310.D requires Greenway Review for changes to structures in the water, including docks. The work must therefore be approved through a Greenway Review.

**RELEVANT APPROVAL CRITERIA:**

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

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

## ANALYSIS

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

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

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

**Zoning:** The Heavy Industrial base zone is one of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zone provides areas where all kinds of industries may locate including those not desirable in other zones due to their objectionable impacts or appearance. The standards of this Base Zone are generally met by this proposal; these provisions are not specifically addressed through this Greenway Review.

The Prime Industrial overlay zone protects land that has been identified in the Comprehensive Plan as Prime Industrial, and to prioritize these areas for long-term retention. Prime Industrial Land is suited for traded-sector and supportive industries and possesses characteristics that are difficult

to replace in the region. In Portland, Prime Industrial land consists of the Portland Harbor, Columbia Corridor, and Brooklyn Yard industrial districts. These freight-hub districts include Oregon's largest seaport, rail hub, and airport. The standards of this overlay zone do not apply to this proposal; these provisions are not specifically addressed through this Greenway Review.

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

The Scenic Resource overlay zone is intended to: enhance the appearance of Portland to make it a better place to live and work; create attractive entrance ways to Portland and its districts; improve Portland's economic vitality by enhancing the City's attractiveness to its citizens and to visitors; and implement the scenic resource policies and objectives of Portland's Comprehensive Plan. The purposes of the Scenic Resource overlay zone are achieved by establishing height limits within view corridors to protect significant views and by establishing additional landscaping and screening standards to preserve and enhance identified scenic resources. The standards of this overlay zone appear to be met by this proposal; these provisions are not specifically addressed through this Greenway Review.

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

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

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

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

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

**LU 16-186108 GW** – Approval of a Greenway Review for alterations to the existing building as well as parking lot improvements.

**LU 20-102237 GW** – Approval of a Greenway Review for bank reconfiguration and stabilization as well as the removal of three trees and the installation of landscape treatments.

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **April 30, 2021**. The following Bureaus have responded to the proposed project. The responses can be found in the E Exhibits.

- Bureau of Environmental Services
- Life Safety
- Fire Bureau
- Urban Forestry
- PBOT

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

*BDS Site Development has reviewed the information provided by the applicant. BDS takes no exception to this Land Use application. Additional information related to future building and demolition permit applications has been provided below.*

*Erosion prevention and sediment control requirements found in PCC Title 10 apply to both site preparation work and development. Full compliance with the erosion control requirements*

of Title 10, as well as maintenance of the erosion control elements is the responsibility of the property owner and the builders of structures. Please refer to the City of Portland Erosion and Sediment Control Manual for additional information regarding erosion and sediment control requirements.

The project site meets the criteria specified in City Code 10.30.030 as a Special Site with additional requirements for erosion, sediment, and pollution control. An erosion control plan prepared by a Certified Professional in Erosion and Sediment Control (CPESC) or State of Oregon registered professional engineer will be required at the time of permit submittal. Special inspections to be performed by the CPESC or P.E. during construction may be required at the time of permit plan review.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on April 30, 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

### Title 33.440.350 Approval Criteria for Greenway Review

The approval criteria for a greenway review have been divided by location or situation. The divisions are not exclusive; a proposal must comply with all the approval criteria that apply to the site. A greenway review application will be approved if the review body finds that the applicant has shown that all the applicable approval criteria are met.

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

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

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

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

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

**Guidelines:**

1. Structure Design
2. Structure Alignment

**Issue B. Public Access:** This issue “applies to all but river-dependent and river-related industrial use applications for Greenway Approval, when the Greenway Trail is shown on the property in the *Willamette Greenway Plan*.” These guidelines call for the integration of the Greenway Trail into new development, as well as the provision of features such as viewpoints, plazas, or view corridors:

**Guidelines:**

1. Public Access
2. Separation and Screening
3. Signage
4. Access to Water’s Edge

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

**Guidelines:**

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

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

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

**Guidelines:**

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

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

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

**Guidelines:**

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

**Findings:** The proposed development does not include riverbank stabilization treatment or measures, *and this issue is not applicable*.

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

**Guidelines:**

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

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

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

**Findings:** The landscape treatments required per Zoning Code Section 33.440.230, *Landscaping* were reviewed and approved through a previous Greenway Review for bank stabilization on the subject site (LU 20-102237 GW). These proposed plantings will be implemented entirely riverward of the top of the bank and will consist of a riparian treatment targeted towards providing improved fish and wildlife habitat. This treatment is suitable for the steep nature of the slope and the banks limited value for public river access. As part of that planting plan, the applicant provided enough plantings to satisfy the quantity as required by the above referenced code section. *Therefore, through the previously approved bank stabilization project, Issue E is met.*

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

**Guidelines:**

- 1. Design**
- 2. Facilities**

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

**Guidelines:**

- 1. Right-of-way Protection**
- 2. View Protection**
- 3. Landscape Enhancement**

**Findings:** No scenic viewpoints or view corridors are mapped directly on the subject property. However, Scenic Viewpoints VB 09-13 and VB 04-03 are mapped on nearby properties in the *Scenic Resource Protection Plan* (page 47), and associated view corridors are mapped across the subject site with a 100-foot height restriction placed on the site. This proposal does not include landscaping or development that would impede the adjacent Viewpoints or View Corridors. *Therefore, Issues G and H are not applicable.*

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

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

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

- C. Development within the River Natural zone.** The applicant must show that the proposed development, excavation, or fill within the River Natural Zone will not have significant detrimental environmental impacts on the wildlife, wildlife habitat, and scenic qualities of the lands zoned River Natural. The criterion applies to the construction and long-range impacts of the proposal, and to proposed remediation measures. Excavations and fills are prohibited except in conjunction with approved development or for wildlife habitat enhancement, riverbank enhancement, or mitigating significant riverbank erosion.
- D. Development on land within 50 feet of the River Natural zone.** The applicant must show that the proposed development or fill on land within 50 feet of the River Natural zone will not have a significant detrimental environmental impact on the land in the River Natural zone.

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

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

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

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

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

**Findings:** The project has been designed to avoid significant loss of biological productivity within the river. One metric often used to measure productivity is overwater coverage. Overwater cover increases shading beneath and adjacent to structures, which can lead to lower primary productivity (e.g. phytoplankton and macrophyte producers). Lower primary productivity, including reduced stock of algae and macrophytes, can in turn influence the abundance of prey organisms available to fish, including juvenile salmonids. The project proposes to remove approximately 2,159 square feet of existing timber floats and replace them with 2,116 square feet of new/repurposed steel floats. This results in an overall decrease in area shaded by floats by 43 square feet.

To further minimize impacts associated with shading, the surface of the new ramp (100 square feet) will consist of 100% functional grated decking with a minimum open area of 60%. The applicant also proposes to salvage and reuse a float from their facility in Rainier, Oregon. Although this structure will be new to the project site, reusing this structure will further decrease overwater coverage at a watershed scale. Because juvenile salmon utilizing the Lower Willamette River (LWR) must also migrate past the Rainier, Oregon facility, relocating the structure would benefit the same salmonid species potentially affected by the project.

Another metric often used to measure biological productivity is the area of benthic substrate displaced by piles. Displaced benthic areas would no longer be available to contribute toward primary or secondary productivity, in turn eliminating the availability of prey resources in those areas. The project involves driving six (6) new 24-inch steel piles which would displace 18.6 square feet of benthic habitat in shallow-water habitat. Relative to the availability of unimpacted shallow-water habitat in the area, it is unlikely that this loss would have a measurable adverse effect on habitat productivity. However, to offset the potential loss in productivity associated with the new piles, Foss proposes to remove eight existing piles at the project site (restoring 8.7 square feet of shallow-water habitat) and

eight additional creosote treated timber piles from the University of Portland Habitat Restoration Site. Overall, the project and mitigation action will result in a small net decrease in the area of benthic habitat displaced by piles (-4.5 square feet).

There is no aquatic vegetation in the Project area and input of drift and plankton prey items will continue from upstream sources. Overall, considering this and the avoidance and minimization measures described above the Project is not expected to adversely affect biological productivity in the river.

Removing 16 creosote treated timber piles (8 at the Project site and 8 at the University of Portland Greenway mitigation site) would eliminate a source of chemical contamination from the river, resulting in a minor benefit to water quality and overall habitat quality in the Willamette River.

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

2. The riverbank will be protected from wave and wake damage;

**Findings:** The project is not expected to alter the extent of wave exposure at the site. The riverbank is largely protected from erosion with riprap armoring. The northern approximately 290 feet of the Foss shoreline was damaged/eroded by extreme high flows in 2017. The applicant intends to repair the area in 2021 as part of a separately permitted and approved Greenway Review (LU 20-102237 GW). *This criterion is met.*

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

**Findings:** The dock replacement proposal will not change boating use at the site or adjacent properties and will remain in a similar footprint area to the existing dock system. *This criterion is met.*

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

**Findings:** There are no public beaches at or in the immediate vicinity of the subject site, *this criterion is not applicable.*

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

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

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

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



## DEVELOPMENT STANDARDS

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

## CONCLUSIONS

Through this Greenway Review, the applicant requests approval for replacement of existing docks and their components. The applicant has shown how the dock replacement project will minimize impacts to the Willamette River to the extent practicable in both the short and long-term through construction management methods and mitigation, respectively. With the condition for conformance with the site plans and to ensure the required pilings are removed from the river, the above findings have shown that applicable approval criteria are met; therefore, this proposal should be approved.

## ADMINISTRATIVE DECISION

**Approval** of a Greenway Review for:

- ❖ Removal of the 1,245 square foot South Dock and 858 square foot North Dock including associated piles and dolphins;
- ❖ Removal of 56 square feet of the West Dock;
- ❖ Installation of two (2) new 50 feet x 16 feet (1,600 square feet) steel floats;
- ❖ Installation of one (1) new 25 feet x 4 feet (100 square feet) aluminum ramp;
- ❖ Installation of six (6) new 24-inch steel piles;
- ❖ Installation of a 52-foot x 8-foot (416 square feet) steel float salvaged from the Foss Shipyard in Rainier, Oregon; and
- ❖ Removal of eight (8) 18-inch piles from the University of Portland's Restoration Site

all within the Greenway River Industrial and River General overlay zones, and in substantial conformance with Exhibits C.3 to C.5, as approved and signed by the City of Portland Bureau of Development Services. Approval is subject to the following conditions:

- A. A BDS construction permit is required for development.** The Conditions of Approval listed below, shall be noted on appropriate plan sheets submitted for permits (building, Zoning, grading, Site Development, erosion control, etc.). Plans shall include the following statement, "**Any field changes shall be in substantial conformance with approved LU 21-218113 GW Exhibits C.3 through C.5.**"
1. At the time of final inspection for the building permit, the applicant must present documentation from the University of Portland verifying the removal of eight (8) piles from their restoration site.
- 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 June 1, 2021**

By authority of the Director of the Bureau of Development Services

**Decision mailed: June 3, 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 November 20, 2020, and was determined to be complete on April 28, 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 November 20, 2020.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: August 26, 2021.**

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

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

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

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

**Appealing this decision.** This decision may be appealed to the Hearings Officer, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on June 17, 2021. The completed appeal application form must be emailed to [LandUseIntake@portlandoregon.gov](mailto:LandUseIntake@portlandoregon.gov) and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II and IIX decisions on property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland,

and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer 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 **June 17, 2021** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

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

**EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  - 1. Applicant's Original Submittal, November 2020
  - 2. Applicant's Narrative, April 2021
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Existing Conditions Overview
  - 2. Existing Conditions Site Plan
  - 3. Proposed Development Site Plan (attached)
  - 4. Construction Management Site Plan
  - 5. University of Portland Mitigation Site Plan (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation
  - 3. Life Safety
  - 4. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
- F. Correspondence: None Received
- G. Other:
  - 1. Original LU Application
  - 2. Incomplete Letter

**The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).**