



City of Portland, Oregon

Bureau of Development Services

Land Use Services

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner Paul L. Scarlett, Director Phone: (503) 823-7300 Fax: (503) 823-5630 TTY: (503) 823-6868 www.portlandoregon.gov/bds

Date: March 6, 2014 **To:** Interested Person

From: Rachel Whiteside, Land Use Services

503-823-7605 / Rachel.Whiteside@portlandoregon.gov

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 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 13-236856 GW

GENERAL INFORMATION

Applicant/ Owner: Josh Palmer/ Daimler Trucks North America

4435 N Channel Ave/ Portland OR 97217

Representative: Carter Macnichol/ Shiels Obletz Johnson Inc

1140 SW 11th Ave Sute 500/ Portland OR 97205

Owner: Tom Bouillion/ Port Of Portland

PO Box 3529/ Portland OR 97208

Site Address: 4555 N CHANNEL AVE

Legal Description: LOT 2 TL 109 LAND & IMPS SEE R540487 (R64983-1507) R540481

(R64983-1503) R540494 (R64983-1515) FOR OTHER IMPS,

PARTITION PLAT 2003-38; LOT 2 TL 110 LAND ONLY SEE R540485

(64983-1505) FOR IMPS, PARTITION PLAT 2003-38

Tax Account No.: R649831511, R649831513

State ID No.: 1N1E20 00109, 1N1E20 00110

Quarter Section: 2626, 2627, 2526, 2527

Neighborhood: Overlook NA, contact Kent Hoddick at 503-286-9803. **Business District:** Swan Island, contact Sarah Angell at 503-745-6523

District Coalition: North Portland Neighborhood Serv, Mary Jaron Kelley at 503-823-

4099.

Plan District: None

Other Designations: 100 Year Floodplain, Public Recreational Trail, Greenway Viewpoint

Zoning: EG2g, I – General Employment 2 with the River General (g) and River

Industrial (i) overlay zones

Case Type: GW – Greenway Review

Procedure: Type II – an administrative decision with appeal to the Hearings Officer

Proposal:

Daimler Trucks North America (DTNA) proposes a major redevelopment of the project site. The site is currently occupied by a large building complex with portions located within the greenway

setback, overhanging the riverbank. The Greenway Trail jogs away from the river around the existing development. The project includes work within three areas on the site:

- 1. <u>Landward of the Greenway Setback</u>: New DTNA headquarters building (they call the NOVA building), parking structure and surface parking, site grading, access roads, sidewalks, walkways, landscaping, stormwater, and other required site development elements. The existing building will be demolished;
- 2. <u>Within the Greenway Setback</u>: Required landscaping, public viewpoint and trail construction. Demolition of portions of existing building;
- 3. <u>Riverward of top-of-bank</u>: Temporary erosion control and construction debris control fencing, removal of existing building structure, limited localized slope stabilization near the portions of building footprint to remain, and construction of public greenway overlooks and viewpoints.

The proposed 9-story NOVA building will be set back considerably from the Willamette River. The project's orientation and mass is meant to relate to existing DTNA facilities, while also responding of the river edge. The west wing is parallel to DTNA's Corp 1 building to the west, while the east wing bends in parallel with the edge of the Willamette River. The project includes private employee amenity spaces adjacent to the Greenway Trail. These private areas include several flexible paved outdoor terraces for displays, dining, and recreational activies. A lawn area for employee use will extend between the dining terrace and the public Greenway Trail, with more heavily vegetated landscape areas where the trail is closest to the outdoor terrace. Two concrete pathways will connect the outdoor terraces to the Greenway Trail.

Other proposed site improvements include a scored concrete entry drive from the intersection at N Anchor Street and N Channel Avenue. The drive will lead to an 80-foot long drop-off area and then extend past the NOVA building to connect to the access road in front of the existing Corp 9 building that leads to N Port Center Way. The pedestrian connection from N Channel to NOVA will be pavers and an architectural canopy is proposed for pedestrian protection along the north side of the NOVA building to Corp 1. The project also include three surface parking lots and a 4-story parking garage, all located on the landward side of the proposed building.

As part of this project, all existing Greenway Trail pathways, hardscape, and signage will be removed except for the beach access ramp and building footings below top-of-bank (which will be reused). A new 12-foot wide concrete trail will be provided within the greenway setback, south of the NOVA building, connecting to existing trail segments at both ends. The trail will extend over a 50-foot long ADA-compliant bridge over an existing private storm sewer outfall. The new bridge replaces an existing structure and will be paved with scored concrete suitable for pedestrian and cyclist use. Signage shall be placed at up to 5 location along the trail improvements, noting points of access and private property. Lighting is proposed with 14-foot pole–mounted fixtures approximately 80 feet on center. Stormwater generated along the linear trail will be managed through the use of vegetated filter strips. No collection and piping is proposed within the greenway setback.

The applicant proposes to repurpose two corners of the existing building complex as two new public viewpoints along the new section of Greenway Trail. The eastern overlook will extend 9 to 28 feet past the existing top-of-bank, matching the existing building footprint that already extends beyond the top-of-bank. Following partial demolition of the existing building, this overlook will be constructed with galvanized steel beams mounted to the footings of the remaining portions of the building. Under the overlook platform, the existing rock armoring will be repaired, preventing disturbance to the bank area. The walking surface of the overlook is proposed to be industrial steel grating so that sunlight and rainwater can pass through to bank vegetation below. The overlook will have a 42-inch hight steel guardrail on three sides.

The design of the western overlook also utilizes a portion of the existing building foundation and exterior wall. The floor, upper structure, and roof will be demolished and existing rip-rap slope protection repaired in the localized area surrounding the existing footings. The walking

surface of this overlook area is proposed to be compacted decomposed granite, while the trail itself will be scored concrete.

Access to the Greenway Trail will be provided via a path on Port of Portland property on the east side the DTNA Corp 9 building. The path will connect to an existing improved portion of the Greenway Trail. In addition, DTNA will provide an 8-foot wide public walkway easement on the west side the the NOVA building. The easement will extend from the Greenway Trail northward to N Channel Avenue, passing the extry to DTNA's existing Corp 1 building, which has a walkway that will be paved with unit pavers.

Existing plants in the Greenway will be saved and protected or selectively removed, depending upon species and condition. Invasive vegetation will be removed throughout the project area. New trees, low shrubs, and groundcovers will be provided to meet the greenway requirements along with soil amendements and an irrigation system through the plant establishment period. Plantings are proposed to be massed or grouped to provide some screenign of the building and to enframe or enhance trail users' views of the river. Informal plant groupings will be used to promote wildlife habitat and plant species have been selected to thrive in the sandy soils and southern slope exposure.

New development and exterior alterations to existing development are subject to greenway review. The Greenway Trail and related improvements (overlooks, benches, bridge) are considered river-related development, therefore this review is subject to the Type II procedure.

Relevant Approval Criteria:

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

- 33.440.350 Greenway Review Approval Criteria
- Willamette Greenway Design Guidelines as found in the Willamette Greenway Plan

Facts

Site and Vicinity: The property is owned by the Port of Portland and leased to Daimler Trucks. The site is currently developed a large contiguous building and surface parking. The greenway trail and landscaping requirements are installed within the greenway setback, except where the existing building obstructs the greenway setback.

The site is located on the west bank of the Willamette River at Swan Island and within an almost fully developed industrial sanctuary. Most nearby uses are a mix of light industrial, industrial or headquarter offices, and supportive commercial uses.

Infrastructure:

- Roads: At this location, the City's Transportation System Plan classifies N Channel as a Neighborhood Collector street, Transit Access street, City Bikeway, City Walkway & a Local Service street (Street Design mode). N Port Center Way is classified as a Local Service street for all modes. The site is also within a freight district and has a recreational trail designation.
- **Sanitary Sewer:** There is a 24-inch concrete public sanitary gravity sewer located in N Channel Avenue that can serve the site.
- **Water:** There are three existing services (3-inch domestic meter, 3-inch irrigation meter, and 8-inch fire service) which provide water to the site from the 16-inch CI water main in N Channel Avenue.
- **Stormwater Disposal:** There is a 15-inch concrete public storm-only sewer that transitions to an 18-inch concrete storm-only sewer located in N Channel Avenue. There are also two existing private outfalls located on the site.

Zoning: The EG2, or General Employment 2, zone is for areas of the City reserved for industrial uses and for areas that have a mix of uses with a strong industrial orientation. The regulations seek to protect the health, safety and welfare of the public, address area character, and address environmental concerns. Daycare uses, such as the proposed child care center, are allowed by right in the EG2 zone (33.140.100.B.12).

The <u>Greenway overlay zone</u> is intended to protect, conserve, enhance, and maintain the natural, scenic, historical, economic, and recreational qualities of lands along Portland's rivers; establish criteria, standards, and procedures for the development of land, change of uses, and the intensification of uses within the Greenway; increase public access to and along the Willamette River; and implement the City's Willamette Greenway responsibilities as required by ORS 390.310 to 390.368 and Metro's Title 3.

The "g", or Willamette River General overlay zone, allows for uses and development that are consistent with the base zoning, allow for public use and enjoyment of the waterfront, and which enhance the river's scenic and natural qualities. Development on sites within the River General overlay zone must be approved through a Greenway Review.

The "i", or Willamette River Industrial overlay zone, encourages and promotes the development of river-dependent and river-related industries which strengthen the economic viability of Portland as a marine shipping and industrial harbor, while preserving and enhancing riparian habitat, and providing public access where practical.

The Public Recreational Trail designation is intended to increase recreational opportunities within the City of Portland and connect these recreational opportunities within a regional recreational trail system. In addition, trail designations intend to increase public access along the Willamette River, provide emergency vehicle access, support alternative modes of transportation, and provide consistent standards for trail development.

The viewpoint is an important component of the public access system in the Willamette Greenway. Viewpoints provide locations where the public can site and enjoy the natural and built environment along the Willamette River. All viewpoints in the Willamette Greenway are required to meet the design guidelines, to ensure consistency in the quality of viewpoints.

Greenway Resources: Sites 12.1a, 12.1b, 12.2a, 13.1a, 13.2a and 13.2b are identified in the *Lower Willamette River Wildlife Habitat Inventory (LWRWHI)* to be on or within .3 miles of the project area. These sites are Rank III, IV or V sites. Gulls and Great Blue Heron are noted as species seen feeding along the shoreline of the Rank III sites. The Rank IV and V sites are identified as being primarily heavy industrial, heavily disturbed, and with little vegetation. The shoreline in the area is extensively rip-rapped, with limited trees and shrubs. The predominant species along the shoreline are identified in the LWRWHI as being black cottonwood and willow trees, although several madrones have volunteered on the site.

Land Use History: City records indicate that prior land use reviews have been conducted for this site. One prior land use review contains conditions that pertain to this review include:

• LU 02-127418 MP required easements over the recreational trail along the riverfront of Parcel 2, with a connection to N Channel Avenue, and over the existing sidewalks around the Ports of Call building. This condition went on to indicate that the recreational trail easement was to be relocated along the river upon future demolition of the Ports of Call building. These easements are recorded as document no. 2003-062494.

PUBLIC REVIEW COMMENTS

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on January 23, 2014.

1. **Agency Review:** Several Bureaus and agencies have responded to this proposal. The Bureau of Environmental Services, Bureau of Transportation, Water Bureau, Fire Bureau, and Site Development and Life Safety Sections of the Bureau of Development Services (BDS) responded with extensive comments regarding permit requirements that will apply at

demolition and review of new construction. Exhibits E contain the complete responses. Where these requirements may impact this review, they have been addressed in the approval criteria.

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

ZONING CODE APPROVAL CRITERIA

33.440.350 Greenway Review Approval Criteria

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

A. For all Greenway reviews. The Willamette Greenway Design Guidelines must be met for all Greenway reviews.

Findings: The Willamette Greenway Design Guidelines address the quality of the environment along the river and require public and private developments to complement and enhance the riverbank area. The Design Guidelines are grouped in a series of eight Issues:

(Note: A complete description of the Design Guidelines and their applicability is provided in pages 45-81 in the Willamette Greenway Plan.)

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:

Findings: The relationship of structures to the greenway setback area (25 feet landward from the top-of-bank) has two components: the design, orientation, and landscaping of new development should enhance and complement the setback area, and the alignment of structures should follow the established block pattern of the surrounding area (where applicable).

The building is set back from the greenway setback area at a distance ranging from approximately 30 to 200 feet. This setback allows the space between the building and the Willamette River to be used by both DTNA employees and the public along the Greenway Trail. The development will feature outdoor terraces on the river side for private use by DTNA employees Outdoor terrace spaces will have paving, seat walls, lighting, and other furnishings. A 700 square foot picnic shelter will be set back 200 feet from the greenway setback area. A flexible lawn area and landscape buffer area are proposed directly adjacent to the greenway setback area. Landscape areas with trees, shrubs, and ground covers will provide a buffer where the trail is closest to the outdoor terrace. Grading is necessary to shape these spaces given the existing buildings that now occupy this area.

According to the applicant, the project's orientation and mass is meant to address two main objectives – relate to existing DTNA facilities while also responding to the river edge. "The west wing is parallel to DTNA's Corp 1 building to the west, while the east wing bends in parallel with the edge of the Willamette River. This bend in form allows the occupants to enjoy the expansive views across the river to the West Hills, down river toward the St, Johns Bridge, and up river toward downtown Portland." Orienting the mass to the river and adjacent properties is appropriate in this industrial setting where there is not an established block pattern.

The mass is also divided vertically into two main components. The applicant's description indicates that "the tower component (Floors 2-9) is comprised primarily of

glass and conveys a more polished and sophisticated architecture whereas the podium component (first floor) is comprised of tactile/natural materials such as wood, stone, and brick conveying a more 'Northwest' style." The taller glass elements will reflect the sky and west hills, while the first floor components will be more relatable on a pedestrian scale. These design elements, combined with the large landscaped setback should enhance the greenway setback area and new public view points.

The main entry to the building is on the north side of the building, with the main lobby extending through the building to the south to give visitors views through the building to the river and west hills. All parking and drop-off areas are located on the north side of the building, well away from existing and proposed Greenway Trail improvements. Keeping parking, mechanical, and trash collections areas north of or east of the proposed building will maintain the integrity of the greenway setback.

With a condition that development occur in substantial conformance with Exhibits C.3 through C.6 and C.8, this guideline is met.

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

Findings: New developments should integrate public access opportunities to and along the river into the design of the Project. The pedestrian circulation system, including Greenway trail, viewpoints, and trail access connections, should be designed to ensure adequate separation and screening from parking, loading, circulation routes, external storage areas, trash dumpsters, exterior vents, mechanical devices, and other similar equipment. Access connections should be clearly marked. Finally, where site topography and conservation and enhancement of natural riverbank and riparian habitat allow, safe pedestrian access to the water's edge is encouraged as part of the Project.

The proposed development will provide a continuous Greenway Trail along the Willamette River within the greenway setback. This fulfills the long-term vision of the Willamette Greenway Plan and the recently adopted "North Portland Greenway Trail, Segment 4" path along the river. The interim, non-waterfront pathway and easement will be abandoned and vacated as part of this project.

Public access to the Greenway Trail will be provided via a new 12-foot wide pedestrian path from North Channel Avenue on the west side of the NOVA building. Additionally, two concrete paved walkways will connect from the outdoor terraces on the east and west ends of the NOVA building to the Greenway Trail. Furthermore, an informal path adjacent to the east end of DTNA Corp 9 will be paved to provide construction access and remain as a connection to the Greenway Trail. New trail marker signage will be added along the new trail section to clearly mark the Greenway Trail and its connections. Signage shall be placed at up to 5 locations along the trail improvements and shall note regulatory rules and point of access. Small signs designating the limits of the DTNA private property will be placed at key trail connections and where the private walkways link to the public trail.

In addition to constructing the trail segment along the river and the connections listed above, the applicant proposes to repurpose two sections of the building being demolished as new view points. These view points are discussed in more detail under Issue G.

The applicant has proposed an 8-foot wide public access easement over the 12-foot wide path connection from N Channel Avenue. Staff finds this awkward, particularly where there are design elements such as bollards or canopy supports that would restrict use of the 8-foot identified easement area. So that at least 8 feet of clear path is accessible,

the public access easement should encompass at least 12 feet from N Channel to the Greenway Trail. The eastern connection is proposed to be 12 feet in width.

With a condition that public access easements for the Greenway Trail and connections are provided at the time of building permit, this guideline is met.

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

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:

Findings: Where the project site has river frontage, the riverbank is not in a natural state. The shoreline has been modified by placement of rip-rap stabilization from the toe-of-slope to top-of-bank. No modification of the riverbank is proposed. Where the rip-rap shows signs of localized scour around the footings of the existing building that will be repurposed for the eastern overlook, the applicant proposes to repair this section back to the pre-erosion ground line. Bioengineering and other soft solutions were rejected due to high velocity and scour forces of the river at this location. Rock placement will be less than 50 cubic yards and will be sized up to ODOT Class 700 angular rock, matching existing conditions and grades around the footings (See Exhibit C.40).

BDS Site Development has responded that the fill, though proposed to replace rock lost due to erosion, is still subject to the balanced cut and fill requirements of Title 24.50. While this technical standard is applied at the time of building permit, excavation and fills greater than 50 cubic yards within the greenway overlays are subject to greenway review.

Grading to reduce the bank slope and remove rip-rap around the existing outfall below the pedestrian bridge may provide an adequate amount of cut to balance the fill below the east overlook. As long as any additional excavation occurs within the limits of disturbance and outside of the root protection zone of protected trees, grading to achieve balanced cut and fill can be accommodated in the area around the existing outfall.

The Lower Willamette River Wildlife Habitat Inventory identifies the project area as being within a Rank V habitat zone (areas 13.2a and 13.2b). There are no Rank I designated habitat areas within the project area or adjacent to the site. A naturally occurring sandy beach is accreting upstream of the site and riparian vegetation is re-establishing in the rip-rap and along the shore. The proposed plantings within the greenway setback will enhance the riverbank and riparian habitat along the river by providing additional native and adapted vegetation. A substantial amount of impervious surface will be removed from the greenway setback with the demolition of the existing Ports O' Call building complex.

For the reasons described, these guidelines are met.

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

Findings: The project site is currently developed with a commercial building complex. Adjacent buildings are also used by DTNA. The proposal for a 9-story office tower and

1,426 parking spaces is further evidence of an area that will have more intense human use. For these reasons, a more formal landscape treatment is appropriate.

New trees, low shrubs, and groundcovers are proposed to meet the greenway landscape standards, along with soil amendments and an irrigation system through the plant establishment period. Plantings will be massed and grouped to provide some screening of the building and to frame or enhance trail users' views of the river. Plantings elsewhere within the greenway setback will be informally grouped to promote wildlife habitat. Plant species have been selected to thrive in sandy soils and the southern slope exposure. Invasive vegetation will be removed throughout the project area to facilitate establishment of new plantings.

A large, landscaped open space is proposed between the south side of the NOVA building and the greenway setback area. This space ranges in width from 30 to 200 feet and will enhance the transition to the greenway. A vegetated buffer and bioswale will provide a pleasant landscape area of new trees, shrubs, and groundcovers at the location where the Greenway Trail is closest to the building.

The applicant has indicated that existing plants in the greenway setback will be saved and protected or selectively removed, depending upon species and condition. An extensive tree assessment has been provided and is included in the case file as Exhibit A.7. The tree assessment report provides recommendations for protection during construction and post-construction tree care of the 107 trees that are to be retained on the site, but also acknowledges that some additional trees may be impacted by construction that cannot be anticipated at this stage. The proposed planting plans currently exceed the minimum number of trees in the greenway setback. There is also adequate space to add more trees outside of the setback, should trees be impacted elsewhere on the site. A condition of approval requiring additional replacement trees at 1:1 for trees outside of the greenway setback is necessary to provide the flexibility required at the time of permit review. Recognizing that trees in the greenway setback provide more habitat value, these trees should be replaced at a rate of 1 new tree for every 3 inches in diameter of tree to be removed. In either case, an increase in tree removal shall not exceed 10% of what was identified in the arborist report.

The applicant's narrative has not addressed monitoring and maintenance for proposed and required landscape areas. BDS recommends a two-year monitoring period as this should be adequate time for new plants to become established. Two years should also be enough time to determine if any damage to preserved trees has occurred. Any required plantings that have not survived must be replaced.

With a condition that landscaping is installed at the time of building construction, consistent with Exhibits C.43 through C.48 and a condition for two years of monitoring and maintenance, this guideline is met.

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

Findings: The Greenway Trail alignment should be sensitive to and take advantage of topographical and environmental features of the site, views of the river, existing and proposed vegetation, and sunlight. Additionally, the Greenway Trail should be located so as to be open for public use year round.

The new Greenway Trail segment will be located entirely within the 25-foot greenway setback area above top-of-bank. It will directly connect two existing 12-foot wide paved trail segments, resolving the existing non-standard trail segment that is routed away from the river and around an existing complex of commercial buildings that will be demolished as part of this proposal. Portland Parks and Recreation has commented

that "overall, the trail and bridge are well designed and the overlooks give the public viewing access to the river," however they also suggest the following changes:

- 1. According to American Association of State Highway Transportation Officials (AASHTO) standards which are used by PP&R for trails, the bridge need to be one foot wider on each side than the trail. This allows for railing and other safety measures. The plan drawings show the bridge the same width as the trail. The applicant needs to increase the width of the bridge to 14 feet.
- 2. The North Portland Greenway Trail Plan shows an off-street trail typical section in this area as 12 feet wide with 2 foot shoulders on each side. Once the entire trail system is built out, PP&R anticipates that this will be a heavily used commuter route and popular with recreation users as it is close to the river. PP&R suggests that in-lieu of the required 2 foot shoulders on each side of the trail, the applicant construct a 16 foot wide concrete surface trail in this area. Otherwise, the trail needs to be 12 feet wide with 2 foot shoulders on each side to meet PP&R minimum standards for Regional Trails (Trail Design Guidelines for Portland's Park System M).
- 3. Portland Parks & Recreation has an existing 10' easement for public access to the current walkway. The applicant should work with PP&R to finalize a new recreation trail easement to accommodate the wider trail. The applicant has the option to give PP&R a trail easement for maintenance. If the applicant does not grant a maintenance easement to PP&R then they are responsible for maintaining the trail and bridge. PP&R will not assume responsibility of the lighting if the applicant gives a trail easement to PP&R.

As proposed, the Greenway Trail segment meets PP&R's minimum standard for Regional Trails, except for the two-foot gravel shoulders. Adding the gravel shoulders or paving to a width of 16 feet should not significantly alter the alignment of the trail. Taking into consideration the five-foot wide vegetated filter strip, the total width of improvements would be 21 feet. BES has indicated that a revised stormwater report would need to confirm that the proposed filter strip is still adequate should paving increase to 16 feet.

BDS supports the slightly wider bridge in order to comply with nationally adopted safety standards. As proposed, the bridge spans from bank to bank over a manmade inlet that surrounds an existing outfall. The additional two feet (or six feet if a wider trail is constructed for a maximum 18-foot wide bridge), will not create impacts significantly different than a 12-foot wide bridge because no supports are proposed below top-of-bank and stormwater will be allowed to shed directly off the structure.

PP&R has indicated that the applicant "may" provide an easement for the trail maintenance. Regardless of whether or not a maintenance easement is granted, the applicant must provide a public access easement over the Greenway Trail to meet the standards of Chapter 33.272, Public Recreational Trails.

With conditions that require an access easement for the revised location of the Greenway Trail prior to permit issuance and construction to PP&R standards prior to building occupancy, this guideline 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:

Findings: There is one identified viewpoint along the Greenway Trail in front of the adjacent DTNA Corp 9 Building that is already constructed. While there are no identified viewpoints within the project area, the applicant has proposed to repurpose two section of foundation from the existing Ports O' Call complex for new viewpoints. Construction of the viewpoints will avoid impacts to the riparian area by limiting

grading below top-of-bank and provide stunning river view opportunities for public trail users.

Viewpoints should be designed as safe, comfortable resting places with seating or other equipment to facilitate short duration stops. Each viewpoint should be relatively small in size and have a hard surface. Viewpoints developed in conjunction with the trail should be adjacent to the trail, but designed to create a separate space.

The applicant's narrative and plans refer to the two proposed viewpoints as "eastern overlook" and "western overlook". The eastern overlook will extend a range of 9-28 feet past the top-of-bank and match the existing building footprint. Following partial demolition of the building, this overlook will be constructed with galvanized steel beams mounted to the footings of the remaining portion of the building. The walking surface of the overlook is proposed to be industrial steel grating so that sunlight and rainwater can pass through to bank vegetation below. The overlook will have a 42-inch high steel guardrail on three sides.

The design of the western overlook also utilizes a portion of the existing building foundation and exterior wall. The floor, upper structure, and roof will be demolished so that the overlook is open to the elements, but the lower wall will remain to "enclose" the space. The walking surface of this overlook area is proposed to be compacted decomposed granite paving, with the trail a scored concrete. Seating, in the form of low walls, will be incorporated on private property on the north side of the trail.

Both viewpoints satisfy the design guidelines related to size, facilities, and relationship to the Greenway Trail. PP&R reviewed the proposed viewpoint elements and did not raise any concerns. Access to the water is not possible from the viewpoints due to the steep rip-rapped bank, however river access is provided roughly 300 feet to the west and less than 500 feet to the southeast.

Based upon comments received from Site Development regarding possible problems with keeping the existing building foundations, the applicant provided an alternative (though not preferred) plan that does not include the two viewpoints. This plan (Exhibit C.49) shows the Greenway Trail and two cast-in-place benches placed to provide a place for trail users to rest and appreciate the stunning views across the Willamette and south to the Fremont Bridge. Should it be deemed infeasible to reuse the existing building foundations at the time of permit review, this alternate trail plan will be used.

The viewpoints must be constructed in substantial conformance with Exhibits C.38 through C.41, unless determined to be infeasible at the time of permit. If it is not possible to reuse the existing building foundations, the alternate trail plan may be implemented, consistent with Exhibit C.49. With these conditions, this guideline is satisfied.

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

Findings: There are no view corridors identified in the *Willamette Greenway Plan* on or near the project site. This guideline does not apply.

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

Findings: A portion of the project site does have a River Industrial designation, however this portion of the site does not have river frontage. The river frontage within the i-overlay is owned by the Port of Portland and is not part of the applicant's lease area. Also, no work is proposed within the i-overlay zone. This criterion is not applicable.

- C. Development within the River Natural zone.
- D. Development on land within 50 feet of the River Natural zone.

Findings: The site does not have a River Natural designation and is not within 50 feet of a River Natural designation. These criteria do not apply.

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

Findings: The proposed development is located in sites 13.2a and 13.2b, which are both Rank V habitat areas. There are no Rank I or II habitat areas in the vicinity of the project site. The nearest Rank II site is over 1.5 miles downriver from the site. All work within the greenway setback is limited to the construction of the Greenway Trail, two new public viewpoints, and grading around an existing stormwater outfall. With the construction management practices proposed by the applicant, none of these development elements will have significant impacts that would reach more than 1.5 miles downriver.

A condition of approval requiring that trail and viewpoint construction occur in substantial conformance with the Construction Management Plans, Exhibits C.14 through C.17 will ensure that this criterion is met.

- **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 of the following criteria:
 - 1. The proposal will not result in the significant loss of biological productivity in the river;

Findings: The two existing building sections that extend riverward of the greenway setback will be replaced with overlook decks that occupy the same footprint. For the eastern overlook, the area will become pervious except where the existing footings are located. The riverbank at this location is currently armored with rip-rap. No loss of biological productivity will occur as there will be no increase in development beyond top-of-bank. Reducing the structure height and opening up the eastern overlook floor will reduce shading and shadows over the river.

Should it not be possible to reuse the existing building foundations for the overlooks, the footings will be removed down to approximately 12 inches below the existing grade. The bank armoring will be repaired by removing a limited amount of gravel on the bank and importing an equal amount of new rip-rap to protect the slope and match existing conditions. Biological productivity in the river under this alternative will be improved by eliminating the shadows cast by the existing structures.

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

Findings: The riverbank on this site is composed of previously engineered rip-rap. No changes to the slope are proposed. The applicant has indicated that several areas along the shoreline show signs of localized scour. Minor armor stone replacement is proposed around of the existing building footings to protect the proposed east overlook. No more than 50 cubic yard of ODOT Class 700 angular rock will be imported to match the existing conditions and grades around the footings. The large rock is necessary to stand up to the high velocity and scour forces of the river and is designed to resist 100-year flood, wind, and boat wakes.

- 3. The proposal will not:
 - a. Restrict boat access to adjacent properties;

- b. Interfere with the commercial navigational use of the river, including transiting, turning, passing, and berthing movements;
- c. Interfere with fishing use of the river;
- d. Significantly add to recreational boating congestion; and

Findings: The project does not include any in-water elements (such as piers or docks) that would restrict boat access, interfere with commercial navigation, fishing, or recreation boating congestion.

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

Findings: River/beach access is not possible from the project area due to the steep riprapped bank, however river access is provided roughly 300 feet to the west and less than 500 feet to the southeast. The project will maintain these existing beach access points.

For all of the reasons identified, the four elements of this criterion are met.

- G. Development within the River Water Quality overlay zone setback.
- H. Mitigation or remediation plans.

Findings: No activity occurs within the River Water Quality ("q") overlay zone; the site is within the River General ("g") and River Industrial ("i") overlay zones. Mitigation or remediation plans are only required by the approval criteria specific to development within the River Water Quality overlay zone, and therefore the requirement for such plans is not triggered by this case. For these reasons, criteria G and H do not apply.

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

The project includes work within three areas on the site:

- 1. <u>Landward of the Greenway Setback</u>: New DTNA headquarters building (NOVA building), parking structure, surface parking, site grading, access roads, sidewalks, walkways, landscaping, stormwater, and other required site development elements. The existing building will be demolished;
- 2. <u>Within the Greenway Setback</u>: Required landscaping, public viewpoint and trail construction. Demolition of portions of existing building;
- 3. <u>Riverward of top-of-bank</u>: Temporary erosion control and construction debris control fencing, removal of existing building structure, limited localized slope stabilization near the portions of building footprint to remain, and construction of public greenway overlooks and viewpoints.

Most of the existing development and vegetation landward of top-of-bank will be removed to accommodate the proposed development and greenway improvements. The applicant has provided findings for the approval criteria listed above and, with conditions to address concerns raised by City reviewers, the applicable approval criteria will be able to be met.

ADMINISTRATIVE DECISION

Approval of Greenway Review for construction of the following:

• A 9-story office building;

- A 4-story parking garage;
- Surface parking, drop-off areas, and related site improvements;
- New stormwater facilities and underground utility connections; and
- The Greenway Trail meeting the standards of Portland Parks and Recreation, two overlooks, and a pedestrian bridge up to 18 feet in width;

Approval of Greenway Review for:

- Removal of 204 trees;
- Partial demolition of the existing Ports O' Call complex;
- Bank layback and rip-rap removal around an existing outfall; and
- Up to 50 cubic yards of fill (rip-rap) around the footings to remain for the east overlook

all within the Greenway overlay zones, and in substantial conformance with Exhibits C.3-6, C.8, C.14-17, and C.39-50 as, signed and dated by the City of Portland Bureau of Development Services on March 3, 2014. Approval is subject to the following conditions:

- **A. All permits:** Copies of the stamped Exhibits C.3-6, C.8, C.14-17, and C.39-50 from LU 13-236856 GW and Conditions of Approval listed below, shall be included <u>within all plan sets submitted for permits (building, grading, Site Development, erosion control, etc.)</u>. 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 Exhibits C.3-6, C.8, C.14-17, and C.39-50."
- **B.** The viewpoints must be constructed in substantial conformance with Exhibits C.38 through C.41, unless determined to be infeasible at the time of permit. If it is not possible to reuse the existing building foundations, the alternate trail plan may be implemented, consistent with Exhibit C.49.
- **C.** Easements for the new Greenway Trail segment and connections must be in place prior to issuance of a permit for the new DTNA office building. Final occupancy shall not be approved until the trail segment and public connections are installed.
- **D.** An increase in tree removal of up to 10% of the trees identified for preservation in the arborist report (Exhibit A.7) is allowed, subject to the following replacement requirements:
 - 1. Trees outside of the greenway setback must be replaced at a minimum of 1:1'
 - 2. Trees within the greenway setback must be replaced at a rate of 1 new tree for every 3 inches in diameter of the tree to be removed.
- **E.** Temporary construction fencing shall be installed according to Section 33.248.068 (Tree Protection Requirements), except where the project arborist provides an alternative recommendation. Construction fencing shall also be placed along the Limits of Construction Disturbance for the approved development, as depicted on Exhibits C.14-17, & C.50 Construction Management Plan, or as required by inspection staff during the plan review and/or inspection stages.
 - 1. No mechanized construction vehicles are permitted outside of the approved "Limits of Construction Disturbance" delineated by the temporary construction fence. All planting work, invasive vegetation removal, and other work to be done outside the Limits of Construction Disturbance, shall be conducted using hand held equipment.
 - 2. Excavation to meet balanced cut and fill requirements is allowed within the limits of disturbance provided it is outside of the root protection zones (RPZs) for trees to be preserved.
- **F.** Landscaping must be installed prior to building occupancy in substantial conformance with Exhibits C.43 through C.48.
 - 1. Plantings shall be installed between October 1 and March 31 (the planting season).
 - 2. Prior to installing required plantings, non-native invasive plants shall be removed from all areas within 10 feet of new plantings.
 - 3. After installing the required greenway plantings, the applicant shall request inspection of Permanent Erosion Control Measures (IVR 210) by the Bureau of Development

Services, who will confirm that all required plantings have been installed. A letter of certification from the landscape professional or designer of record may be requested by the Bureau of Development Services to document that the plantings have been installed according to the approved plans.

- **G.** An inspection of Permanent Erosion Control Measures shall be required to document installation of the required greenway plantings.
 - 1. The **Permanent Erosion Control Measures** inspection (IVR 210) shall not be approved until the required mitigation plantings have been installed (as described in Condition C above);

--OR--

- 2. If the **Permanent Erosion Control Measures** inspection (IVR 210) occurs outside the planting season (as described in Condition C above), then the Permanent Erosion Control Measures inspection may be approved prior to installation of the required mitigation plantings if the applicant obtains a separate **Zoning Permit** for the purpose of ensuring an inspection of the required mitigation plantings by March 31 of the following year.
- **H. The land owner shall maintain the required plantings** for two years to ensure survival and replacement. The land owner is responsible for ongoing survival of required plantings during and beyond the designated two-year monitoring period. The landowner shall:
 - 1. Obtain a Zoning Permit for a final inspection at the end of the 2-year maintenance and monitoring period. The permit must be finaled no later than 2 years from the final inspection for the installation of mitigation planting, for the purpose of ensuring that the required plantings remain. Any required plantings that have not survived must be replaced.
- **I.** 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.

Note: In addition to the requirements of the Zoning Code, all uses and development must comply with other applicable City, regional, state and federal regulations.

This decision applies to only the City's environmental regulations. Activities which the City regulates through PCC 33.430 may also be regulated by other agencies. In cases of overlapping City, Special District, Regional, State, or Federal regulations, the more stringent regulations will control. City approval does not imply approval by other agencies.

Staff Planner: Rachel Whiteside

Decision rendered by: ______ on March 3, 2014.

By authority of the Director of the Bureau of Development Services

Decision mailed: March 6, 2014

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 December 11, 2013, and was determined to be complete on January 21, 2014.

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 December 11, 2013.

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 extended the 120-day review period by 14 days. Unless further extended by the applicant, **the 120 days will expire on: June 4, 2014.**

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 March 20, 2014** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **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 St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- Unless appealed, The final decision may be recorded on or after March 21, 2014 (the day following the last day to appeal).
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034 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. Original Narrative
 - 2. Preliminary Geotechnical Report
 - 3. Tree Assessment
 - 4. Stormwater Management Plan
 - 5. Response to Incomplete Letter
 - 6. Revised Narrative
 - 7. Updated Tree Assessment
 - 8. Revised Stormwater Management Plan, dated January 13, 2014
 - 9. Memo Regarding Alternate Greenway Trail Design, dated February 27, 2014
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Vicinity Map and Sheet Index
 - 2. Architectural Site Plan with Existing Conditions
 - 3. Architectural Site Plan with Proposed Development (attached)
 - 4. Ground Level and Mezzanine Floor Plans

- 5. Tower Floor Plan and Roof Plan
- 6. Building Elevations (attached)
- 7. Civil Overall Existing Conditions Plan
- 8. Civil Overall Proposed Development Plan
- 9. General Notes & Legend
- 10. Existing Conditions Plan West
- 11. Existing Conditions Plan East
- 12. Existing Conditions Plan South
- 13. Existing Conditions Plan Southeast
- 14. Construction Management West
- 15. Construction Management East
- 16. Construction Management South
- 17. Construction Management Southeast
- 18. Proposed Development Water & Sanitary West
- 19. Proposed Development Water & Sanitary East
- 20. Proposed Development Water & Sanitary South
- 21. Proposed Development Water & Sanitary Southeast
- 22. Proposed Development Stormwater West
- 23. Proposed Development Stormwater East
- 24. Proposed Development Stormwater South
- 25. Proposed Development Stormwater Southeast
- 26. Landscape Existing Conditions
- 27. Overall Proposed Landscape Plan
- 28. Existing Tree Plan L1.1
- 29. Existing Tree Plan L1.2
- 30. Existing Tree Plan L1.3
- 31. Existing Tree Plan L1.4
- 32. Existing Tree Plan L1.5
- 33. Landscape Plan L2.1
- 34. Landscape Plan L2.2
- 35. Landscape Plan L2.3
- 36. Landscape Plan L2.4
- 37. Landscape Plan L2.5
- 38. Landscape Partial Site Plan
- 39. Site Sections
- 40. Landscape Site Plan West Overlook (attached)
- 41. Landscape Site Plan East Overlook (attached)
- 42. Landscape Site Plan Pedestrian Bridge (attached)
- 43. Landscape Planting Notes
- 44. Landscape Planting Plan L4.1
- 45. Landscape Planting Plan L4.2
- 46. Landscape Planting Plan L4.3
- 47. Landscape Planting Plan L4.4
- 48. Landscape Planting Plan L4.5
- 49. Alternate Landscape Partial Site Plan
- 50. Alternate Construction Management South
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Planning Division
 - 7. Life Safety Review Section of BDS

- F. Correspondence: none received
- G. Other:
 - 1. Original LU Application
 - 2. EA 13-213907 Summary
 - 3. Incomplete Letter, sent December 31, 2013

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).











