



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

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Date: April 11, 2013
To: Interested Person
From: Kathy Harnden, 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 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 13-121077 EN

GENERAL INFORMATION

Applicant: Johnson Creek Watershed Council / Attn: Matt Clark
1900 SE Milport Rd., Suite B / Milwaukie, OR 97222

Representative: John Vlastelicia / Vigil Agrimis, Inc.
819 SE Morrison St., Ste 310 / Portland, OR 97214

Owner: Oregon Worsted Co.
9701 SE McLoughlin Blvd. / Milwaukie, OR 97222

Site Address: 8300 SE MCLOUGHLIN BLVD

Legal Description: TL 200 7.77 ACRES LAND & IMPS SEE R330408 (R991240121) FOR BILLBOARD, SECTION 24 1S 1E

Tax Account No.: R991240120

State ID No.: 1S1E24CC 00200

Quarter Section: 3833

Neighborhood: Ardenwald-Johnson Creek, Lisa Gunion-Rinkder at 503-232-5265.

District Coalition: Southeast Uplift, contact Bob Kellett at 503-232-0010.

Plan District: Johnson Creek Basin Plan District, in 100-year floodplain

Other Designations: 100-year Floodplain and Floodway

Zoning: EG2c-General Employment 2 base zone, with Environmental Conservation overlay zone

Case Type: EN – Environmental Review

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

Proposal:

The applicant, Johnson Creek Watershed Council, is proposing additional enhancement of aquatic habitat in and adjacent to Johnson Creek in that portion of the Creek located between the Union Pacific Railroad tracks to the east and SE McLoughlin Boulevard and the proposed light rail tracks to the west. This same section of Johnson Creek is the mitigation site for TriMet's recent land use approval for a light rail station and park and ride facility located on the south side of Johnson Creek (LU 11-193753 EN). This resource enhancement project will

be completed in conjunction with Tri-Met's approved mitigation installation such that all the work will be completed at the same time as one project.

The current proposal will expand on Tri-Met's previously proposed, and approved, mitigation plan by installing additional native plants; deepening the approved side channel to create additional fish habitat; installing additional log/rootwads for both aquatic habitat and enhanced bank stability, removing non-native species from an adjacent wetland, and replanting the wetland with native wetland species, all within the boundaries of Tri-Met's approved mitigation area. Specifically, the Watershed Council proposes to:

- Deepen the upstream and downstream ends of Tri-Met's proposed side channel by an additional one foot at the upstream end and ranging down to 2 feet at the downstream end of the channel in order to provide additional fish refuge during a wider range of high flows;
- Install 5 single-log/rootwads and 2 cluster log/rootwads in the banks of Johnson Creek, and 3 single log/rootwads in the upland areas south of the south top of bank to enhance fish, amphibian and upland habitat;
- Install 22 boulders above and below grade to help stabilize the rootwads in Johnson Creek and also create habitat;
- Remove invasive vegetation within an approximately 2,500 square-foot, existing wetland on the north bank and replant the wetland with 17 native trees, 150 native shrubs and 17.45 pounds of native grass seeds;
- Plant an additional 45 native trees in the south bank floodplain and adjacent upland areas; and
- Install an interpretive viewing platform that overhangs the top of bank and resource area on the south bank. The majority of the platform will be in the transition area, beyond the top of bank, and in the environmental transition area, with approximately 220 linear feet of a connecting pedestrian boardwalk that is also either in the transition area or outside the environmental zone on the south bank, and which leads to TriMet's proposed and approved pedestrian and bicycle path and bridge on the east side of the site (see Site Plan C.2 for details).

Tri-Met's approved mitigation project and this proposed resource enhancement plan will be constructed as a single project in conjunction with TriMet's approved light rail development (LU 11-193753 EN) at the site. The attached site plans use the approved mitigation and construction management plans from the light-rail case as a base from which to add the details for this additional resource enhancement proposal. No additional trees are proposed for removal in this case.

Only the activities that will occur within the resource areas of the site are subject to this review. This includes:

- Additional excavation of the first 15 feet of the upstream end and the last 20 feet of the downstream end of the proposed side-channel deepening project, both of which are located within the resource area of the Conservation zone; (the remaining side channel area is located outside the resource area);
- Placing logs/rootwads from the north bank via a crane onto the bank and wetland areas of Johnson Creek;
- Walking a spider hoe across Johnson Creek from the south side and operating it from the creek bed to excavate log trenches in the bed, banks and wetlands of Johnson Creek on the north shore and in the bed and banks of the south shore;
- Placing and storing excavated material on the banks and in the identified wetland on the north bank of Johnson Creek;
- Installing the log rootwads and boulders in the excavated trenches;
- Removing any native vegetation within the adjacent wetland while removing invasive species; and
- Installing a small portion of the proposed viewing platform.

Relevant Approval Criteria:

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

Section 33.430.250 B. Resource enhancement projects. In resource areas of environmental zones, resource enhancement projects will be approved if the applicant's impact evaluation demonstrates that all of the following are met:

1. There will be no loss of total resource area;
2. There will be no significant detrimental impact on any resources and functional values; and
3. There will be a significant improvement of at least one functional value.

FACTS

Description of the Site: The site is just north of and is the mitigation area for the Tacoma Park and Ride site and the new Portland Milwaukie Light Rail bridge over Johnson Creek which are being developed at 8300 SE McLoughlin Boulevard, immediately north of the southern Portland city limits boundary. The portion of Johnson Creek that is subject to this review is located between SE McLoughlin Boulevard to the west and Union Pacific Railroad to the east. It is south of SE Tenino Street and the Springwater Corridor Trail follows along the Creek's riparian area. The site is also located between industrial and warehouse uses to the south, and park property to the north.

Johnson Creek flows in a southeast to northwest direction across the site and is bordered with a mix of native riparian vegetation as well as non-native invasive species along the bank to the top. From the top of bank landward on both sides of the creek, the vegetation quickly changes from riparian vegetation to weeds and gravels.

Other than the area between Johnson Creek's banks, the area has been heavily degraded through its former use as a warehouse site. The area to the south of the creek is a mixture of broken asphalt, dirt, and demolition debris. The area to the north of Johnson Creek has been graveled to provide access for ODOT to the existing overpass structure.

Infrastructure: SE McLoughlin Boulevard, also known as Oregon State Route 99E, fronts the west side of the site. The Union Pacific Railroad forms the east property line, with SE Tenino Street on the north.

A 61-inch public combination sewer (the Lents Trunk Line) crosses the site from east to west, approximately bisecting it (BES project # 0652). This sewer is covered by a public sewer easement.

Zoning: The zoning designation is EG2c –General Employment 2 base zone, with Environmental Conservation overlay zone.

The EG2 zone allows a wide range of employment opportunities without potential conflicts from interspersed residential uses. The emphasis of the zone is on industrial or industrially-related uses. The EG2 zone allows light rail stations (basic utility use category) and park and ride facilities (community service use category); the EG2 regulations are therefore not specifically addressed through this Environmental Review. The development standards of the EG2 zone must be met at the time of building permit review for the project.

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

The public recreational trail symbol does cross this site. Land Use case 11-193753 for the Light Rail Project determined that the applicant of that case, Tri-County Metropolitan (Tri-Met), will be required to provide a public easement to construct the trail as part of the light rail development as required in Zoning Code section 33.272 Public Recreational Trails.

Environmental Resources: The application of the environmental overlay zones is based on detailed studies that have been carried out within eight separate areas of the City. Environmental resources and functional values present in environmental zones are described in environmental inventory reports for these study areas. The project site is mapped within Resource Site No.3, the City of Portland/Milwaukie Limit, in the *Johnson Creek Basin Protection Plan*. Resources and functional values of concern on the project site include water, storm drainage, fish and wildlife habitat, and flood storage.

The habitat classifications for this site include: riverine, lower perennial, unconsolidated bottom and palustrine, scrub shrub, broad leaved deciduous, seasonally flooded. Within the project stretch, the width of Johnson Creek is about 40 feet at this site, as measured at ordinary high water (OHW).

Riparian vegetation on the south bank of the creek extends approximately 25 feet outward from OHW. The south bank slopes at approximately 45%, and the elevation difference between OHW and top of bank varies from 6 to 8 feet.

On the north bank of the creek, the riparian vegetation extends between 40 and 90 feet inland from OHW. The north bank has a 25-foot wide terrace that house a wetland, and transitions into a steep slope of approximately 50%. The elevation difference between OHW and top of bank varies from 8 to 17 feet. Both banks are heavily vegetated with native alder trees as well as invasive Himalayan blackberry and reed canary grass.

Impact Analysis and Mitigation Plan: This proposal is to enhance aquatic habitat areas within and adjacent to that section of Johnson Creek described above.

Construction Management Plan

The project will be implemented at the same time as the Mitigation Plan for the Light Rail Project (approved in LU 11-193753 EN) is implemented. Because in-water work is necessary to perform this resource enhancement project, it too will be subject to the terms and conditions of a Joint Permit issued by the Army Corp of Engineers; and to the proper erosion control plans and Construction Management narrative submitted with the 2011 land use application. In addition, all erosion control measures must be in place and inspected prior to any ground disturbing activities.

All work that is performed below the ordinary high water mark is limited to the in-water work window as required by the U.S. Corps of Engineers. As the proposed side channel deepening will occur at the same time as the channel creation project, it must be conducted per the Construction Management Plans for the Light Rail project (LU11-193753). The applicant states that during the dry, summer work window, flows will be very low in Johnson Creek, and the thalweg, the area of fastest and deepest water, will be along the north bank where excavation is to occur.

Tree protection proposed by the applicant is identical to that proposed for the Light Rail Project in LU_11-193753 EN, EX. A.1, Appx.4, as follows:

Tree Protection during major grading for the Side Channel:

1. Tree protection fencing will be installed above ordinary high water outside the tree protection zone of the alders along Johnson Creek and will remain in place during major grading. It will consist of a 6-foot chain link fence secured to 8-foot metal posts at the extents of the tree protection zone. This area, for this project, is defined as an arc on the landward side of the trees, that includes 1.25 feet in radius for each 1 inch in diameter of tree trunk (DBH). This is an increase over the T1 standard that requires a 1-foot radius for

only 1-inch of DBH because the alders have a low to moderate tolerance for construction damage and are mature in age.

2. A certified arborist will be present on-site during floodplain and side channel grading to observe grading and direct the root pruning. Any roots 1" in diameter or greater will be pruned cleanly rather than left torn or crushed, which will result in a flat surface with adjacent bark firmly attached. The arborist will ensure that all work is to ISA (International Society of Arboriculture) and ANSI A300 Part 5 standards. The arborist will also monitor trees that have been sufficiently compromised. Once the arborist is satisfied that all roots are cut cleanly and has evaluated all the trees for structural stability, the major grading work may be completed.

Tree Protection during finish grading:

3. Finish grading for the floodplain and channel will also be carried out under the supervision of a certified arborist. The chain link tree protection fencing will be removed and a second line of tree protection fencing (consisting of 6-foot tall metal posts at 6 feet on-center with 4-foot tall orange plastic fencing) will be erected at a distance of 4 feet from the tree trunks. The finish grading work will be completed with smaller equipment than the major grading in order to minimize soil compaction in the tree root zones. The secondary tree protection fencing may be removed and or repositioned at the direction of the arborist in order to fine-tune the grading area within the tree protection zone if necessary. If vehicle maneuvering must take place within the drip line of the existing trees, this area will be surfaced with a minimum of 6 inches of deep wood mulch to disperse vehicle loads.

Excavation for the log rootwad habitat construction:

This proposal involves bank excavation below ordinary high water at both ends of the side channel and for placement of 9 logs with attached root wads in separate places along the north bank and one placed on the south bank. Site plans indicate that the buried portion of the logs could vary between 20 to 25 feet in length, with about 5 to 7 feet of roots daylighting from the bank. The applicant estimates that each log site will require about 4 cubic yards of excavation and have a disturbance area of about 25 square

Site plans also indicate that the minimum burial depth at the landward end of the logs will be about 6 feet deep and that the roots themselves will be both above and below the bed of the creek. The creek bed, under and around the root wads, will be stabilized by a constructed streambed composed of cobbles, or round rock. The work will occur during typical low flows during the summer in-water work window which should result in the excavations occurring above the summer water level. However, turbidity curtains will be installed prior to excavation of the log trenches. A spider hoe, which typically has rubber tires instead of tracks as well as legs that help it position itself while minimizing impacts to the ground, will be used to excavate the trenches for the logs. It will be walked down the south bank, across the almost dry bed of Johnson Creek to the north bank, where the thalweg runs against the bank. The spider hoe will excavate a trench, placing spoils on the dry north bank, pick up a log and insert it into the trench, scoop up the excavated material and place it back over the log, leaving the roots exposed in the creek bed. Logs will be delivered to the north bank by a crane situated above the creek on the north bank.

Construction of the viewing platform:

The applicant's written application states that the viewing platform will be constructed entirely outside the resource area of the Conservation Zone. All of the footings and all but one corner of the platform will be located outside the resource area, in the transition area. Approximately 1.5 square feet of the viewing platform will be located in the resource area. Construction of this corner will occur from the top of the platform as the decking is being laid.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **March 15, 2013**. The following Bureaus have responded with no issues or concerns:

The Bureau of Environmental Services responded with general information regarding stormwater management requirements, site considerations, and existing utilities on the site. Please see Exhibit E.1 for additional details.

The Water Bureau responded that it had no issues regarding this resource enhancement project and provided water information at the site. Please see Exhibit E.2 for additional details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on March 15, 2013. 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. 430.250 Approval Criteria

An environmental review application will be approved if the review body finds that the applicant has shown that all of the applicable approval criteria are met. When environmental review is required because a proposal does not meet one or more of the development standards of Section 33.430.140 through .170, then the approval criteria will only be applied to the aspect of the proposal that does not meet the development standard or standards.

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

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

Findings: The size of the resource area will not be impacted by installation of the habitat logs and rootwads, by the additional excavation at the ends of the proposed slack-water channel, or by planting additional native plants in the north bank wetland. The elevated viewing platform will lie almost entirely in the transition area of the Conservation Zone.

However, a small corner at the northeast end of the platform, as proposed, will jut out over the creek bank and into the resource area. This area will encompass approximately 1.5 square feet, based on the applicant's site plans. Since the boards that fit into this corner will be laid from the top of the platform, it is unlikely that any work will be done from within the resource area. The footings for the platform will all be located on the upland flat area. As the platform will be elevated approximately four feet above grade, and the corner of the platform in the resource area will be located above a steep bank, technically there won't be any loss of resource area below this corner of the platform. It will also be planted with a native seed mix and shrubs. A Commercial Permit will be required to construct the viewing platform and boardwalk.

Therefore, there will be no loss of total resource area on the site, and this Criterion is met.

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

Findings: The installation of the habitat logs and rootwads, along with the proposed native plants to be installed in the wetland area north of the creek bed, will significantly enhance the riparian functions of this stretch of Johnson Creek. The use of a wheeled excavator, such as a spider hoe, will minimize impacts to the banks and bed of Johnson Creek as it makes its way down the south slope and across the streambed. The timing of the project, during the low flow months of late July and August ensures that contact with aquatic life in Johnson Creek will be minimized and impacts to the creek-bed will be few. The applicants state that the area to be excavated will be above the typical

summer low flows so that excavation of the log trenches will occur on dry banks rather than within wet areas. The proposal to excavate the trenches, install the logs and recover them is estimated to take only one day to complete. Therefore, the excavated dirt piles will not be required to be covered during this process, unless the process takes longer. The excavation piles of any trenches not covered by the end of the first day of work will need to be covered with waterproof material to ensure that sediment is not blown or washed into Johnson Creek.

The creek's thalweg runs along the north bank, however, so any spills will go directly into the summer flow. Therefore, the applicant proposes to install a turbidity curtain downstream of the project to catch any sediments that may enter the stream. If spills occur, the applicants will be required to take immediate cleanup measures prescribed by the Army Corps of Engineers for such situations. The curtain shall remain in place until the project is complete and/or the stream is running clean.

When the logs have all been installed, the excavation sites, along with the wetland, staging and access areas will be replanted with native shrubs and seeds to create a well-vegetated stream bank above the log rootwads.

In addition, the logs will be lowered over the north bank by a crane situated outside the environmental resource area on the north bank. The applicant did not provide plans that discussed how the crane would be maneuvered to avoid tree limbs along the bank. However, use of walkie/talkies or similar devices will enable personnel on the ground to guide the crane operator in where to lower each log.

Any vegetation within the conservation resource area on the upland or bank slope areas that are impacted by the movement of construction equipment down or over the banks must be replanted with native seeds and shrubs.

Further, the applicant states that the excavator "will be modified and maintained to work in and around waterways by replacing hydraulic fluids with vegetable oil, cleaning the chassis daily and inspected for leaks, etc." All construction equipment must be clean, in good repair and inspected prior to use to ensure there will be no leaks of petroleum products, coolants, or other deleterious materials. Although the applicant plans to complete the log installation in one day, should it take longer, the equipment will be removed from Johnson Creek when not in use and at the end of each working day.

The proposed viewing platform will be almost entirely contained within the transition area of the Conservation Zone. One small corner of the platform, however, will project over the top of bank, into the air space above the Conservation resource area by about one square foot, per the applicant's site plan. The south bank has a slope of approximately 45 percent, which is quite steep, and the elevation between ordinary high water and top of bank varies 6 to 8 feet. The small projection of a corner of the platform into this space should have no impact on the resource area below it as long as its construction is from above. Because the footing at this corner will be about three feet back from the top of bank, no physical activity below the top of bank will be required to complete the construction of this corner. In addition, the alignment of the viewing platform will provide a reflective view into the creek habitat area.

To ensure that workers do not move into the resource area while constructing the viewing platform and that no soil or debris goes over the bank, a four-foot high orange plastic fence must be installed along the top of bank for a distance of 20 feet, centered on the platform's northeast corner and must be anchored on the landward side by sand bags, erosion control tubes or other large control devices that will stop both soil and human movement so close to the top of bank.

With the conditions noted above, this Criterion will be met.

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

Findings: As described above, the proposed habitat enhancements will significantly improve fish and other aquatic and herptile habitat functions in the existing wetland and Johnson Creek, as well as provide increased bank stability along the north bank. The rootwads placed in the creek bed and banks, and anchored with boulders, will help slow water movement and add both in-stream and upland habitat value to the site by providing additional aquatic habitat for fish and other aquatic species as well upland species such as frogs, turtles and other herptiles.

Further, the embedded rootwads will maintain the stream bed area of Johnson Creek while providing shelter, resting, and feeding opportunities for local and migrating fish; providing low-velocity refuge along the shoreline; promote pool-forming processes within the creek; provide habitat for aquatic invertebrates and insects; retain organic matter in the stream; and generally support aquatic food webs.

In addition to the improved functional values listed above, the applicants plan to remove invasive species from a 2,500 square-foot wetland adjacent to Johnson Creek's north bank. After clearing out the invasive species, the applicants will plant 17.5 pounds of native wetland grass seed, 150 native shrubs and willows, and 18 native trees, including both Pacific willow and Oregon ash in the wetland boundary. Shrubs will include red-osier dogwood, Sitka and Columbia willow, Douglas spirea, and common snowberry. These actions will significantly enhance the flood storage capacity of Johnson Creek along this reach, and provide additional upland habitat for herptiles, birds and other wildlife species.

As described above, significant improvement will be made to both in-water and wetland habitat areas. Therefore, this Criterion is met.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all 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 Johnson Creek Watershed Council has proposed resource enhancements at the location of Tri-Met's approved light rail station near Johnson Creek that will be in addition to the mitigation required for the light rail station project. Within the Environmental Conservation resource area, the Watershed Council proposes to:

- Excavate a deeper side channel than the one proposed by Tri-Met. In the resource areas this includes the first 15 feet of the upstream end and the last 20 feet of the downstream end. The entire channel will be deepened. The upstream end will be excavated one additional foot and the channel will deepen gradually to two additional feet at the downstream end to provide additional fish refuge during a wider range of high flows;
- Place logs/rootwads from the north bank via a crane onto the bank and wetland areas of Johnson Creek;
- Walk a spider hoe (or similar wheeled excavator) across Johnson Creek from the south side and operate it from the creek bed to excavate log trenches in the bed, banks and wetlands of Johnson Creek on the north shore and in the bed and banks of the south shore;
- Place and store excavated material on the banks and in the identified wetland on the north bank of Johnson Creek;

- Install the log rootwads and boulders in the excavated trenches;
- Install 22 boulders both on the logs in the trenches and in the creek bed to help stabilize the rootwads and also create habitat;
- Potentially remove any native vegetation within the adjacent wetland while removing invasive species; and
- Install a small portion of an interpretive viewing platform on the south bank above the creek in the resource area of the environmental conservation zone.
- Remove invasive vegetation within an approximately 2,500 square-foot, existing wetland on the north bank and plant it with 17 native trees, 150 native shrubs and 17.45 pounds of native grass seeds;

This proposal will augment Tri-Met's recently approved light rail station's mitigation plan by deepening the proposed side channel on the south bank of Johnson Creek; installing rootwads for both aquatic habitat and bank stabilization functions in the banks of Johnson Creek; rehabilitating an existing wetland on the north bank; and installing additional native plants in the wetlands, all of which will substantially improve fish and aquatic invertebrate habitat, as well as upland wildlife and herptile habitat. The existing lack of canopy cover and shade, as well as stormwater runoff from paved surfaces, limit habitat quality for fish and aquatic invertebrates. This proposal will significantly improve these functions within this section of Johnson Creek, which supports salmon and steelhead spawning, rearing and migration.

The applicant also plans to install two habitat logs in the transition area, and enhance the area outside the environmental zone by planting 27 native trees and one habitat log in the area between the south boundary of the environmental zone and the proposed light rail tracks. Although planting outside the environmental zones is not governed by this review, this much needed native vegetation will create an additional buffer between the resource area and the new light rail/park and ride facility as well as create additional wildlife habitat area.

This resource enhancement project will be constructed at the same time as the implementation of the mitigation plan required by conditions of approval in LU 11-1935753 EN. There will be one contractor over-seeing both projects in order to coordinate the activities of both the required mitigation plan for the earlier land use approval with this current resource enhancement plan.

ADMINISTRATIVE DECISION

Approval of an Environmental Review for an Aquatic Habitat Resource Enhancement Proposal that will:

- Deepen Tri-Met's proposed slack-water side channel areas that are in the resource area adjacent to Johnson Creek's south bank;
- Place logs with rootwads on the north bank of Johnson Creek by delivering them over the north bank via a crane, and placing one log on the south bank via crane or excavator;
- Use a spider hoe, or similar wheeled excavator, to access the bed of Johnson Creek from the south bank and work within the creek-bed to excavate log trenches on the north bank and streambed;
- Excavate bank material and place/store it on the bank; install log rootwads in the excavated trenches along both creek banks and place boulders on the log ends to help stabilize them; cover the trenches with excavated material and place additional boulders around the rootwads; stabilize the streambed around and under the rootwads, and in the slack-water channel, with a "constructed" streambed, made of a cobble mix;
- Remove/disturb any occurring native vegetation that may be impacted by the invasive plant species removal in the adjacent wetland;
- Construct approximately 1.5 square feet of the northeast corner of the proposed viewing platform in the resource area, over and above the top of bank on the south bank of Johnson Creek; and

- Plant 18 native trees, 150 native shrubs and 17.45 pounds of native grass-seed mix in the resource area wetland of Johnson Creek;

as proposed within the Environmental Conservation overlay zone, and in substantial conformance with Exhibits C.2, C.2a, C.2b, C.3 and C.3.a, as signed, and dated by the City of Portland Bureau of Development Services on **April 8, 2013**.

Disturbance and development proposed outside of the Environmental Conservation overlay zones has not been reviewed and is not included or approved by this land use review.

Approval of the activities listed above is subject to the following conditions:

- A. All permits:** Copies of the stamped Exhibits C.2, C.2.a, C.2.b, C.3, and C.3.a from LU 12-13-131077EN and Conditions of Approval listed below, shall be included within all plan sets submitted for permits (building, grading, Site Development, erosion control, etc.). 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.2 – C2.b, C.3, and C.3a.”***
 1. A Commercial Permit will be required for construction of the viewing platform and boardwalk.
- B. Temporary construction fencing shall be installed according to Section 33.248.068 (Tree Protection Requirements) per LU 11-103753 EN, provided that:**
 1. Existing alder trees and other native trees shall be preserved to the maximum extent possible.
 2. A spider hoe, or similar wheeled excavator, shall be used to cross Johnson Creek and to perform the log trench excavations, boulder placement, and soil replacement activities for the keyed log and log structure installations.
 3. The proposed turbidity curtain shall be installed downstream of the proposed excavations prior to the excavator entering the streambed and prior to any excavation activity, and shall remain in-place until the project is completed and the stream is running clean.
 4. Excavated bank materials and back-filled trenches must be covered with waterproof materials or coir fabric at the end of each work day.
 5. After the log/rootwads have been installed, the log trenches and the staging and access areas for this project shall be replanted with native shrubs and seeds at the same rates as the wetland area, and in addition to any proposed enhancement plantings approved by this decision.
 6. Any native vegetation within the conservation resource areas on the upland or bank slope areas that are impacted by the movement of construction equipment down or over the banks must be replanted with seeds and shrubs at the same rates as the wetland area.
 7. Per the applicant’s plans, the excavator shall be modified and maintained to work in and around waterways by replacing hydraulic fluids with vegetable oil, cleaning the chassis daily and inspecting it for leaks, etc.
 8. All construction equipment shall be clean, in good repair and inspected prior to use to ensure there will be no leaks of petroleum products, coolants, or other deleterious materials into the resource area.
 9. If the proposed log installation is not completed in one day, the equipment shall be removed from Johnson Creek when not in use and at the end of each working day.
 10. Walkie/talkies or similar devices must be used to enable personnel on the ground to guide the crane operator in where and how to lower and place each log on the north bank.

11. Any vegetation within the conservation resource area on the upland or bank slope areas that are impacted by the movement of construction equipment down or over the banks must be replanted with native seeds and shrubs at the same rates required for other mitigation areas on the site. Any damaged native trees must be replaced at a ratio of 3 to 1.
 12. A four-foot high orange plastic fence shall be installed along the top of bank adjacent to the work area for the viewing platform. The fence must be at least 20 feet long, be centered on the platform's northeast corner; and be anchored on the landward side by sand bags, erosion control tubes or other large control devices that will stop both soil and human movement so close to the top of bank.
 13. Deepening of the side channel must be conducted per the Construction Management Plans for the Light Rail project in City of Portland Land Use Case LU11-193753.
- C.** A total of 18 trees, 150 shrubs, and 17.45 pounds per acre of native ground covers, all selected from the *Portland Plant List*, shall be planted in the existing wetlands in the Resource Area of the Conservation Zone, in substantial conformance with Resource Enhancement Plan Exhibits C.2.a and C.2.b.
1. The proposed native species plantings shall be installed at the same time as the required mitigation plants for LU_11-193753 EN, i.e., between October 1 and March 31 (the planting season).
 2. Prior to installing plantings, non-native invasive plants shall be removed from all areas within the existing wetland area, using handheld equipment.
 3. All resource enhancement shrubs and trees to be installed shall be marked in the field by a tag attached to the top of each plant for easy identification. All tape shall be a contrasting color that is easily seen and identified and shall be different colors from those tags required for mitigation plants approved in LU11-193753 EN.
- D. An inspection of Permanent Erosion Control Measures shall be required** to document installation of the resource enhancement plantings. 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.
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.
 3. **The land owner shall maintain the required plantings** for five years, in conjunction with mitigation plants installed as required in LU 11-193753 EN, and as described in Exhibit A.1, Appendix 4 Monitoring Plan of that case, to ensure survival and replacement. The land owner is responsible for ongoing survival of resource enhancement plants, during the designated five-year monitoring period.
- E.** 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: Kathy Harnden

Decision rendered by:  **on April 8, 2013**
By authority of the Director of the Bureau of Development Services

Decision mailed: April 11, 2013

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on February 27, 2013, and was determined to be complete on March 13, 2013.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on February 27, 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 did not waive or extend the 120-day review period. Unless extended by the applicant, **the 120 days will expire on: July 12, 2013.**

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 April 25, 2013** 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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, 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 **April 26, 2013**.
- 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. April 1, 2013 response to BDS
 - 2. April 3, 2013 response to BDS
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. JCWC Existing Conditions Site Plan
 - a. Existing Tree Locations
 - b. PMLR Approved Slack Water Side Channel Proposal
 - c. PMLR Approved Mitigation Plan
 - d. PMLR Approved Plants List
 - 2. JCWC Proposed Development/Resource Enhancement Plan (attached)
 - a. JCWC Proposed Development/Resource Planting Plan (attached)
 - b. JCWC Proposed Plant List
 - 3. JCWC Construction Management Plan, Log Installation (attached)
 - a. Side Channel Construction (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Water Bureau
- F. Correspondence: NONE
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research

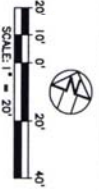
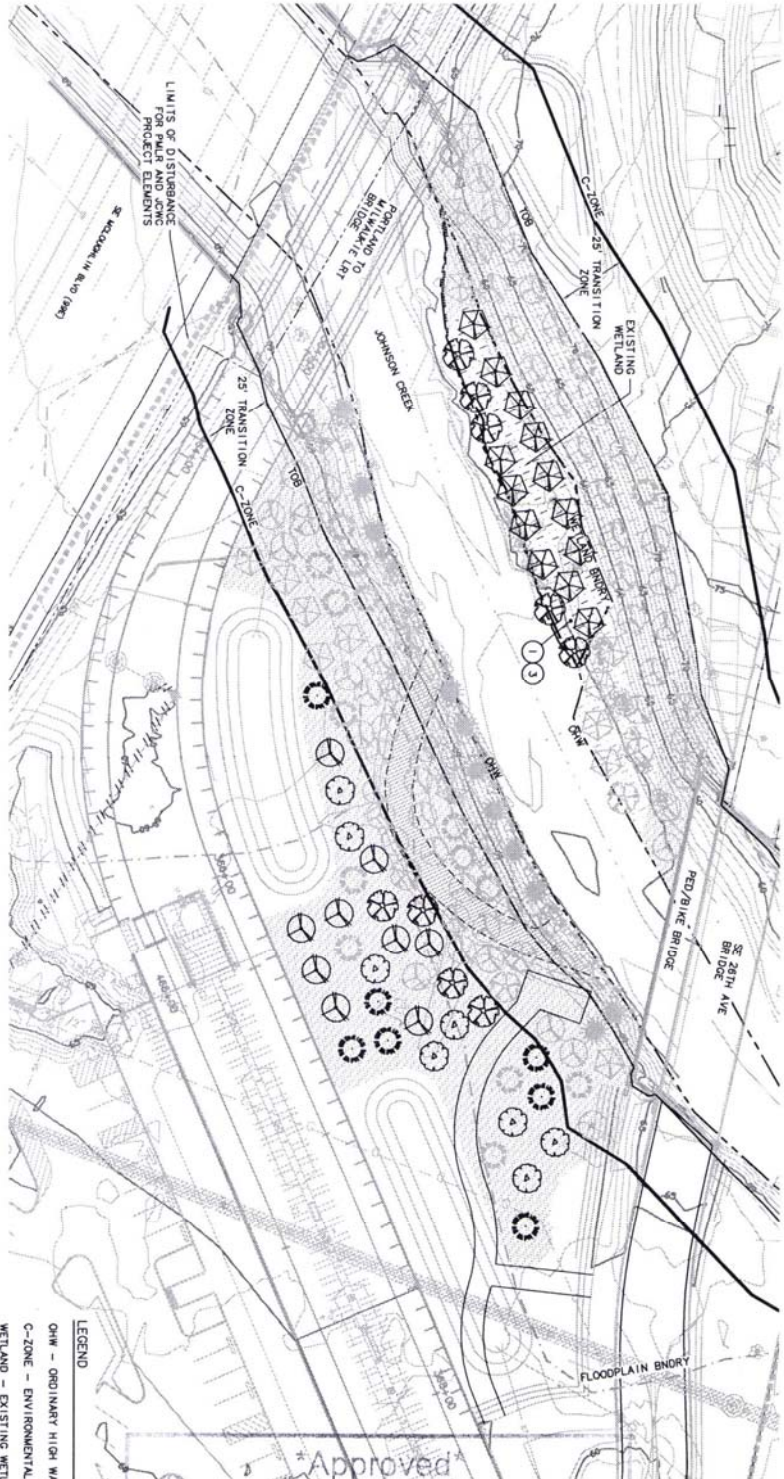
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).

File No. LU 13-121077 EN
1/4 Section 3833
Scale 1 inch = 400 feet
State_Id 1S1E24CC 200
Exhibit B (Mar 05, 2013)



ISCWC Proposed Development/Recreation Planting Plan

Exhibit C.2.a



Approved
 City of Portland
 Bureau of Development Services
 Planner S. Hamde
 Date 4/8/13

* This approval applies only to the reviews requested and is subject to all conditions of approval.

- GENERAL NOTES:
1. REFER TO 1200C PERMIT DRAWINGS FOR EROSION CONTROL PERMIT REQUIREMENTS.
 2. THIS PLAN SHOWS BOTH TRIMET PULP PROJECT DEVELOPMENT (APPROVED COUNCIL PROJECT ELEMENTS AT THE SITE, TRIMET PULP PROJECT ELEMENTS ARE REPRESENTED AS BACKGROUND INFORMATION (LIGHT GREY) AND JCWC PROJECT DEVELOPMENT (DARK GREY). THE PLAN AND ARE SPECIFICALLY IDENTIFIED IN THE NOTES ON THIS PAGE.

SCHEMATIC NOTES:

1. REMOVE NON-NATIVE INVASIVES WITHIN THE E-ZONE REPLANT WITH NATIVE SPECIES SHOWN ON SHEET TAC-70
2. PLANT NATIVE TREES, SHRUBS AND BEDS PER PLANTING SCHEDULE SHOWN ON SHEET TAC-70
3. PROTECT EXISTING ALDER TREES LOCATED AT TOE OF BANK.

VERTICAL DATUM: NAVD 88

PERMIT PACKAGE
 JOHNSON CREEK WATERSHED COUNCIL

LEGEND

- OHW - ORDINARY HIGH WATER (TRIMET)
- C-ZONE - ENVIRONMENTAL CONSERVATION ZONE (CITY OF PORTLAND)
- WETLAND - EXISTING WETLAND BOUNDARY (TRIMET)
- 100 FLOOD - 100 YEAR FLOOD BOUNDARY (TRIMET)
- TAXLOT - SHADOWN TAXLOT BOUNDARY
- EXISTING TREE

NO.	DATE	BY	REVISION
1	05-16-11	SAE	ISSUED FOR PERMIT
2	05-16-11	SAE	REVISED
3	11-04-11	SAE	REVISED
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5	11-04-11	SAE	REVISED
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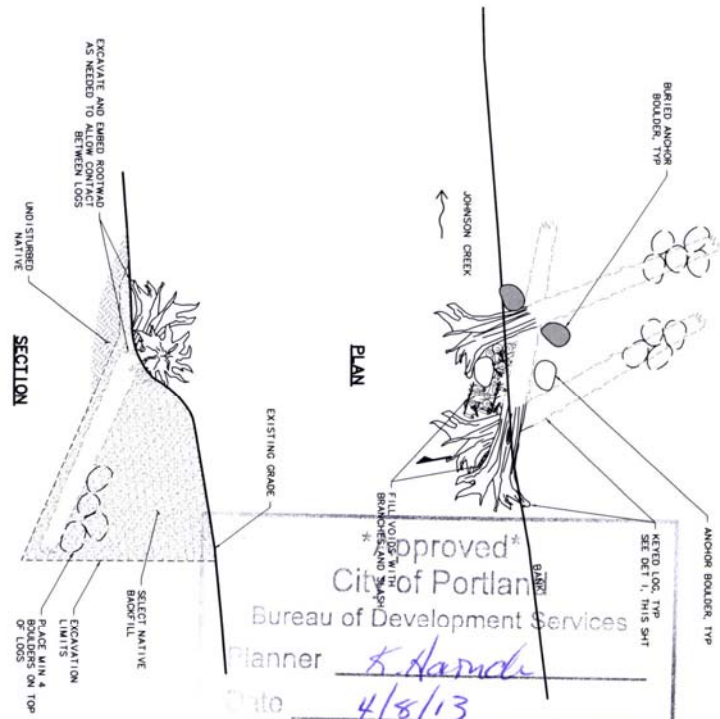
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APPROVED
SEE DET 1, THIS SET

APPROVED
CITY OF PORTLAND
BUREAU OF DEVELOPMENT SERVICES

PLANNER K. Harada

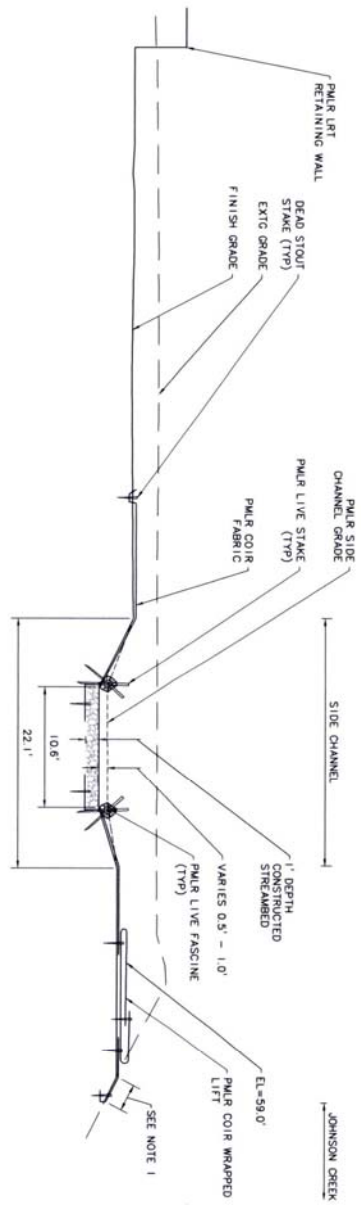
DATE 4/8/13

* This approval applies only to the reviews requested and is subject to all conditions of approval.

Exh: bit c.3

[illegible]

ICwe Construction Management Plan, Side Channel



SECTION NOTES:
1. PLACE COIR ON BANK OF JOHNSON CREEK TO COVER AREAS DISTURBED BY VEGETATION REMOVAL. DO NOT DISTURB OR REMOVE ADDITIONAL VEGETATION FOR COIR PLACEMENT.

SIDE CHANNEL CROSS SECTION
SCALE: 1" = 5' FOR 22 X 34 SIZED SHEETS

Approved
City of Portland
Bureau of Development Services
Planner K. Harndt
Date 4/8/13
* This approval applies only to the
* was requested and is subject to all
* conditions of approval.
* all other city ordinances may apply

NO.	DATE	BY	APPROVED	REVISIONS
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11	11-04-11	RAH		
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13	11-04-11	RAH		
14	11-04-11	RAH		
15	11-04-11	RAH		
16	11-04-11	RAH		
17	11-04-11	RAH		
18	11-04-11	RAH		
19	11-04-11	RAH		
20	11-04-11	RAH		

TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON		VIGIL & SAGRIMIS	
CAPITAL PROJECTS AND FACILITIES DIVISION		TRIMET	
100 N.E. HOLOMAN STREET PORTLAND, OREGON 97232		100 N.E. HOLOMAN STREET PORTLAND, OREGON 97232	
DATE	10/08/11	DATE	10/08/11
SCALE	AS SHOWN	SCALE	AS SHOWN
PROJECT NO.	TAC-SA	PROJECT NO.	TAC-SA
SHEET NO.	1	SHEET NO.	1

PERMIT PACKAGE
JOHNSON CREEK WATERSHED COUNCIL

PORTLAND TO MILWAUKEE LRT
EAST SEGMENT
ENVIRONMENTAL
GRADING AND HABITAT ENHANCEMENT DETAILS I
STA 363+00 TO 368+00