



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

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Date: July 2, 2013
To: Interested Person
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NOTICE OF A CORRECTED TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services (BDS) approved a proposal in your neighborhood on June 7, 2013. The report included some conditions of approval that should not have been part of the decision. BDS is issuing this corrected decision for the purpose of addressing those conditions and to make other minor corrections. Specifically, minor corrections have been made on pages 2, 7, 8, 11, 12, and 15 – 19. Specific changes are identified through the use of **bold** lettering.

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 13-138036 EN

GENERAL INFORMATION

Applicant: Bureau of Environmental Services / Attn: Ali Young / City of Portland
1120 SW 5th Ave., Floor 10 / Portland OR 97204

Site Address: Powell Butte

Legal Description: TL 300 108.60 ACRES, SECTION 13 1S 2E; TL 200 121.00 ACRES, SECTION 13 1S 2E; TL 3700 12.41 ACRES SPLIT MAP R340557 (R993180870), SECTION 18 1S 3E; TL 1700 22.00 ACRES SPLIT MAP R340528 (R993180520), SECTION 18 1S 3E

Tax Account No.: R992130050, R992130060, R993180520, R993180870

State ID No.: 1S2E13 00300, 1S2E13 00200, 1S3E18C 03700, 1S3E18B 01700

Quarter Section: 3646

Neighborhood: Pleasant Valley, contact Linda Bauer at 503-761-2941.

Business District: Midway, contact Bill Dayton at 503-252-2017.

District Coalition: East Portland Neighborhood Office, Richard Bixby at 503-823-4550.

Plan District: Johnson Creek Basin - South

Other Designations: EN – Environmental Conservation Zone

Zoning: OSc – Open Space with the Environmental Conservation zone (c) overlay

Case Type: EN – Environmental Review

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

Proposal:

The Bureau of Environmental Services (BES) proposes to construct two connected amphibian breeding wetland ponds, restore native plant communities, and improve water quality and wetland habitat on the south side of Powell Butte. This proposal will create additional amphibian breeding ponds to alleviate over-crowding of an existing breeding pond. Creation of these ponds will help production of the northern red-legged frog, listed as a special habitat

species by the City of Portland Terrestrial Ecology and Enhancement Strategy (TEES) and as a species of concern by the State of Oregon.

The ponds will be designed to mimic the hydro-period of a nearby successful amphibian breeding pond, located on the south side of Powell Butte Nature Park. They will be 3,334 and 2,532 square feet in area respectively, and will be designed to dry out in the fall to prevent bullfrog breeding. They will also be planted with a mix of native scrub-shrub and emergent wetland plants that are known to promote successful amphibian breeding and rearing. These ponds will be located north of the Water Bureau's proposed mitigation pond.

In addition to the two breeding and rearing ponds, BES proposes to install 8 to 9 habitat logs down slope of the ponds, between them and the Water Bureau's mitigation pond, which will be constructed approximately 160 feet downhill from the ponds described in this review. The logs will be partially buried and will provide resting and other habitat values for the amphibians and other small creatures. **BES will follow its monitoring protocol to ensure plant establishment which includes scheduled inspections at years 1, 3, and 5 following plant installation.**

Background and Land Use Review Context:

In 2003, the City approved the Powell Butte Conditional Use Master Plan (LUR 00-00414 MS CU EN AD) which implements the first 10 years (through 2013) of the planned water system improvements and park improvements set forth in the 1996 Powell Butte Master Plan. In 2010, the City approved a Conditional Use Master Plan Amendment and Environmental Review with Adjustments (LU 10-169463 CU MS EN AD), which effectively updated LUR 00-00414 MS CU EN AD. The 2010 amendments to the Master Plan extend its duration at least 5 years from the date of the City's Decision (February 17, 2011).

The 2003 Powell Butte Master Plan provides the basic framework for future improvements on Powell Butte. It includes a review process for implementation of development within the master plan boundaries. The proposed project is located in the environmental zone. It meets the thresholds established for Type II Environmental Review by the Master Plan.

Relevant Approval Criteria:

To be approved, this proposal must comply with the approval criteria established by the Powell Butte Master Plan (LUR 00-00414 CU MS EN EV AD).

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. This application was submitted on April 10, 2013 and determined to be complete on April 30, 2013.

FACTS

Site Description: Powell Butte Nature Park is a large, 640-acre park in southeast Portland. It is generally located between SE Powell Boulevard and SE Foster Road and between roughly SE 143rd and 163rd Avenues (Exhibit C-1; Applicant's Figure 1). It lies just north of Johnson Creek and the Springwater Corridor. Its forested side slopes rise about 400 feet above the surrounding terrain making the Butte a dominant visual element in the region.

Powell Butte is primarily owned by the Portland Water Bureau (PWB) which currently maintains underground reservoirs, and a system of tanks and associated pipelines for potable water supply, discharge and surface drainage infrastructure on the Butte.

Portland Parks and Recreation (PP&R) manages the Powell Butte Nature Park for PWB, which includes an extensive system of trails, viewpoints and open space. In addition, the park is developed with a dwelling unit for a grounds caretaker, informational kiosks, a combined restroom and storage building, a 39-car gravel parking lot, and a parking lot for buses and trailers.

Most of Powell Butte is undeveloped and relatively undisturbed. The steep, lower side slopes are forested with a mix of deciduous and evergreen forest. A large portion of the Butte consists of open grassy meadow which includes an abandoned orchard.

Powell Butte lies within the Johnson Creek watershed. Drainageways and wet areas are concentrated mainly in the southern half of the Butte. There are 22 wetland areas that vary in size from 0.03 to 5.83 acres and have a combined area of approximately 14.33 acres. They are hydrated primarily by surface run-off and lateral subsurface flows which combine to create a high water table following fall and winter rains. The shallow fragipan soils hold water near the surface during wetter periods. The lower edges of these areas are often defined by deeper soils allowing improved infiltration, or steeper slopes allowing for faster run-off, or both. Many of the potential wetland sites exist in swales that convey subsurface or occasional stormwater flows beyond the lower wetland boundary.

The Butte is surrounded largely by residential development on a variety of lot sizes. Most surrounding lots are developed to the extent permitted by zoning or are constrained by natural features, access limits or other conditions.

Zoning: Powell Butte has several different zoning classifications. This proposal, however, will be located fully within the Open Space (OS) base zone in an area that has only the conservation (c) overlay (OSc).

The Open Space zone is intended to preserve and enhance public and private open and natural areas to provide opportunities for outdoor recreation and a contrast to the built environment, preserve scenic qualities and capacity and water quality of the stormwater drainage systems, and to protect sensitive or fragile environmental areas.

The environmental 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 as presented in the approval criteria specified in the Powell Butte Master Plan.

Environmental Resources: The application of the environmental overlay zones is based on detailed studies that have been carried out in separate areas throughout 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 the *Johnson Creek Basin Protection Plan* as Resource Site #29. Resources and functional values of concern on the project site, as identified by the Plan, include water, storm drainage, aesthetics, scenic, pollution and nutrient retention and removal, sediment trapping, recreation, education, and heritage. The site description includes the following recommendations for managing natural resources at Powell Butte:

The *Johnson Creek Basin Protection Plan* offers management recommendations for Site #29,

MANAGEMENT RECOMMENDATIONS

Retain the variety of habitat, including the meadow and wetlands. Protect the forested perimeter. Develop Powell park area to take advantage of its natural attributes. As a condition of any future water reservoir expansion, require an alternative or modified practice of water release that is compatible with the goals and objectives of the *Johnson Creek Basin Protection Plan*.

Land Use History: City records indicate that there have been a number of quasi-judicial land use reviews on the site, including:

- **CU 95-73:** Conditional Use Request for water storage area on Powell Butte.
- **CU 29-77:** CU request to construct one 50 million or two 25 million-gallon storage reservoirs with a future expansion to a capacity of 200 million gallons.
- **CU 15-89:** Approval of a Conditional Use in order to establish a Powell Butte Nature Park generally in accordance with the proposed Powell Butte Master Plan.
- **LUR 93-00471 PU SU EN AD:** Approved 66 lot Subdivision
- **LUR 94-00204 PUD EN:** Approved 81-lot PUD
- **LUR 94-00269 PU EN:** Approved minor amendment to LUR 93-00471.
- **LUR 94-00696 PU SU EN:** Approved 2 lot partition
- **LUR 94-00705 EN:** Controlled burn of open meadow portions of Powell Butte Nature Park.
- **LUR 99-00907 ZC:** Approved map error correction.
- **LUR 00-00275:** Construction of water pumping station, disinfectant tank and emergency overflow detention facility (on land adjacent to Center St).
- **LUR 00-00414 CU MS EN EV AD:** City Council approval with conditions of a Conditional Use Master Plan for Powell Butte Park and surrounding area; Environmental Review for development and activities included in the Powell Butte Master Plan; Environmental Review for vegetation removal and ground disturbance violations within an Environmental Zone; and Adjustment to 33.535.205.A to allow removal of trees greater than six inches in diameter, limited to species listed as Nuisance Plants or Prohibited Plants on the Portland Plant List, hawthorn trees, and trees shown in the Master Plan as being removed for construction of water supply facilities as approved through this Master Plan. [This application was approved in 2003, after a lengthy appeal process to City Council, LUBA, and a remand back to the City. Throughout this document the Master Plan approved under this case file number is referred to as the '2003 Conditional Use Master Plan' or 2003 CUMP.]
- **LU 05-136340 EN:** Portland Bureau of Water Works proposes to construct two existing storm water outfalls that are under access roads within the Powell Butte Nature Park to remedy existing erosive conditions and mitigate future erosion during normal rain events. Case was withdrawn by the applicant on April 6, 2006.
- **LU 06-166575 EN:** Approval of an Environmental Review for a small equipment shed with eco-roof.
- **LU 07-112412 CUMS EN AD:** Approval of a Master Plan Boundary expansion for either: 3.02 acres (Option 1); or 0.58 acres (Option 2). Approval of an Environmental Review to upgrade the existing trail at the main access to the park (6-foot wide crushed rock surface; 2,200 foot long trail; one section of a low rock wall); To reconstruct the entryway to an existing Portland Water Bureau service road (140 foot long section of the 15-foot wide gravel road will be replaced with pervious block pavers); and to improve the roadside drainage system along an existing service road (remove culverts, install a new stormwater pipe, and install a new stormwater swale); Approval of an Adjustment Review to Section 33.537.140.C to remove three trees.
- **LU 09-125820 EN AD:** Approval of an Environmental Review for Preliminary reservoir excavation for Reservoir #2, including temporary soil stockpiling and temporary stormwater collection, treatment and disposal; relocation of the Goldfinch Trail to move the trail out of the reservoir construction area; widening the main park entry road; constructing haul roads to provide construction access; removing 119 native trees; removing 8 acres of invasive hawthorn and Himalayan blackberry; and approving two Adjustments for: removing 47 native trees greater than 6 inches in diameter and farther than 10 feet from proposed structures or 5 feet from proposed paved areas; and replacing 91 conifer trees with Oregon white oak, and other species of trees.
- **LU 10-169463 CUMS EN AD:** Approval of a Conditional Use Master Plan Amendment and Environmental Review with Adjustments that resulted in approval of the construction of a water system, park facility and trail improvements.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **May 2, 2013**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services responded with no objections or conditions of approval, and noted that this proposal is a BES project designed to improve watershed health, enhance wetland habitat and amphibian breeding populations, and help restore native plant communities on the south side of Powell Butte. See Exhibit E.1 for additional details.
- Water Bureau responded with no concerns or requirements. See Exhibit E.2 for details.
- Site Development responded that erosion prevention and sediment control requirements of Title 10 apply to both the site preparation work and development; that the site is a “Special Site” with additional requirements for erosion, sediment and pollution control; that an erosion control plan must be prepared by a Certified Professional in Erosion and Sediment Control (CPESC) or other qualified expert; and that an Oregon Department of Environmental Quality 100-C permit will be required. See Exhibit E.3 for additional details.
- Parks-Forestry Division responded in support of the proposal and noted that an Urban Forestry permit is required to plant trees on City-owned land and that all development proposals must comply with current Park standards, including tree size at the time of planting. Please see Exhibit E.4 additional details.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on May 2, 2013. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

POWELL BUTTE MASTER PLAN AND ZONING CODE APPROVAL CRITERIA

Condition H of the Order of City Council for LUR 00-00414 CU MS EN EV AD established thresholds for dealing with future reviews of projects within the Powell Butte Master Plan boundary, and approval criteria for those reviews. The thresholds for Type II review, as listed on page 42 of the Powell Butte Master Plan are:

[The project is] Allowed by the Master Plan and

- **Does not require a higher level of review.**
- **Except for trail improvements, the development or use and disturbance area is outside of the Environmental Protection Zone.**
- **The development or use is no greater than 110% larger or more intense than that shown on the approved Master Plan site plan.**
- **The disturbance area is no greater than 110% of that shown on the approved Master Plan site plan.**

This proposal meets the thresholds for a Type II for the following reasons:

The proposed frog pond development and habitat log installation are resource enhancement projects, and as such, do not require higher levels of review. All proposed site preparation and excavation work, and associated disturbance areas, are located outside of the Environmental Protection overlay zone. The disturbance area is only temporary in nature, as the constructed wetland ponds for amphibian habitat and installed habitat logs will blend with the natural environment after construction and native species planting have occurred. At 22,000 square feet of “permanent” disturbance area and 16,600 square feet of temporary disturbance area, this resource enhancement proposal will not expand the developed area or use in size, intensity, or overall disturbance area, and therefore falls well below the 110 percent expansion threshold.

For these reasons, this proposal meets the thresholds for Type II review.

Approval Criteria for Projects Allowed by the Powell Butte Master Plan

Type II Approval Criteria are provided in Table 3-D1 (pages 42 and 43) of the Powell Butte Master Plan, for development, uses, or actions allowed by the Master Plan, including those features allowed by the Master Plan as amended in LU 10-169463 CU MS EN AD. The Master Plan is silent regarding environmental enhancement projects on the Butte which have only temporary disturbance areas. This section provides findings for the approval criteria for the Type II procedure identified in the Master Plan, as they apply to the current proposal.

The criteria will be applied to the proposed excavation, construction, and maintenance of:

- Two connected amphibian breeding wetland ponds;
- Installation of 8 to 9 habitat logs;
- Restored native plant community; and
- Improvements to existing water quality and existing wetland habitat areas.

1. The development or use is in substantially the same area as shown on the approved Master Plan site plan.

Findings: The Master Plan is silent regarding environmental or resource enhancement proposals and does not contain specific locations for such projects. Because the proposal falls within the Thresholds stated above and because resource or environmental enhancement projects are not superseded by the Master Plan, such proposals must be reviewed through environmental review in accordance with the Plan. Because the Butte contains both environmental conservation and protection overlays, resource enhancement proposals within these designated overlay zones must be reviewed through environmental review in compliance with the Plan.

The area selected for this resource enhancement proposal is located in an existing wetland area in the environmental conservation overlay zone on the south side of the Butte. It is located just north of the proposed, almost half-acre wetland mitigation site that was required by LU10-169463 CUMS EN AD.

The proposed resource enhancement site is therefore in substantially the same area as shown on the approved and amended Master Plan site plan per LU 10-169463 CU MS EN AD, which amended the original Master Plan, and this criterion is met.

2. The construction management plan prevents adverse impacts to areas outside of the approved disturbance area.

Findings: This approval criterion requires the protection of resources outside of the proposed disturbance area from impacts related to the proposal, such as damage to vegetation, erosion of soils off the site, and downstream impacts to water quality and fish habitat from increased stormwater runoff and erosion off the site.

Exhibit C.3 details the applicant's proposed construction management plan (CMP). These plans show that the applicant will install 4-foot tall construction fencing surrounded by straw waddles to encircle the pond excavation area. The waddles will be staked to prevent movement down-slope of the site. Approximately 279 cubic yards of soil will be excavated from the hillside.

Excavated material to be removed from the site will be taken via a tracker dump truck to other dump trucks parked on the Orchard Loop Trail, out of the "sensitive" area. Stockpiled soil will be reused by placing it around the downhill sides of the ponds to create a 2.5 to 3-foot high berm that will help retain water in the ponds. The applicant does not describe what will happen to soils excavated for the habitat log placement. Therefore, a condition of approval

shall require excess excavated soil for the habitat logs to either be re-used for stabilizing the logs, or to be removed from the site along with soils from the pond excavation.

Access to the site will be via a temporary 10-foot wide access road that will be restored to its pre-construction conditions upon completion of the pond and log installation project. The access road is shown as going straight down the hill from the Orchard Loop Trail. This area has a slope of approximately 23 percent. Current air photos indicate that there are existing roads/trails in the vicinity of the proposed frog ponds. If appropriate for use for this proposal, these roads/trails must be used instead of creating a new road to the site. Regardless of which access route is used to get to the site, such route must be restored to its pre-project condition, or returned to a restored native condition if warranted as determined by Portland Parks.

Equipment to be used at the site includes excavators, track hoes, dump trucks, and sheep's foot rollers, pin wheels and pick-up trucks.

The applicant states that the existing wetland, which is uphill from the from the frog pond site, will be fenced off at only 5 feet at one point from the proposed construction activity. With no explanation for this narrow setback, a condition of approval must require that all excavation activity for the frog ponds must occur from below the top perimeter of the proposed frog pond areas and that the north perimeter of the ponds must be delineated by fencing to restrain any construction activity from occurring in the existing wetland. Erosion control fencing must be placed around all downhill slopes of the proposed excavation and stockpile areas to prevent transport of loose soil material down hill.

Erosion control facilities are also required for installation of the habitat logs that will be installed downhill of the proposed wetland excavation area, and just uphill of the proposed Portland Water Bureau wetland area. Erosion control fencing must be placed downhill of each log placement area to control soil movement. Excess excavated soil from the log installation areas shall either be reused at the pond site or be removed from the site.

With the conditions listed above, this approval criterion can be met.

3. A mitigation/restoration plan ensures no net loss of resource values.

Findings: This criterion requires the applicant to assess unavoidable impacts and propose mitigation that is proportional to the impacts, as well as sufficient in character and quantity to replace lost resource functions and values.

The project site is mapped within the Johnson Creek Basin Protection Plan as Resource Site #29--Powell Butte (*Johnson Creek Watershed Summaries of Resource Site Inventories*, June 1998). Resource values listed for Site #29 on page 1-102, include: water, storm drainage, aesthetics, scenic, pollution and nutrient retention and removal, sediment trapping, recreation, education, and heritage. All of these values are found in some form within Powell Butte Nature Park.

This **is a** resource enhancement project **that** will provide additional pond habitat for the red-legged frog which is beginning to make a comeback on Powell Butte, due to creation of new wetland ponds. There is one existing pond on the Butte which is beginning to see overcrowding for five frog species. The proposed ponds will meet the habitat needs of these species and allow for a larger population to occur.

As well as creating additional pond habitat on the Butte, the proponents will plant **700** native shrubs to restore disturbance areas and to provide additional habitat area for not only the frogs, but also for bird species in the area such as the common yellowthroat, western meadowlark, American kestrel, and the northern harrier hawk.

In addition to the shrubs, the area around the frog ponds will be planted with 70 trees, 400 sedge and spreading rush plugs, and 15.5 pounds per acre of an upland grass/forb seed mix. No trees or shrubs will be planted below/south of the ponds in order to preserve solar access for the ponds. Planting shrubs and trees on the north side of the ponds will also help screen the ponds from view of park visitors, and thus lend the ponds a little more protection from human and domestic animal activity.

The pond banks will be planted with 450 sedge and rush plugs and 13 pounds per acre of an emergent grass/forb seed mix. No plantings will be installed on the bottoms or sides of the ponds, which will be lined with an impervious clay layer that must remain intact in order to keep pond water from escaping into the ground.

The planting plan also bars thicket-forming shrubs from being planted near the ponds to curtail woody species encroachment into the ponds, and only herbaceous seeds may be planted on the inside slopes of the berms to further protect the clay layer. **The applicant will monitor all of the resource enhancement plants in accordance with the BES Monitoring Protocol to assess the need for** replacement plantings over the course of a 5-year period beginning with plant installation.

Urban Forestry commented on this proposal, noting that permits are required to plant trees on City-owned land and that the applicant must contact Urban Forestry at least 30 days prior to tree planting to obtain the permit. They also require monitoring plans that establish survival rates for newly planted trees. They note that a comprehensive Parks Plan Review may be required.

With a condition requiring implementation of the applicant's planting plan and compliance with Urban Forestry requirements, this criterion will be met.

4. Views from the Scenic Viewpoints shown on page 68 of the Scenic Resource Protection Plan will not be blocked or impaired.

Findings: The Scenic Resources Protection Plan identifies six scenic viewpoints and corresponding view-sheds within Powell Butte Nature Park (these viewpoints are also shown on Powell Butte Master Plan Figure 4-A4). The park provides expansive vistas in all directions, including views of Mt. St. Helens, Mt. Rainier, Mt. Adams, Mt. Hood, the forests of the Clackamas, Sandy and Bull Run watersheds, and most of the nearby Boring Lava Domes. None of the viewpoints have height restrictions associated with them. Three of the viewpoints are oriented in the general direction of the park center. Two other viewpoints are near the summit of the butte and oriented to the south. The last viewpoint is in the southeastern section of the butte and is oriented to the west.

As noted in the City Council findings for the Powell Butte Master Plan, "the view corridor prevents developments that would extend above the tree line to interfere with the existing view." The proposed site preparation work, including any stockpiles and fences, will be well below the base zone building height and would not extend above the tree line into the view corridor. The excavation work and soils stocks would be visible from several viewpoints, but none of this work would block or impair views as noted above. Further, the proposed resource enhancement will add to the scenic quality of the view corridor but creating water features and wetland/scrub/shrub vegetation features, attracting birds and other wildlife to the area.

Therefore, views from scenic viewpoints will be neither blocked nor impaired by this project; rather it will actually enhance views; thus this criterion is met.

5. Designated outdoor storage and maintenance areas and maintenance buildings will be landscaped to mitigate for adverse impacts to scenic views from Scenic Viewpoints shown on page 68 of the Scenic Resources Protection Plan.

Findings: There are no outdoor storage or maintenance area or building associated with this proposal. Therefore, this criterion does not apply.

6. There are no additional traffic impacts that require traffic improvements or additional parking spaces.

Findings: This resource enhancement proposal has no associated traffic improvements or impacts to traffic in or around the Butte. Therefore, this criterion does not apply.

7. All Zoning Code requirements are met unless superseded by the Master Plan.

Findings: Zoning Code requirements related to this proposal that are not superseded by the Master Plan are met, or can be met with conditions of approval, as described below in the review of development standards.

As noted under the review of standards below, Chapter 33.830, Excavation and Fills, was deleted from the City's Zoning Code in June 2003. This chapter regulated excavation activities such as that proposed as part of this application. In addition, excavation and fill in the R and OS zones with the Environmental Overlay zoning were already exempt. Therefore, no excavation and fill review is (or would have been) required for the proposed excavation work.

This criterion is met with the conditions of approval described below.

8. All Master Plan standards are met.

Findings: Master Plan development standards are listed on pages 45-48 of the Master Plan. Applicable Master Plan standards are addressed in the Development Standards section below. All standards are met in this land use review. Therefore, this criterion is met.

DEVELOPMENT STANDARDS and MASTER PLAN CONDITIONS OF APPROVAL

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, and those of the Powell Butte Master Plan in this case. If they are not shown on permit plans to be met, they must receive Adjustment approval via a land use review prior to the approval of a development permit.

The 2003 Powell Butte Master Plan specifies development standards and conditions of approval for all projects within the plan area. Most of the development standards contained in the Powell Butte Master Plan apply to the construction of water system and park improvements. These standards are listed on pages 45-48 of the Powell Butte Master Plan. The standards are briefly reviewed in this section to show that the standards can and will be met at the time of development permit review. Following the development standards is a review of the Master Plan conditions of approval that must be met at permit time.

Powell Butte Master Plan Development Standards:

MINIMUM BUILDING SETBACK

20 feet from p-zoned lands, and 1 foot from the property boundary for every 1 foot of building height.

Response: The site is hundreds of feet from the nearest p-zone land, and there are no buildings associated with this proposal. Therefore, this standard does not apply.

MINIMUM OUTDOOR ACTIVITY SETBACK

25 feet from an R-zoned property if not illuminated; 50 feet from an R-zoned property if illuminated; 20 feet from p-zoned lands.

Response: Outdoor activities include only the construction of the frog ponds and installation of the habitat logs, all of which will be much farther than 50 feet from residentially-zoned properties and p-zoned lands. Once the habitat features are constructed, only minor maintenance activity will occur at the site. Therefore, this standard is met.

MINIMUM PARKING SETBACK

10 feet from a site or p-zone boundary when improved to an L2 standard; 20 feet when improved to an L1 standard. Topography and/or existing vegetation may fulfill landscape requirements when they result in equal or better screening.

Response: There is no parking associated with this habitat improvement project. Therefore, this standard is not applicable.

EXTENSIONS INTO SETBACKS

Minor building projections may extend into a setback as provided in PCC 33.110.220.C.

Response: There are no buildings associated with this proposal. Therefore, this standard is not applicable.

EXTERIOR STORAGE

Exterior storage of materials, equipment and solid waste shall comply with the setback standards for buildings. The periphery of such storage areas shall be landscaped to an L3 standard except at entries to such areas.

Response: There will be no storage of materials, equipment or solid waste per the definition of “Exterior Storage” in Title 33.910 associated with this resource enhancement project. “Exterior Storage” is defined as: “the storage of raw or finished goods; ...the outdoor storage of goods that generally have little or no differentiation by type or model. . . Examples of uses that often have exterior storage are lumber yards, wrecking yards, tool and equipment rental, bark chip and gravel sales, car dealerships or rental establishments, and port facilities” and relate to the sale of goods.

Any type of materials or equipment storage on the site, none of which will meet the definition of “Exterior Storage,” will be temporary in nature, and will be removed from the site when the project is completed. Therefore, landscaping to the L3 standard is not required because planned storage does not meet the definition of “Exterior Storage” as described above, and due to the temporary nature of the construction activities that will occur. Therefore, this standard is not applicable.

MECHANICAL EQUIPMENT

The periphery of mechanical equipment located on the ground shall be landscaped to an L3 standard. Mechanical equipment on roofs shall be screened from view from the ground level of any abutting R-zoned lands.

Response: Mechanical equipment is generally defined as “heating and air-conditioning systems” associated with building and other outdoor electronic equipment. The proposed habitat ponds and native plants will not require any type of mechanical equipment. Therefore, this standard is not applicable.

HAZARDOUS SUBSTANCES

Storage and use of consumer quantities of hazardous substances is permitted consistent with applicable requirements of this Plan, the Building Code and the Fire Bureau. Temporary storage

and use of package quantities of hazardous substances is permitted in conjunction with an emergency declared by the Director of the Water Bureau. If Portland City Code Title 33 is amended to allow it, storage and use of package quantities of hazardous substances not in conjunction with an emergency is permitted consistent with applicable standards.

Response: Hazardous materials might be transported on and off site. These materials would be associated with general construction practices and maintenance activities. This includes primarily vehicle fuels, but could conceivably include fertilizers and pesticides. Any hazardous substances would be consumer quantities, which is permitted by this standard. Therefore, this standard will be met.

LANDSCAPING AND SCREENING

Required landscaping and screening shall comply with applicable provisions of Portland City Code sections 33.248.030 through 33.248.070. Plantings required for environmental mitigation shall comply with Portland City Code section 33.248.090 and 33.430.

Response: As noted above under Approval Criterion No. 3, proposed landscaping and screening will exceed the applicable provisions of Sections 33.248.020 through 33.248.070, and will comply with other applicable landscaping and screening provisions of the Powell Butte Master Plan. Because this proposal is a resource enhancement project, the proposed plantings are not considered mitigation plantings and therefore are not subject to the standards of section 33.248.090. **However, because the applicant has a vested interest in the success of these planting, the applicant will take all necessary measures to ensure their health and distribution. Further, other areas of this review do require some mitigation plants to be installed. A zoning permit will be required to ensure both the installation of these plants as well as an inspection within two years to ensure compliance with this standard.** Therefore, these standards will be met.

PEDESTRIAN AND BICYCLE TRAILS

Pedestrian and bicycle trails shall be improved to meet minimum standards of the Portland Pedestrian Guide (Office of Transportation Engineering and Development, 1998).

Response: There are no pedestrian or bicycle trails proposed in conjunction with this project. Therefore, these standards do not apply.

EQUESTRIAN TRAILS

Equestrian trails shall be at least 5 feet wide and shall be surfaced with bark or wood chips or other suitable natural material.

There are no equestrian trails proposed in conjunction with this project. Therefore, this standard does not apply.

FENCES

Fences are permitted up to 8 feet high and of any material, provided they do not obstruct sight distance at intersections and are within approved disturbance areas.

Response: As described in the applicant's proposal, 4-foot tall temporary construction fencing will be used during construction and will surround the pond and staging areas. This short fencing does not comply with the landscaping and screening requirements of Chapter 33.248, which require construction fencing to be at least 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. **However, because this proposal is not a large construction site using large construction equipment or trucks, and because the applicant has stated that such fencing would cause a larger disturbance area, the applicant has requested that orange construction fencing be allowed. Based on these considerations, staff concurs that orange construction fencing is more appropriate in this case, and will be allowed for this particular project to better protect fragile soils on Powell Butte. Orange construction management fencing shall be required as a condition of approval.**

The applicant also proposes to install straw wattles around the outside perimeter of the proposed fencing to further control sediment transport from the site, but shows it extending along the north, or uphill, perimeter of the disturbance area. Because it is unlikely that sediments will travel uphill during construction, the straw wattles do not have to be installed along the northern perimeter of the construction site unless the applicant so chooses.

All fencing will be within the approved disturbance areas. With a condition requiring **4-foot high orange construction fencing**, this standard will be met.

UTILITY LINES AND OUTFALLS

The applicant did not provide a written response to these standards however, these standards will be required to be met at the time that development permits are reviewed for these facilities.

TREE PRESERVATION, REMOVAL AND REPLACEMENT

(1) Trees may be removed if they are not in an Environmental Protection Zone and:

- *Are species listed as Nuisance Plants or Prohibited Plants on the Portland Plant List, hawthorn trees, or trees shown in the Master Plan as being removed for construction of water supply facilities as approved through this Master Plan, or*
- *Within ten feet of any proposed structure / building or five feet of the periphery of paving, outdoor activity areas driveways or utility line corridors shown on the approved Site Plan, or*
- *Smaller than six inches in diameter measured four feet above grade, or*
- *May block views from scenic viewpoints as listed on page 68 of The Scenic Resources Protection Plan, as determined by the City Forester or*
- *Otherwise specifically allowed to be removed in the Conditional Use Master Plan..*

Response: There are no trees at this location, so no trees will be removed as part of this proposal. Therefore, this standard is not applicable.

EXCAVATIONS AND FILLS

Excavations and fills shall comply with Portland City Code chapter 33.830. In addition, to the extent practicable given the needs of the structure in question, fills and structures shall balance excavations so that original contours are restored.

Response: Chapter 33.830, Excavation and Fills, was deleted from the City's Zoning Code in June 2003. This chapter regulated excavation such as that planned for the preliminary reservoir excavation. Section 33.830.020 exempted R and OS zones with Environmental Overlay zoning because they were subject to more restrictive excavation and fill requirements. Therefore, no excavation and fill review is (or would have been) required.

Excavated soil material will be stockpiled on site and partially reused to restore the site, to the extent practicable. Because not all of the excavated material can be re-used on the site, however, excess excavated material will be loaded into a "tracker" dump truck which will take the material to dump trucks waiting on the trail above the site. Most of the excavated soil will be used to create a 6-foot wide by 2.5-3-foot high berm around the southern edges of the pond to help maintain and prolong water levels in the ponds.

The Powell Butte Master Plan did not anticipate that original contours would be restored in all cases (see Powell Butte Master Plan Figure 4-C3, for example, which shows proposed contours that are distinct from the site's existing topography). Thus, this standard will be met at the time of construction through Site Development permit review.

EROSION CONTROL

Erosion Control shall conform to the Erosion Control Manual (2000), City of Portland, Bureau of Environmental Services, and PCC Chapter 24.70 (Clearing, Grading and Erosion Control). All development between November 1 and April 30 of any year which disturbs more than 500 square

feet of ground, requires wet weather measures described in the City's Erosion Prevention and Sediment Control Technical Guidance Handbook.

Response: Erosion control measures are detailed in the CMP and will be included in the contract specifications. BES did not provide evidence that its erosion control and stormwater management treatments for the project were designed to use best management practices conforming to the current Erosion Control Manual (Handbook) and Title 10 provisions. Site Development determined that the project area meets the criteria specified in City Code 10.30.030 as a Special Site with additional requirements for erosion, sediment and pollution control. An erosion control plan prepared by a Certified Professional in Erosion and Sediment Control (CPESC) or State of Oregon registered professional engineer, and special inspections by the CPESC or P.E. during construction, may be required at the time of building permit application.

In addition, Site Development stated that a 1200-C permit from the Oregon Department of Environmental Quality is required for construction activities including clearing, grading, excavation, and stockpiling that will disturb one or more acres and may discharge to surface waters or conveyance systems leading to surface waters of the state. Therefore, this standard will be met.

TRAFFIC MANAGEMENT AND MONITORING

At least every five years the applicant shall monitor traffic volume on the Butte on a daily basis during peak usage periods. The applicant shall submit a traffic impact study to the Office of Transportation when monitoring shows that average daily vehicle trips to the site during peak usage exceeds 110 percent of the traffic volume reported in the traffic study conducted in support of the 2000 Master Plan. Based on the new traffic study, the Director of the Office of Transportation may require the applicant to improve the Powell Boulevard frontage of the site or other nearby street sections or intersections affected by the increased traffic to maintain the design capacity of those streets, to improve intersections functioning below a level of service D, or to remedy existing hazards in an amount roughly proportional to the impact of traffic associated with the Butte.

Response: There are no traffic concerns related to this project; therefore, there are no related conditions of approval.

VEHICLE AND BICYCLE PARKING

SIGNS

STREET TREES

LIGHTING

ALL OTHER ZONING CODE STANDARDS

The applicant did not provide written responses to any of these standards. However, if appropriate, they will be required to be met at the time that development permits are reviewed.

Powell Butte Master Plan Conditions of Approval:

A. *The Conditional Use Master Plan shall expire ten years from the date this approval becomes effective. Approvals for development or uses shown in the Master Plan that have not begun by the date of Plan also expire and those developments or uses are subject to the land use regulations in place at that time.*

Response: The final approval for the Conditional Use Master Plan was issued by City Council on July 15, 2003 and updated and amended per LU 10-169463 on February 11, 2011. The Powell Butte Master Plan was extended for a period of at least 5 years, with a maximum of 10 years from the date of approval of LU 10-169463. The proposed site preparation will commence in 2013, well before this date. This condition is met.

B. *Prior to issuance of any permit for any development or use approved by this Master Plan the applicant shall update the Master Plan document and site plan, incorporating all modifications required by this approval and deliver four copies to the Land Use Review Section of the Office of Planning and Development Review.*

Response: All updates to the Master Plan document and site plan were completed in July 2003 and are shown in the Powell Butte Master Plan (Volumes I and II). This condition has been met.

C. *Master Plan approval is limited to only those items listed in Phase 1. The Master Plan document shall be modified as necessary to reflect this.*

Response: Only Phase 1 items are approved by the Master Plan. The Master Plan document was modified in July 2003 to reflect this fact (see Condition B). This condition has been met.

D. *The Radio Frequency Transmission Facility, including the tower, shall be eliminated from the site plan and Master Plan.*

Response: The Radio Frequency and Transmission Facility, including the tower, were eliminated from the site plan and Master Plan. This condition has been met.

E. *The storage building shall be a maximum of 5,000 square feet within a maintenance yard of 40,000 square feet as shown on the Site Plan. The maintenance yard shall be in the location and general design as set forth on Exhibit H.29 and landscaping shall exceed L3 landscaping standard on the south and west sides of the yard by planting a double row of trees on those sides generally consistent with Exhibit H.29. The fence around the maintenance yard shall be painted to reduce its visual impact.*

Response: This condition was met by LU 10-169463 CU MS EN AD.

F. *The Master Plan site plan and all other applicable maps in the Master Plan document shall be modified to include those lands added to the Plan since initial Plan submittal (newly-acquired land and Bull Run pipeline and reservoir overflow line corridors).*

Response: The Master Plan site plan and other applicable maps were updated in the July 2003 Master Plan document. In addition, newly acquired land includes approximately 0.63 acres of land obtained through a lot line adjustment for Tax Lot 700 Section 12 1S2E, approved through LU 07-112412 CUMS EN AD and recorded on February 5, 2009. This condition has been met.

G. *Development standards are proposed in pages 26-29 of the Master Plan shall be modified as follows:*

Response: The development standards referenced above have been modified as indicated in the July 2003 Master Plan document, and are addressed in the previous section of this application. This condition has been met.

H. *The following table shall replace the text found on pages 21-31 dealing with future reviews and Table 4 on page 32 of the Master Plan:*

Response: The development review procedure with review thresholds and approval criteria was updated in the July 2003 Master Plan document. This condition has been met.

I. *All disturbance areas shall be revegetated with native groundcover. Planting can be either with potted growth or seeding, but must be at a level that will achieve 80% groundcover within one growing season. At least 8 species of plants must be used. Fifty percent of any seed mix used must be grass and 50 percent flowers when measured by area covered. If cover and species*

requirements are not met within one year or two growing seasons from final inspection, replanting is required and the requirements of this section must be met within one year of replanting.

Response: All disturbance areas outside the emergent zone will be planted with the proposed native groundcovers designed to achieve 80% cover in one growing season. The applicant has proposed six species of groundcover plants with more than fifty percent as grasses in the proposed “scrub-shrub” area of the site. As a condition of approval, the applicant will be required to plant eight species of groundcover plants, with four of them being native wildflowers that will cover 50 percent of the scrub-shrub zone when mature, and this standard will be met.

J. The applicant shall monitor the survival rate of all plantings used for remediation for the environmental violation for at least three years. An 80% survival rate for trees and shrubs and 80% groundcover is required. If the number of trees and shrubs or amount of groundcover drops below this level, new planting to achieve the required level shall be installed.

Response: This proposal is not related to any environmental violation(s); rather it is a resource enhancement proposal to establish pond and wetland environments for amphibians. Therefore, this condition remains in effect for the violation it was intended to serve.

However, the applicant proposes to install many native forb and shrub species that will be able to survive on the south side of the Butte, and also plans to **evaluate the survival rate of these plants and replace them as needed** as they are necessary for the success of the ponds as amphibian habitat. The applicant, **the Bureau of Environmental Services**, has established monitoring protocols for upland, riparian, and wetland areas to assess conditions and identify trends. **BES** will conduct assessments of plant health and distribution and take any necessary actions to ensure the success of both **their** frog ponds and the installed vegetation that will support the ponds. **The BES monitoring protocol requires monitoring for a period of 5 years for emergent wetland sites such as this.**

Further, BDS now requires a Permit process to inspect mitigation plants, following their establishment period, to ensure the plants have been installed as required. The applicant must acquire either a Preconstruction Erosion Control Inspection or a Zoning Permit for the installation of resource enhancement and mitigation plants permitted or required by this proposal. These two types of permits allow BDS the ability to inspect recently planted erosion control, mitigation, and resource enhancement plants. The Zoning Permit provides for at least one additional plant inspection within two years. The Zoning Permit will not be closed out until the last plant inspection has been conducted. Past monitoring and reporting requirements had no such inspection mechanism to confirm compliance with the planting and monitoring conditions of approval.

Because this proposal contains both resource enhancement plants and mitigation for disturbance in areas outside the frog pond construction area, a Zoning Permit will be required to ensure compliance with conditions of approval that require ongoing survival of mitigation plantings on the site.

With these three conditions, this criterion is met.

K. Improvement of the upper parking lot shall include striping of over-size stalls to accommodate bicycle loading/unloading, and striping of drop-off areas and handicapped parking spaces. Trees shall be planted uphill from the parking lot to provide shade to at least one-third of the parking lot surface. Selection of the species to be planted, and the spacing and locations of the trees shall be coordinated with the City Forester, with consideration to be given to balancing the desire for shade against avoiding adverse impacts on the designated vistas and scenic resources from uphill of the trees.

Response: This condition was met during the construction stage of a previous land use review.

L. *Prior to issuance of any development permit for any park or recreation improvement, including any parking lot improvements, Applicant shall improve the existing pedestrian connection adjacent to the main access road between SE Powell Boulevard at SE 162nd Avenue and the park center, to provide a continuous 6-foot wide gravel surface.*

Response: A new trail was installed providing an improved pedestrian connection along the main access road between SE Powell Boulevard at SE 162nd Avenue and the park center. This project was approved in 2007 by Permit #0714307 and LU 07-112412 CUMS EN AD. The trail was constructed in 2008. This condition has been met.

M. *Prior to issuance of any development permit for any park or recreation improvement, including any parking lot improvements, bicycle parking facilities shall be provided in the vicinity of the park center, consistent with Zoning Code requirements.*

Response: Consistent with the Master Plan development standards and the standards of Zoning Code Chapter 33.266.220, 10 bicycle parking spaces have been provided at the park center. These spaces were installed in 2003 and then replaced in the Park Center per approval of LU10-169463 CUMS EN AD. Therefore, this condition has been met.

N. *To assure an appropriate balance in scheduling the construction of new water system and park facilities, development of the 50 million gallon reservoir shall be coincident with development of the following parks facilities; parking lot improvements, interpretive center/public restroom remodeling, maintenance yard and storage building, and relocation of the caretaker residence.*

Response: The key elements of construction cited above, i.e., Reservoir #2, parking lot improvements, interpretive center/public restroom remodeling, maintenance yard and storage building, and relocation of the caretaker residence, will all be constructed together as part of the same building permit. This condition was met during the building permit review, in "Stage 2" of Reservoir #2 construction.

O. *Within one year of master plan approval, Applicant shall plant trees to provide shade to the planned detention pond location. The trees shall consist of at least 101 deciduous native trees listed on the Portland Plant List. The trees shall be planted south and southwest (uphill) of the planned detention pond location that is indicated on the Phase 1 Hydrology Exhibit of the Powell Butte Hydrology, Detention and Water Quality Report. The trees shall be at least six feet in height and spaced at an average of 10 feet on centers. The trees shall be planted in a band approximately 16 feet deep with no root ball closer than six feet from the edge of the pond.*

Response: This condition was modified through approval of LU 10-169463 CUMP EN AD and reflects the current stormwater design. The required 101 trees have been planted along the new stormwater treatment facilities, including vegetated swales. This condition does not apply to the current proposal.

P. *Within the tree removal corridor for the pump station, final design of the pipeline will continue to analyze alternative pipeline alignment options to preserve, if practical and feasible, large Douglas fir trees in the approved tree removal corridor. The mitigation/restoration plan for the pump station will include planting of Douglas fir trees on both sides of the pipeline trench. The access road and staging/parking area for the pump station shall be finished with a gravel surface.*

Response: No pump station is currently proposed as part of the site preparation or subsequent construction stages. Thus, no trees will be removed in the tree removal corridor and no mitigation is required. This condition does not apply to the current proposal.

CONCLUSIONS

The applicant proposes a resource enhancement project to create additional aquatic habitat for **frogs and other animal** species on the south side of Powell Butte. This proposal has been

found to be in compliance with the conditions and requirements of the Powell Butte Master Plan. **The proposed project will increase the ecological complexity of the site and will result in a variety of ecological structures and increased species diversity on the Butte. The applicant includes a monitoring process as part of the proposal, and a BDS Zoning Permit will be required to ensure that the site is replanted and maintained as described in this proposal.** The additional pond habitat will not only assist frogs with survival on the Butte, but will also help other species such as birds and other area wildlife.

Overall, the applicant has provided findings showing that the proposal meets all of the applicable approval criteria with conditions. Therefore, this proposal should be approved, subject to the following conditions.

ADMINISTRATIVE DECISION

Approval of an Environmental Review to:

- Excavate and construct two adjacent amphibian ponds, along with temporary soil stockpiling and temporary erosion control and construction fencing;
- Create a haul road, **if necessary**, from the Orchard Loop Trail to the pond site;
- Install cluster root wads to both retain the uphill bank and provide resting and other habitat values for amphibians and other wildlife species;
- Install habitat logs at various locations down-slope of the ponds that will provide a connection to the proposed Water Bureau Mitigation Ponds to the south of this site;
- Plant 70 native trees, 700 bare root native shrubs, 850 herbaceous plant plugs, and 28.5 pounds per acre of a grass/forb seed mix;

all within the environmental conservation overlay zone and in substantial conformance with the Powell Butte Master Plan and with LU 13-138036 EN Exhibits C.2 through C.4, as modified signed and dated by the City of Portland Bureau of Development Services on **June 5, 2013**. Approval is subject to the Development Standards listed in the Powell Butte Master Plan, to the Conditions of Approval listed in the Powell Butte Master Plan, and to the Conditions of Approval listed below.

- A. All permits: A BDS construction permit is required.** Copies of the stamped Exhibits C.2 through C.4, from LU 13-138036 EN and Conditions of Approval listed below, shall be included within all plan sets submitted for permits (grading, Site Development, erosion control, zoning, 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 through C.4."**
- B. Either a Preconstruction Erosion Control Inspection (IVR 200) by Site Development or a Zoning Permit** will be required prior to any ground disturbing activity. Full compliance with the erosion control requirements of Title 10, as well as maintenance of the erosion control elements are the responsibility of the applicant and builders of structures on the site. Please refer to the City of Portland *Erosion and Sediment Control Manual* for additional information regarding erosion and sediment control requirements.
1. Prior to initiating any excavation or grading activity on the site, the applicant shall confer with the Site Development Section of the Bureau of Development Services to ascertain whether a Certified Professional in Erosion and Sediment Control (CPESC) or State of Oregon registered professional engineer, and special inspections by the CPESC or P.E. during construction, will be required at the time of zoning permit application.
 2. The north perimeter of the proposed ponds shall be delineated by **orange construction fencing** to prevent any construction activity from occurring in the existing wetland north of the pond site.
 3. **Orange** construction management fencing shall be placed within the approved disturbance area boundaries.

4. Straw wattles, or similar sediment traps shall be placed around all downhill slopes of the proposed excavation, stockpile and construction management areas, **including the excavation areas for each habitat log that will be installed downhill of the pond site**, to prevent transport of loose soil material down hill.
 5. Excess excavated soil for the pond and habitat log excavations shall either be re-used in the development area, or shall be removed from the site.
 6. All excavation activity for the frog ponds shall occur from below the defined north perimeter of the proposed frog pond areas.
 7. Any existing roads or access ways to the site, shall be used if **feasible**, prior to constructing new routes or going "cross-country" to the site.
 8. Any vehicle/haul route used to access the pond construction area must either be restored to its pre-project condition, or restored to a native plant condition if warranted, as determined by Portland Parks.
 9. No mechanized construction vehicles are permitted outside of the approved "Limits of Construction Disturbance" **including haul/access roads**, delineated by the temporary construction fence. **Any** planting work, invasive vegetation removal, **or** other work to be done outside the Limits of Construction Disturbance, shall be conducted using hand held equipment.
- C. A total of 70 trees, 700 shrubs, 850 sedge and rush plugs, and 28.5 pounds per acre of a native grass/forb seed mix, as identified on Ex. C.4 and as modified in C.3, below, shall be planted in and around the amphibian ponds per the applicant's planting site plans. The plan shall illustrate a naturalistic arrangement of plants and shall include the location, species, quantity and size of all plants to be installed. The plan shall show each of the following:**
1. The applicant shall plant the species and quantities of species specified in the Plant Legend in Exhibit C.4 of this review, except as modified below, and which includes:
 2. **Any disturbance areas outside those areas scheduled for replanting, such as haul or access roads, areas disturbed by habitat log installation, etc, shall also be replanted with native shrubs and the appropriate grass/forb seed mix at the same rates as the enhancement areas will be planted, except as modified in C.3, below.**
 3. A minimum of eight species of groundcover plant seeds, with at least four species being native wildflowers that will cover at least 50 percent of the disturbance areas when mature, shall be planted. The applicant shall call out this condition on site plans submitted with required Bureau of Development Services permits.
 4. **BES shall follow its monitoring protocol for conducting on-site project evaluations and take any necessary actions to ensure the success of both their frog pond proposal and the installed vegetation that supports the ponds.**
- D. A BDS Zoning Permit shall be required to document installation of the plantings by March 31 of the year following installation.**
- E. The proposal must comply with Urban Forestry requirements for planting trees on City-owned property.**
- F. 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 any other applicable City, regional, state or 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

Revised Decision rendered by: Kathy Harnden on June 20, 2013
By authority of the Director of the Bureau of Development Services

Decision mailed: July 2, 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 April 10, 2013, and was determined to be complete on April 30, 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 April 10, 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 requested that the 120-day review period be extended by four weeks. Unless further extended by the applicant, **the 120 days will expire on: September 26, 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 July 16, 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 **July 17, 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;

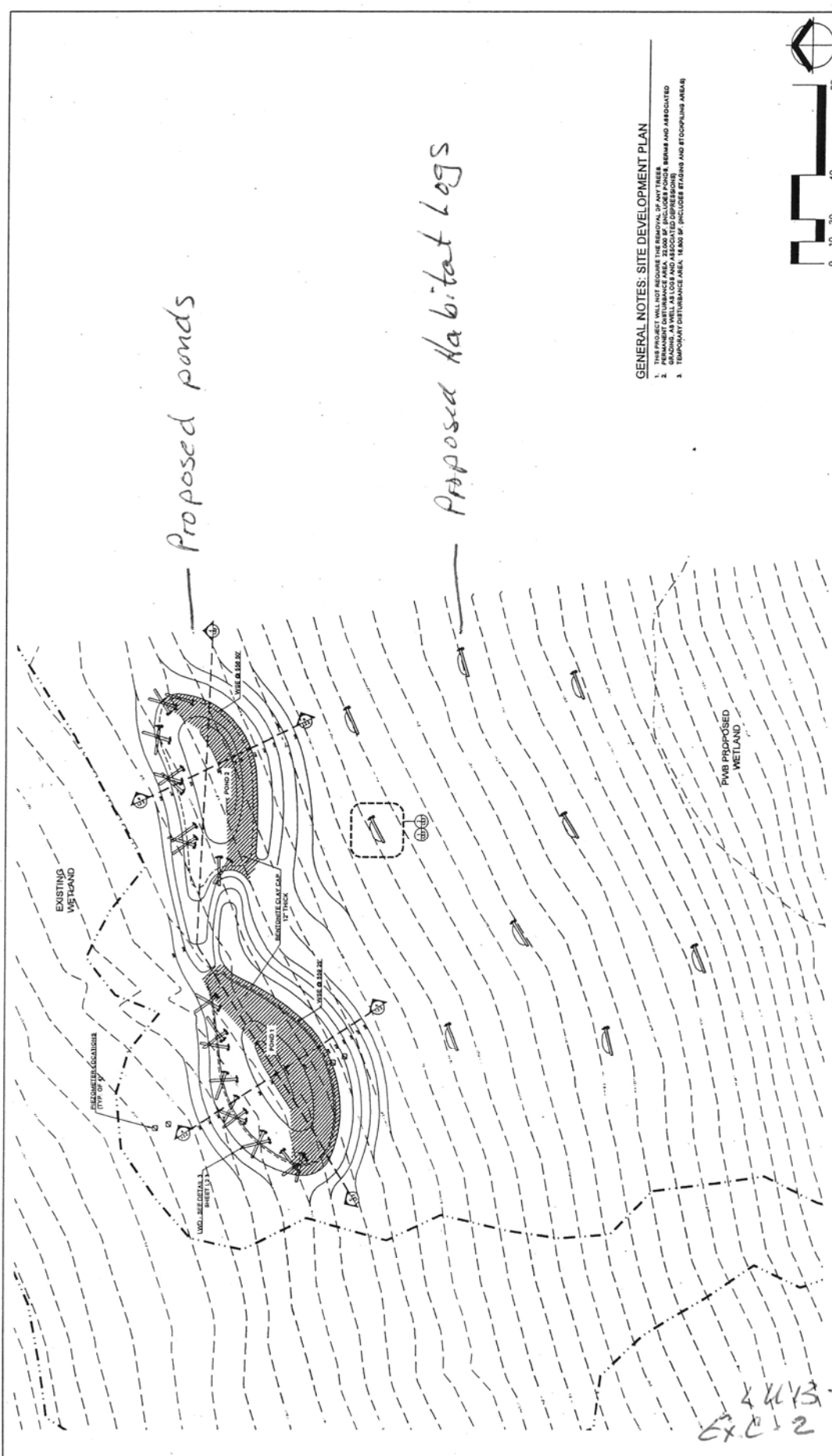
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. 1. Applicant's Statement
- 2. Monitoring Protocol
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions
 - 2. Proposed Development (attached)
 - 3. Construction Management (attached)
 - 3.b Habitat Log Installation (attached)
 - 4. Mitigation (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Water Bureau
 - 3. Site Development Review Section of BDS
 - 4. Bureau of Parks, Forestry Division
- 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).



Proposed ponds

Proposed Habitat logs

GENERAL NOTES: SITE DEVELOPMENT PLAN

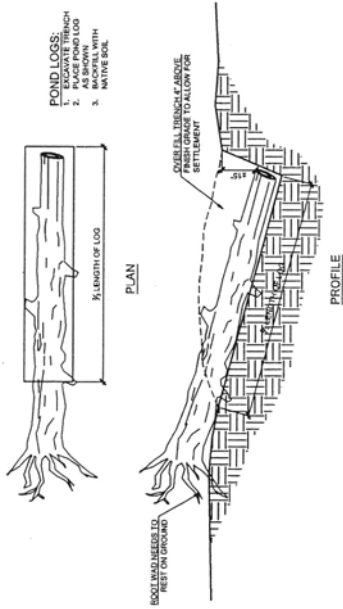
1. THIS PROJECT WILL NOT REQUIRE THE REMOVAL OF ANY TREES.
2. THE PROJECT WILL REQUIRE THE REMOVAL OF ANY TREES, SHRUBS, AND GRASSES, AS WELL AS LOGS AND ASSOCIATED DEBRIS, AND STOCKPILING AREAS.
3. TEMPORARY DISTURBANCE AREA: 18 AND 16' INCLUDES STAGING AND STOCKPILING AREAS.



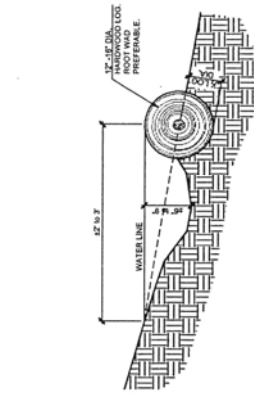
CITY OF PORTLAND ENVIRONMENTAL SERVICES				REGISTERED 619 JERRY L. FARMER OREGON LANDSCAPE		POWELL BUTTE AMPHIBIAN PONDS PROPOSED DEVELOPMENT PLAN		1/4 SECTION SHEET NO. E10325 SHEET NO. L2.0 3 of 8			
PROJECT NO. 4/3/13	PROJECT NAME POWELL BUTTE	DESIGNER ENVIRONMENTAL SERVICES	CHECKED BY JERRY L. FARMER	DATE 4/3/13	SCALE 1" = 40'	PROJECT NO. 4/3/13	PROJECT NAME POWELL BUTTE	DESIGNER ENVIRONMENTAL SERVICES	CHECKED BY JERRY L. FARMER	DATE 4/3/13	SCALE 1" = 40'

4413-138036 EN
 CXC 12

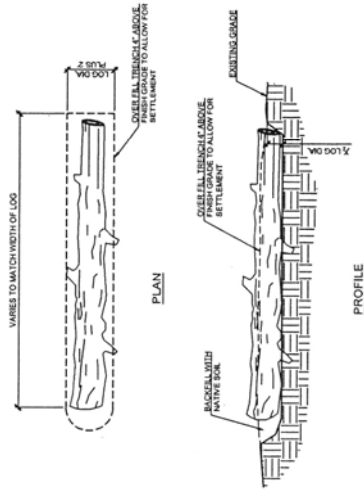
LU 13-12 8036 EN
Ex. C. 3



3 LOG AT POND EDGE
N.T.S.



1 LOG IN GRADE SECTION
N.T.S.



2 LOG IN GRADE DETAIL
N.T.S.

LU 13-13 8036 EN
Exc. 36

DATE: 4/2/13	DESIGNED BY: [blank]	CHECKED BY: [blank]	APPROVED BY: [blank]
PROJECT NAME: [blank]	PROJECT NO.: [blank]	PROJECT DATE: [blank]	PROJECT LOCATION: [blank]
PROJECT DESCRIPTION: [blank]	PROJECT STATUS: [blank]	PROJECT COMMENTS: [blank]	PROJECT NOTES: [blank]
PROJECT OWNER: [blank]	PROJECT CONTACT: [blank]	PROJECT PHONE: [blank]	PROJECT FAX: [blank]
PROJECT EMAIL: [blank]	PROJECT WEBSITE: [blank]	PROJECT ADDRESS: [blank]	PROJECT CITY: [blank]
PROJECT STATE: [blank]	PROJECT ZIP: [blank]	PROJECT COUNTRY: [blank]	PROJECT CONTINENT: [blank]

CITY OF PORTLAND
ENVIRONMENTAL SERVICES

POWELL BUTTE
AMPHIBIAN PONDS

ROBERT L. FENNEL
REGISTERED
LANDSCAPE ARCHITECT
OREGON
10921/13

1/4 SECTION	JOB NO. E10325	SHEET NO. L2.3 6 of 8
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1

100

- NO TREES OR TALL SHRUBS SHALL BE PLANTED DIRECTLY SOUTH OF THE PONDS IN ORDER TO PRESERVE SOLAR ACCESS.
- NO THICKET FORMING SHRUBS SHALL BE PLANTED DIRECTLY ADJACENT TO THE EMERGENT ZONE IN ORDER TO MINIMIZE OR DELAY WOODY PLANT ENCROACHMENT INTO THE PONDS.
- NO PLANTS OTHER THAN HERBACEOUS SEED SHALL BE PLANTED ON THE INSIDE SLOPE OF THE BERMS BECAUSE OF THE IMPERVIOUS CLAY LAYER PRESENT.

LU 13-138036 EN
Ex. C.4

Ex. C. 4

37

 MAP USER _____
 MONITOR ANGLE _____
 CONTRACTED BY _____
 PROJECT COMPLETED _____
 MAP CORRECTED BY _____
 MAP CORRECTED DATE _____
 FINAL MAP DATA _____

TARGETS BY DATE APPROVED	
TARGET BY	DATE APPROVED
MAIN BY	4/3/13
REVISION BY	PK
CHECKED BY	DATE
RECON BY	05/15



 CITY OF PORTLAND
 ENVIRONMENTAL SERVICES

REGISTERED
#110

LANDSCAPE ARCHITECT

• LANDSCAPE ARCHITECT
 OREGON
 EXCEPT AS NOTED

POWELL BUTTE
 AMPHIBIAN PONDS

MITIGATION PLAN

JOB NO. E10325
 SHEET NO. L4.0

DATE 8 or 8