Portland City Auditor
Hearings Office

HearingsOfficeClerks@PortlandOregon.gov

503-823-7307

DECISION OF THE HEARINGS OFFICER

I. GENERAL INFORMATION

File Number: LU 26-051203 CU EN GW
Hearings Office Case Number 4260012

Applicant: Tina Tippin
Portland General Electric
121 SW Salmon Street
Portland, OR 97204

Applicant's Representative: William Rasmussen
Miller Nash, Llp
1140 SW Washington Street, #700
Portland, OR 97205

Property Owners: City of Portland
Parks & Recreation (Forest Park site)
Attn: Laura Lehman
1120 SW 5th Avenue #1302
Portland, OR 97204-1926

Portland General Electric (Harborton Substation site)
Attn: Randy Franks
121 SW Salmon Street
Portland, OR 97204

United States of America (Parcel adjacent to Harborton Substation)
620 SW Main Street
Portland, OR 97205-3037

Hearings Officer: Marisha Childs

Portland Permitting & Development (PP&D) Staff Representative: Christine Caruso

Site Address: Forest Park and Harborton Substation (12500 NW Marina Way)

Legal Description: BLOCK 11 E OF COMPROMISE LINE LOT 1-3, HARBORTON; BLOCK 11 W OF COMPROMISE LINE LOT

	1-3 LOT 4-7, HARBORTON; BLOCK 11 LOT 8-10, HARBORTON; BLOCK 11 LOT 11, HARBORTON; BLOCK 11 LOT 12, HARBORTON; TL 100 48.30 ACRES, SECTION 04 1N 1W; TL 700 0.57 ACRES, SECTION 04 1N 1W; TL 200 51.98 ACRES, SECTION 04 1N 1W; TL 2000 19.28 ACRES, SECTION 34 2N 1W; TL 1000 1.22 ACRES DEPT OF REVENUE, SECTION 34 2N 1W; TL 500 1.80 ACRES, SECTION 34 2N 1W; TL 900 3.28 ACRES, SECTION 34 2N 1W; TL 400 15.79 ACRES, SECTION 34 2N 1W; TL 1700 59.73 ACRES, SECTION 34 2N 1W; TL 200 23.89 ACRES, SECTION 04 1N 1W; TL 1000 9.68 ACRES, SECTION 04 1N 1W; TL 1600 1.48 ACRES, SECTION 34 2N 1W; TL 1900 9.74 ACRES, SECTION 34 2N 1W; TL 600 3.20 ACRES, SECTION 34 2N 1W; TL 500 3.29 ACRES, SECTION 33 2N 1W
Tax Account Numbers:	R359602460, R359602490, R359602630, R359602690, R359602710, R961040010, R961040100, R961040140, R971340040, R971340160, R971340170, R971340190, R971340210, R971340340, R961040480, R961040450, R971340400, R971340390, R971340370, R971330350, R649940250
Neighborhoods:	Forest Park and Linnton
Business District:	None
District Coalition:	District 4
Plan District:	Northwest Hills - Forest Park - Miller Creek & Linnton Subareas
Other Designations:	*Forest Park Natural Resources Management Plan*; *Forest Park and Northwest District Natural Resources Inventory* – Resource Site FP2, Upper Harborton; *Lower Willamette River Wildlife Habitat Inventory* – Site 4.2B (Rank III); FEMA Special Flood Hazard Area; Wildlands Fire Hazard Area
Zoning:	*Base Zones:* Open Space (OS), Heavy Industrial (IH) *Overlay Zones:* Environmental Conservation (c), Environmental Protection (p), Greenway River General (g), Greenway River Natural (n), Greenway River Water Quality (q)
Land Use Review:	Type III, CU EN GW – Conditional Use Review, Environmental Review, Greenway Review

PP&D Staff Recommendation to Hearings Officer: Approvals with conditions.

Public Hearing: The hearing was opened at 1:30 p.m. on October 14, 2026, via the Zoom platform and was closed at 4:20 p.m. The record was held open until 4:00 p.m. on October 21, 2026, for new evidence; until 4:00 p.m. on October 28, 2026, for rebuttal of new evidence; and until 4:00 p.m. on November 4, 2026, for the Applicant's final argument. The record was closed at 4:00 p.m. on November 4, 2026.

Testified at the Hearing:
Christine Caruso
William Rassmussen
JD Podlesnik
Noah Hurlocker
Steven Liday
Dr. Ian Beal
Carol Chesarek
Jolynn Moshner
Carol Canning
Tom Kruger
Carole Hardy
Catherine Thompson
Veronica Dullack
Carol Pinegar
John Rosapepe
Marcy Houle
Micah Meskel
Ryanna Carradine-Turner
Nhy Le
Daniel Eisner
Ariana Scipioni
Leo James
Steven Walling

Proposal: The Applicant, Portland General Electric (PGE), is requesting approval to conduct utility improvements within their existing utility easement in Forest Park (Project). These improvements include shifting the location of one power pole and rewiring a segment of existing transmission line to that new pole location (the Harborton-Trojan #1 and #2 230 kV lines) and installing two new poles to support a new, 1,400-foot-long segment of transmission lines (Evergreen-Harborton and Harborton-St. Mary's 230 kV lines). Both the shifted and new transmission line segments will connect west to existing PGE lines within Forest Park and span east across Highway 30 to PGE's existing Harborton Substation.

The proposed transmission line activities will result in significant impacts to 4.7 acres of natural resources within Forest Park including the removal of 375 living trees and 18 dead trees (7,630 inches diameter breast height), permanent fill of two existing wetlands (Wetland A and Wetland B) and impacts to two streams (Stream 1 and Stream 2). The Applicant

proposes to restore the affected 4.7-acre area using native shrubs, woodland species, Oregon white oak, pollinator plants, and groundcovers. The Applicant proposes to mitigate for permanent impacts to resources by providing mitigation funds in the total amount of $5.5 million. The monetary mitigation requirement will fund actions within or adjacent to the park, overseen by Portland Parks & Recreation, including but not limited to:

- Invasive plant management, ecological restoration, and wildfire fuel reduction
- Aquatic and riparian enhancements, including Northern red-legged frog habitat creation
- Acquisition of properties or conservation interests in nearby properties.

Most of the project is within the City's Environmental Conservation and Environmental Protection overlay zones within the City's *Forest Park Natural Resource Management Plan* (Forest Park NRMP). The Forest Park NRMP includes a list of certain projects/actions that are in conformance with the Forest Park NRMP, and which are allowed without a land use review. The Forest Park NRMP does not specifically address the installation of new or the upgrade of transmission lines/corridors. Therefore, this proposal is considered an "exception" to the Forest Park NRMP and is required to go through a Type III Environmental Review.

The project also includes alterations to existing development within the River General and River Water Quality overlay zones which require approval through a Greenway Review. Further, because the Applicant is proposing a Rail Line and Utility Corridor Use within the Open Space base zone, a Conditional Use Review is also required. All the aforementioned reviews are being reviewed concurrently under this land use case. The portion of the work within Forest Park is also within the Forest Park Subdistrict of the Northwest Hills Plan District and must meet the additional approval criteria for that subdistrict.

Lastly, in 2024, PGE applied for Phase 3 of the Harborton Reliability Project in Forest Park (LU 24-041109 CU EN GW, Hearings Office 4240019). On appeal of the Hearings Officer's decision, City Council denied the Environmental Review portion of the application. Following Council's denial, PGE appealed the decision to the Land Use Board of Appeals (LUBA) and requested the parties mediate. The mediation resulted in an agreement between the City Administrator and PGE. The terms of the agreement specify that PGE will submit a new land use application with supplemental evidence and revised commitments to mitigation, site restoration, construction management, and provide funding for a consultant contract to inform City participation in future utility infrastructure planning affecting Forest Park.

The agreement does not bar the City from considering new arguments or evidence. Additionally, final approval of the Application rests with the Hearings Officer, subject to potential appeal to City Council, acting in their quasi-judicial capacity. Nothing in the Agreement can be construed to bind the Hearings Officer, City Council, any elected official, or any decisionmaker to approve the Project. The final decision shall be made independently, based upon the record before the decisionmaker and in accordance with applicable law.

Information on the agreement including the Settlement Agreement can be found here: https://www.portland.gov/ppd/news/2026/7/9/city-portland-pge-reach-agreement-following-mediation.

Applicant's submittal materials can be found here:
https://efiles.portlandoregon.gov/record/17984652.

Relevant Approval Criteria: To be approved, this proposal must comply with the approval criteria of Title 33, The Portland Zoning Code. The applicable approval criteria are:

- The "**Approval Criteria for Exceptions**" including criteria **A through E in Section B** on page 217 of the *Forest Park Natural Resources Management Plan* (by reference from Portland City Code (PCC) 33.430.030).
- Approval Criteria for Environmental Review within the Forest Park Subdistrict in the Northwest Hills Plan District in Zoning Code section **33.563.210 A**.
- **PCC 33.440.350.A** – All Greenway Reviews (*Greenway Design Guidelines*)
- **PCC 33.440.350.G** – Development within the River Water Quality overlay zone setback
- **PCC 33.440.350.H** – Mitigation Plan
- **PCC 33.815.230** – Rail Lines and Utility Corridors.

The Portland Zoning Code is available online at https://www.portland.gov/code/33.

Findings and Basis for Decision: The Hearings Officer concludes that the findings and recommended conditions of approval in the PP&D Staff Report and Recommendation show the Applicant's application for a Type III Environmental, Conditional Use, and Greenway Reviews satisfies all relevant approval criteria. Except where specifically noted below, the Hearings Officer modifies Condition of Approval B and C below and adopts and incorporates the PP&D Staff Report.

Based on Exhibits A.1 through H.209 in the record and the hearing testimony from those listed above, the Hearings Officer finds the Applicant's proposal satisfies the approval criteria listed above and should be approved subject to conditions of approval.

II. DISCUSSION

This City started the hearing with its Staff Report presentation which described the site history, project details, and evidence relied upon in making its recommendation to approve the project. Next, the Applicant presented its evidence and expert testimony in support of its proposal. Public testimony in support of the Applicant's proposal was received followed by public testimony in opposition to the Applicant's proposal. The public hearing concluded with testimony about the mitigation fund and final remarks by the City planner. After the record closed, the Hearings Officer, who presided over this matter, sadly, passed away. The Hearings Officer who issues this decision issued the prior decision on a similar, yet different, proposal in 2025. That prior decision has no bearing on the analysis of the current proposal. The Hearings Officer has no bias and can render an objective decision on the merits. The Hearings Officer watched the video of the proceedings and reviewed documents and exhibits admitted into the record.

Procedural posture

Some of the documents offered in opposition to the Applicant's proposal suggest the Hearings Officer is bound by prior decisions related to this project. Each application for land use review is another opportunity to present a project that satisfies the goals of both parties while meeting the applicable approval criteria. The Hearings Officer is therefore not bound by decisions made previously regarding this project. Although similarities exist between the current project proposal and its predecessor, the current project is unique and is considered independently on its own merits to ensure the applicable approval criteria are satisfied. Suggestions that the project is "the same as the last time" are without merit. Absent a legal basis to the contrary, this project is reviewed consistent with the code provisions for any Type III public hearing, and the application is analyzed against the applicable approval criteria.

Public comment in opposition to the Applicant's proposal raised some concerns which are beyond the scope of these proceedings. Specifically, although several have raised concerns surrounding the easement while others have asserted a belief that the mediation agreement should be overturned because there were some "backdoor dealings" or "pay to play" agreements – these assertions are both outside the scope of the approval criteria and beyond the scope of the Hearings Officer.

The Standard of Proof for review of Type III land use reviews is found in Administrative Rule 9.02.G.1 which states: "The applicant has the burden of proof and must provide evidence to establish that the proposed development will satisfy every element of the applicable approval criteria." The Hearings Officer agrees with the analysis of the applicable burden of proof upon the Applicant is a "preponderance of the evidence" which requires a showing of "more likely than not." See, Applicant's Final Argument (Exhibit H.209). To that end, the Hearings Officer has independently assessed all applicable approval criteria and made two modifications to the conditions of approval (B and C) but otherwise, accepts and adopts the recommendation of PP&D. This decision will not address each individual approval criteria and instead relies upon the analysis found in the Staff Report. Where the Hearings Officer's analysis differs, those differences will be addressed below.

The City presented a thorough analysis of its considerations when reviewing the Applicant's proposal, ultimately finding the Applicant proposal meets all applicable approval criteria. Although the parties' analysis of the applicable approval criteria and interrelationship with subcategories of review differed, the parties ultimately reach the same destination.

There is a demonstrated need for the proposal.

The Applicant has shown that its current transmission network around the Harborton Substation requires upgrading due to increased demand, an aging transmission system, and to comply with federal reliability standards by 2028. The Applicant has shown failure to complete the necessary upgrades would impact approximately 55,000 residents of North and Northwest Portland.

Testimony received in opposition asserts that the Applicant has not explored distributed energy options like rooftop solar, battery storage, behind the meter generation and demand response. The Applicant provided explanation in its submittal materials (Exhibit A.1) The Applicant acknowledges the benefit of such programs but also reminds that PGE cannot compel its customers to participate in such programs. In short, these alternatives do not solve the problem behind the proposal and only represent a fraction of the need. In its evaluation of the alternative locations and design modifications, the Staff Report acknowledges these findings and ultimately concluded that the proposed design and location represent the least environmentally detrimental practicable alternative and that the Applicant had established a demonstrated need for the project.

The Hearings Officer agrees with this analysis and conclusion and finds this criterion is met.

<u>The proposed action is consistent with the Forest Park Natural Resources Management Plan Goals and Strategies.</u>

The Applicant's Final Argument (Exhibit H.209) provides a chart summarizing some of the arguments raised in opposition as well as where in the record the argument is refuted. Some of the arguments raised in opposition which came up with frequency will be addressed here but this is by no means an exhaustive compilation of all issues raised in opposition to the proposal.

When reviewing the Applicant's proposal as a whole, the Hearings Officer by and large agrees with the findings in the Staff Report, except where noted otherwise. The Staff Report found that Applicant's proposal satisfied all criteria for minor amendments and that the Applicant demonstrated compliance with all applicable approval criteria.

> "Overall, the Project's location and design are consistent with the NRMP's intent to protect the highest-value resources, concentrate activity in already disturbed areas, and improve long-term stewardship of Forest Park. These measures advance the two Conservation Goals defined by the NRMP including repairing damaged systems, increasing habitat diversity, enhancing wildlife habitat, improving water resources, expanding oak habitat, and controlling invasive species. Taken together, the onsite restoration at the Project site and off-site enhancement in other areas of Forest Park provide ecological improvements that strengthen Forest Park's long-term health and resilience."

<u>Alternative locations and design modification</u>

Both the City and the Applicant present strong arguments that considered alternative locations and design modifications with the least significant detrimental environmental impacts of the practicable alternatives and concluded that:

> "Based on the information in 2026 Alternatives Analysis and Completeness Review Memo, the applicant has demonstrated that the proposed location and design represent the least environmentally detrimental practicable alternative.

> The combination of reduced structure count, elimination of a permanent access road, minimized work areas, tailored landing construction methods, and refined tree clearing practices shows that practicable design and location modifications have been evaluated and incorporated to minimize resource impacts. *This criterion is met*."

It is important to highlight that "practicable alternatives" does not mean that all known and unknown theoretical alternatives must be considered. Some opposition testimony suggests there are alternatives outside of Forest Park that the Applicant has failed to consider and therefore the Project should not be approved. The alternative must be *practicable* and although the Federal Energy Regulatory Commission reliability standards are not part of the approval criteria, it must be acknowledged that it provides the backdrop for the project proposal. The Applicant has shown that extensive continued evaluation of alternative locations outside of Forest Park, beyond what the Applicant has presented, would encounter significant hurdles that could not be overcome by 2028. What the Applicant has presented takes all these factors into consideration leading to the conclusion that siting the project proposal through Forest Park within the existing utility corridor is the most practicable of the known alternatives with the least significant detrimental environmental impacts.

"Park-related development"

The Forest Park Natural Resources Management Plan (FPNRMP) Approval Criteria for Exceptions criterion B requires the applicant to show that either the proposal is park-related development, or no alternative location exists outside of Forest Park. The Applicant argues its proposal is "park-related" development because it is the type of infrastructure development that the FPNRMP recognizes, acknowledging that relationship between utility corridors and the park. The Staff Report disagrees with the Applicant's analysis providing the existence of a utility easement is not authorization to perform major infrastructure development within it. The Hearings Officer finds the Applicant's argument is not simply about location; rather it is about a relationship, a connection. The City additionally argues that the existence of the easement or its presence within the utility corridor does not create a functional relationship with Forest Park mission or values The Staff Report analysis is akin to 'although we have a relationship, we don't have *that* kind of relationship.' The Hearings Officer finds merit in both arguments and finds the project is park-related development.

If the Applicant's project were simply to modify transmission poles – regardless of scale – within the utility corridor and do nothing to improve the understory, it would be reasonable to conclude the project is not park-related development. However, what makes the project park-related development is more than location alone: it is the extensive work to enhance and improve the understory supporting ecological restoration and resource management of a utility corridor within the North Unit within Forest Park.

The Applicant's project proposal modifies existing transmission infrastructure within the existing utility corridor which is recognized both in the FPNRMP as well as the 1971 easement. That recognition and memorialization of the relationship between the utility corridor and the park is the tacit acknowledgment that there may always be a push-pull dynamic

between the utility corridor occupant and Forest Park. The project proposal mitigation and remediation plan would alter the current utility corridor from that of an unwelcome distant family member at the reunion to a tentatively welcomed new family member that has brought games and music to the picnic. The mitigation plan both improves and connects the North Unit and its accompanying utility corridor with the rest of the park. The Applicant's mitigation / remediation plan provides for removal of invasive plants, wildfire risk reduction, stream and wetland enhancements, and monitoring of plantings for 10 years with the Staff Report acknowledges supports the overall ecology of the park. Further, the analysis provided by the City as it relates to the FPNRMP approval criteria E: the proposal is consistent with the purpose of the environmental zones, the Staff Report states:

> "The Project's consistency is reinforced by substantial mitigation. In addition to onsite restoration, the applicant proposes a mitigation payment of $5.5 million to support restoration and enhancement projects, including wildfire risk reduction, stream and wetland enhancement, habitat restoration, and other ecological improvements across Forest Park. These measures will offset localized impacts and actively improve habitat quality, ecological resilience, invasive species control, aquatic resources, and long-term stewardship of Forest Park, directly advancing the purposes of the Environmental Zones."

As it relates to approval criteria B, this analysis is not relevant, however what is relevant is that the findings establish the mitigation further connects the North Unit to the rest of Forest Park and has an overall ecological benefit which is consistent with the goals and strategies of the FPNRMP. The Staff Report on one hand acknowledges the benefits of the Applicant's restoration plan and yet on the other hand anticipates a utility corridor of yore. The Hearings Officer finds it difficult to reconcile the analysis in the Staff Report which acknowledges benefits of the restoration plan not just within the North Unit, but to the overall ecology of the park, only to conclude that the development is not park related. Recognizing these benefits and improvements to Forest Park all while agreeing to accept payment and considering the analysis for Approval Criterion E above – which, the Staff Report finds that the project proposal makes enhancements to the overall ecology across Forest Park and ultimately satisfied that criterion – all support a finding that the development is park-related.

Notwithstanding, the Applicant has additionally shown that even if the Project Proposal was not considered park-related development, Exception Criterion B is met because locations outside of Forest Park would not meet the 2028 transmission deficiency upgrades. The Applicant has shown need for the project, the timeline, and that alternatives outside of the park present a vastly different project with a different set of complications that could not be surmounted prior to the Federal Reliability Standard deadline. Additionally, analysis of alternative routes in the park yielded findings which also fail because those alternatives would not meet the 2028 timeline, it creates new vulnerabilities or results in a greater environmental disturbance. As such, the Hearings Officer agrees that no other practicable alternative exists either in- or out- of the park.

Adverse impacts are fully mitigated within Management Unit

In the Applicant's Final Argument, PGE's principal environmental science specialist concluded that the "mitigation identified for the North Unit will fully mitigate the Project's long-term adverse impacts on resource values within the North Management Unit." City staff reviewed these same materials and provided the following in Staff Report:

> "The applicant acknowledges that the Project will still have impacts requiring mitigation, including mature tree canopy loss and conversion of forest habitat to lower stature vegetation, as well as impacts to streams and wetlands. They report that these impacts will be fully addressed through mitigation within the North Management Unit; the Habitat Mitigation Plan identifies several projects that will directly benefit this portion of Forest Park, such as wetland improvements for Northern red-legged frog breeding habitat, stream and riparian enhancement, large-scale invasive-species and wildfire ladder fuel removal, and native revegetation beyond the Project's restoration area. These measures are intended to offset the same resource values affected by the Project and provide ecological benefits at a scale exceeding the Project's localized footprint.
>
> As described in the Habitat Mitigation Plan, the mitigation funds will support compensatory projects targeting resource values affected by the Project, including invasive species removal, native revegetation, habitat enhancement, and related restoration work. According to the Habitat Mitigation Plan, the mitigation funds could support restoration or enhancement of multiple acres within Forest Park. Combined with onsite restoration, the applicant states that this mitigation package will more than offset localized impacts, advance Forest Park management goals and strengthen Forest Park's long-term ecological health, resilience, and stewardship."

The Applicant's Final Argument proposes a revision to Condition B which would offer greater assurance that the mitigation funds will be used within the North Unit. Specifically, the Applicant proposes the following language:

> ''Mitigation Funds' payment in the amount of $5,500,000 must be made to the City of Portland for deposit in the Forest Park Trust Fund after the issuance of construction permits and prior to the clearing of vegetation for construction of the project. An amount not less than the fee-in-lieu amount calculated under Ordinance No. 191314 must be deposited in the Trust Fund's North Management Unit order and spent within the North Management Unit. The Mitigation Funds must be used for the mitigation projects identified in the Habitat Mitigation Plan (Exhibit A.3) or for the acquisition of land or conservation easements adjoining or connected to the park for addition to the North Management Unit. PP&R will prepare a mitigation plan describing the projects, locations, acreage, and timeline for the funds and will report annually on funds spent and mitigation accomplished, consistent with Ordinance No. 191314."

The Hearings Officer agrees with the finding that the Applicant has satisfied the applicable approval criteria.

Proposal consistent with purpose of Environmental Zones.

The Staff Report analyzed the purposes of the Environmental Protection zone as well as the Environmental Conservation zone and concluded:

> "[T]he proposal meets the requirement to be consistent with the environmental zones because it includes a rare and unusual critical infrastructure project with a demonstrated need, extensive alternatives were evaluated to ensure the location of the project is the least detrimental to resources, it minimizes impacts through refined design, and incorporates extensive restoration and mitigation measures that will offset long-term impacts by improving ecological conditions in Forest Park. This criterion is met."

The Hearings Officer agrees with this analysis and finds this criterion met.

Environmental Zones

Portland City Code (PCC) 33.563.210 – Northwest Hills Plan District

The language of PCC 33.430.060 (Where These Regulations Apply) clearly state: "These regulations apply to all environmental zones, *except* those in […] City-owned land within the Forest Park Natural Resources Management Plan area[.]" (Emphasis added). The language is clear and unambiguous and clearly and unambiguously excepts or excludes FPNRMP area from this additional level of scrutiny. The Hearings Officer agrees with the Applicant that the regulations set out in PCC 33.430.250 do not apply to this project. Notwithstanding, the Applicant has additionally shown the Project satisfies this criterion based upon the interpretation by the City that the proposal is subject to the Northwest Hills Plan District.

PCC 33.563.210 – Forest Park Subdistrict

Some opposition testimony suggests the project proposal should fail because the Applicant did not complete a full Habitat Evaluation Procedure (HEP) analysis and therefore the project does not comply with the approval criteria as set forth in NWHPD 33.563.210.A. Additionally, public comment raised concern that the project proposal does not provide for wildlife protection during amphibian breeding or egg development periods.

In Exhibit A.41 the Applicant provides both brief history as well as explanation and the function of the HEP analysis explaining that it was developed in 1980 by the United States Fish and Wildlife Services as a methodology to document nonmonetary value of fish and wildlife resources. The Applicant explained that the data from a HEP analysis would exceed that which is identified in PCC 33.563.210.A. Further, a HEP analysis would not provide information necessary to determine habitat sufficiency. The Applicant's rebuttal provides that it: "does not object to a condition requiring amphibian timing restrictions set by a qualified

biologist, pre-construction surveys with exclusion fencing, and state and federal wetland authorizations before ground disturbance." Applicant's Final Argument (Exhibit H.209).

The Hearings Officer accepts the amendment and modifies the condition of approval to include this language. The Applicant has shown the Project will not impair movement for any of the five indicator species identified. As such, the Hearings Officer agrees with the findings in the Staff Report that the Applicant has met this criterion.

The Hearings Officer additionally agrees with the findings as it relates to the criteria in PCC 33.563.210.B (Parks and Open Space) that the project is confined to an area already impacted by existing utility corridors and will not affect the Park's trail system, recreational opportunities, or educational resources.

PCC 33.440.350 – Greenway Review Approval Criteria

The Staff Report analyzed the approval criteria of PCC 33.440.350 and concluded that approval criteria E (Development within the greenway setback) is the only applicable criteria. Because the only work proposed within the River Water Quality setback is related to temporary access for adjusting wires at Tower 3000 and will avoid tree and vegetation impacts by use of matting, followed by reseeding the area with native wetland seed mix, no significant detrimental impacts are anticipated. The Hearings Officer finds the project proposal satisfies this criterion.

Because of the limited nature/duration of the project and no significant detrimental impacts are anticipated, both parties agree that a mitigation plan is not technically required. Nevertheless, the Applicant's mitigation plan proposes monitoring and maintenance which exceed that provided in the zoning code (PCC 33.440.350.H). The Applicant proposes 11,717 square feet of enhancement area within the Greenway River Water Quality overlay zone by removing invasive blackberry and planting 468 shrubs at six different enhancement areas to ensure any short-term impacts are mitigated as well as committing to monitoring and maintaining plantings for two years. The Hearings Officer finds the project proposal satisfies this criterion.

PCC 33.440.350 – Mitigation or Remediation Plan

Both parties agree that mitigation is not technically required due to the limited temporary nature of the project proposal, nevertheless the Applicant proposes enhanced measures to include native revegetation and enhancement plantings to include installing 468 shrubs within the enhance areas south of the substation.

Members of the public expressed concerns about the mitigation plan. Some public comments assert that 'no amount of money can mitigate the adverse impacts of cutting down trees and disrupting homes of critters' while others raised questions about how the $5.5 million mitigation payment will be used.

A City representative offered that many of the concerns about the mitigation plan are addressed in the Conditions of Approval, stating specifically that the funds will be placed in a Restore Forest Park fund which is part of a larger fund for care and stewardship of Forest Park and includes projects like acquisition of other property near Forest Park, access improvements, wildfire risk reduction, wetland restoration and red legged frog habitat restoration. The mediation agreement provides that the funds will be used in furtherance of the FPNRMP for the care and stewardship of Forest Park.

Conditional Use Review

PCC 33.815.230 – Rail Lines and Utility Corridors

PCC 33.815.230(A) requires in relevant part that "[t]he proposed rail line or utility corridor is sufficiently separated from nearby land uses so as to allow for buffering of the uses, especially in residential areas." The new proposed corridor is adjacent to the existing corridor utilizing existing utility accessways. As is provided in the Staff Report, there are no residentially zoned sites or residential use areas adjacent to or near the project site and therefore there are no impacts to buffering of other uses; as such, this criterion is satisfied.

PCC 33.815.230(B) requires that "[t]he rail line or utility corridor will not substantially impact the existing or planned street system, or traffic, transit, pedestrian, and bicycle movement and safety." The Project does not seek to create new public street connection or generate ongoing traffic. Construction related access will be temporary and managed through the construction management plan. The Staff Report explains,

> "[t]he portion of the utility corridor that intersect with the public transportation system are all within rights-of-way which are designed to allow for overhead utilities. The proposal includes work that will string new utility lines over the public rights-of-way for both NW Marina Way and NW St. Helens Rd. (Hwy 30), both of which are Oregon Department of Transportation (ODOT) facilities. All permitting for this activity is through ODOT. The applicant's narrative reflects that they are currently working with ODOT to permit this activity including the necessary highway lane closures."

The Hearings Officer finds that because there will be no long-term changes to street, traffic, transit, pedestrian, or bicycle movement and the project is not located within or nearby pedestrian or bicycle transit systems, the approval criteria of PCC 33.815.230.B are satisfied and this criterion is met.

III. DECISION

The Hearings Officer modifies and adopts the recommendation of the Staff Report:

Approval of an Environmental Review for:

- An Exception to the Forest Park Natural Resources Management Plan to allow for the

alteration of existing and the installation of a new transmission line;
- Permanent fill of two wetlands;
- Impacts to Stream 1 and Stream 2;
- Removal of 375 living trees and 18 dead trees (7,630 inches diameter breast height); and
- 4.7 acres of natural resource disturbance.

Approval of a Greenway Review for:

- Removal of four (4) trees;
- Installation of a temporary access road; and
- Installation of three (3) steel poles.

Approval of a Conditional Use Review for:

- Portland General Electric (PGE) utility improvements within an existing utility easement in Forest Park to include:

    - Removing one power pole, installing one new power pole, and rewiring a segment of existing transmission line to that new pole location;
    - Installing two new poles to support a new, 1,400-foot-long segment of transmission lines;
    - Connecting the shifted and new transmission line segments west to existing PGE lines within Forest Park and east across Highway 30 to PGE's existing Harborton Substation.

in substantial conformance with Exhibits C.5 to C.7 and C.19 to C.60. Approval is subject to the following conditions:

A. **A Portland Permitting & Development Permit(s) is required for development.** The Conditions of Approval listed below shall be noted on appropriate plan sheets submitted for permits (building, zoning, grading, erosion control, etc.). Plans shall include the following statement, ***"Any field changes shall be in substantial conformance with approved LU 26-051203 CU EN GW Exhibits* C.5 to C.7 and C.19 to C.60*."***

B. "Mitigation Funds" payment in the amount of $5,500,000 must be made to the Restore Forest Park Fund after the issuance of construction permits and prior to the clearing of vegetation for construction of the project. *An amount not less than the fee-in-lieu amount calculated under Ordinance No. 191314 must be deposited in the Trust Fund's North Management Unit order and spent within the North Management Unit. The Mitigation Funds must be used for the mitigation projects identified in the Habitat Mitigation Plan (Exhibit A.3) or for the acquisition of land or conservation easements adjoining or connected to the park for addition to the North Management Unit. Portland Parks & Recreation will prepare a mitigation plan describing the projects, locations, acreage, and timeline for the funds and will report annually on funds spent and mitigation accomplished, consistent with Ordinance No. 191314.*

C. *Prior to any ground disturbance, the Applicant shall consult with a qualified biologist to engage in pre-construction surveys with exclusion fencing to set amphibian timing restrictions*.

D. The Applicant shall consult with the City on future utility work within Forest Park. This consultation must follow the requirements of the Settlement Agreement as stated in Section 6, pages 7 to 8 (Exhibit A.40). The proposed independent consultant funding ($250,000) must be provided to the City within 30 days of issuance of a decision of approval by the Hearings Officer, or City Council in the case of an appeal.

E. Construction Management including erosion control and work zone delineation measures must be installed as shown on Exhibits C.32 to C.45, Construction Management Plan. Tree protection measures must be followed as stated within the Tree Plan (Exhibit A.39).

    1. No mechanized construction vehicles are permitted outside of the approved "Project Limits." All planting work, invasive vegetation removal, and other work to be done outside the Limits of Construction Disturbance, shall be conducted using handheld equipment.

F. The Portland Permitting & Development Permit(s) required in Condition A must include approval and inspection of a restoration plan in substantial conformance with Exhibits C.46 to C.60, Restoration Plans. Any plant substitutions shall be selected from the *Portland Plant List* and shall be substantially equivalent in size to the original plant.

    1. Permit plans shall show:

        a. The location of the trees, shrubs, and ground covers required by this condition to be planted in the restoration area and labeled as "new required landscaping." The plans shall be to scale and shall illustrate a naturalistic arrangement of plants and should include the location, species, quantity and size of plants to be planted.

    2. Plantings shall be installed between October 1 and March 31 (the planting season).

    3. Prior to installing required plantings, non-native invasive plants shall be removed from all areas within 10 feet of plantings, using handheld equipment.

    4. If plantings are installed prior to completion of construction, a temporary bright orange, 4-foot-high construction fence shall be placed to protect plantings from construction activities.

    5. After installing the required restoration plantings, the Applicant shall request inspection of the plantings and finalize the Portland Permitting & Development Permit.

    6. The Applicant shall arrange to accompany the Portland Permitting & Development inspector to the site to locate plantings for inspection.

G. **The Applicant shall monitor the required plantings in Forest Park for 10 years to ensure survival and replacement as described below.** The Applicant is responsible for ongoing survival of required plantings beyond the designated 10-year monitoring period.

1. Prior to issuance of the Portland Permitting & Development Permit, the Applicant must submit and pay fees for review of the Landscape Monitoring Reports required below.

2. After installation and inspection of the initial restoration plantings, the Applicant must submit five monitoring and maintenance reports at Years 1, 3, 5, 7, and 10 for review and approval to the Land Use Services Division of Portland Permitting & Development containing the monitoring information described below. Submit the first report within 12 months following the final inspection approval of the permit required under Condition A. Submit subsequent reports in the timeframes described above. Monitoring reports shall contain the following information:

    a. The monitoring reports must demonstrate compliance with Objective 1 of Section 10, *Performance Standards of* the Habitat Mitigation Plan (Exhibit A.3).

    b. Vegetation health and survival surveys as detailed in Section 11.3 of the Habitat Mitigation Plan (Exhibit A.3).

    c. Photo documentation as detailed in Section 11.4 of the Habitat Mitigation Plan (Exhibit A.3).

    d. A count of the number of planted trees and shrubs that have died. Replanting is required to meet the minimum planting densities stated in Exhibits C.46 to C.60 unless otherwise dictated by the Adaptive Management Plan as detailed in Section 12.4 of the Habitat Mitigation Plan.

H. **The Applicant shall monitor the required Greenway plantings for two years to ensure survival and replacement as described below.** The Applicant is responsible for ongoing survival of required plantings beyond the designated two-year monitoring period.

1. Prior to issuance of the Portland Permitting & Development Permit, the Applicant must submit and pay fees for review of the Landscape Monitoring Reports required below.

2. After installation and inspection of the initial restoration plantings, the Applicant must submit two annual monitoring and maintenance reports for review and approval to the Land Use Services Division of Portland Permitting & Development containing the monitoring information described below. Submit the first report within 12 months following the final inspection approval of the permit required under Condition A. Submit subsequent reports 12 months following the date of the previous monitoring report. Monitoring reports shall contain the following information:

    a. A count of the number of planted shrubs that have died. Replanting is required to meet the minimum planting densities stated in Exhibits C.46 to C.60.

b. The percent coverage of ground covers. If less than 80 percent of the mitigation planting area is covered with groundcovers at the time of the annual count, additional groundcovers shall be planted to reach 80 percent cover (replacement must occur within one planting season).

c. A list of replacement plants that were installed.

d. Photographs of the restoration area and a site plan, in conformance with approved Exhibits C.46 to C.60, Restoration Plan, showing the location and direction of photos.

e. An estimate of percent cover of invasive species (ivy, blackberry, reed canarygrass, teasel, clematis) within 10 feet of all plantings. Invasive species must not exceed 15 percent cover during the monitoring period.

I. Failure to comply with any of these conditions may result in the City's reconsideration of this land use approval pursuant to Portland Zoning Code Section 33.700.040 and/or enforcement of these conditions in any manner authorized by law.

Marisha Childs
Marisha Childs, Hearings Officer

November 20, 2026
Date

Application Determined Complete: September 2, 2026
Report to Hearings Officer: October 2, 2026
Decision Mailed: November 20, 2026
Last Date to Appeal: 4:30 p.m., December 4, 2026
Effective Date (if no appeal): December 5, 2026

Conditions of Approval. 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.

Appeal of the decision. ANY APPEAL OF THE HEARINGS OFFICER'S DECISION MUST BE E-MAILED TO LANDUSEINTAKE@PORTLANDOREGON.GOV. The appeal application form can be accessed at: Land Use Review Appeals, Land Use Review Appeal Costs and Appeal Fee Waivers | Portland.gov. If you do not have access to e-mail, please telephone (503) 865-6744 for assistance on how to submit the appeal; please allow one business day for staff to respond. **An appeal fee of $7,240 will be charged.**

Who can appeal: You may appeal the decision only if you wrote a letter which is received before the close of the record on hearing or if you testified at the hearing, or if you are the property owner or applicant. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

Recording the final decision. If this land use review is approved the final decision will be recorded with the County Recorder. *Unless appealed,* the final decision will be recorded by Portland Permitting & Development.

Expiration of this approval. Generally, land use approvals (except Comprehensive Plan and Zoning Map Amendments) expire five years from the date of the final decision unless one of the actions below has occurred (see Zoning Code Section 33.730.130 for specific expiration rules):

- A City permit has been issued for the approved development,
- The approved activity has begun (for situations not requiring a permit), or

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within seven 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 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 RECEIVED IN THE HEARINGS OFFICE – *SEE NEXT PAGE*
(NOT ATTACHED UNLESS INDICATED)

The exhibits in the land use case file are all assigned a letter (example A-1). The Hearings Office accepts exhibits filed online in its case management system. These exhibits are marked in the lower right-hand corner that identifies the exhibit as a "Portland Hearings Office" exhibit. All of these exhibits are designated "H Exhibits" (that is, Hearings Office Exhibits). See the PP&D Staff Report for a list of exhibits prior to "H."

Portland City Auditor
Hearings Office

HearingsOfficeClerks@PortlandOregon.gov
503-823-7307

Exhibits, Orders, and Other Attachments

Number	Title	Status
Exhibit 1	Land Use Hearing Scheduling Request	Accepted
Exhibit 2	Hearing Attendee Zoom Instructions	Accepted
Exhibit 3	Land Use Hearing Scheduled	Accepted
Exhibit 4	Hardy/Forest Park Conservancy Request for Postponement	Accepted
Exhibit 5	Angell Testimony	Accepted
Exhibit 6	Hoffman Testimony	Accepted
Exhibit 7	Estrada Testimony	Accepted
Exhibit 8	Durkheimer Testimony	Accepted
Exhibit 9	Becker Testimony	Accepted
Exhibit 10	Judkins Testimony	Accepted
Exhibit 11	mellis25@gmail.com Testimony	Accepted
Exhibit 12	Carlsen Testimony	Accepted
Exhibit 13	Buff Testimony	Accepted
Exhibit 14	DeLorme Testimony	Accepted
Exhibit 15 (attached)	STAFF REPORT	Accepted
Exhibit 16	Jordan Testimony	Accepted
Exhibit 17	Thompson Testimony	Accepted
Exhibit 18	Wilcox Testimony	Accepted
Exhibit 19	Testimony: Schulte, Albright, Mason-Maready, Turano, Hay, Becker, Regan, Rosa, Kovel, Ruggiere, Wilcox, Alisio, Oyster-Sands, Nauman, LaCombe, Braunger	Accepted
Exhibit 20	Testimony Emails: Kozar, Connolly, Andrews, Douglass, Schopp, Rosenberg	Accepted
Exhibit 21	Testimony Emails: Livingstone, Stone, Meihoff, Riebesehl, Boutillette Brinkman, Wible, Bridges, Talbot, Fiestal, Turville, Mitchell, Kafoury, Collier, Shook	Accepted
Exhibit 23	Testimony Emails: Rentschler, Diez, Hike, Moore, Birchler, Swedin, Mountain, Holmqvist, Kaplan, Bailey, Anderson, Wilson	Accepted
Exhibit 25	Testimony Emails: See the comments section for names of each testimony email	Accepted
Exhibit 26	Golnaz Testimony	Accepted
Exhibit 27	Ingalsbe.Forest Park Testimony Oct.11.2026	Accepted
Exhibit 28	Douglass and Collier Testimonies	Accepted

Exhibit 29	Testimony Emails: See the comments section for names of each testimony email	Accepted
Exhibit 30	Testimony Emails: See the comments section for names of each testimony email	Accepted
Exhibit 31	Testimony Emails: See the comments section for names of each testimony email	Accepted
Exhibit 32	Majkut Testimony Email 10-12-26 (2)	Accepted
Exhibit 33	Majkut Final Testimony Email 10-12-26	Accepted
Exhibit 34	Majkut Testimony Email 10-12-26 (3)	Accepted
Exhibit 35	Majkut - Marina Way testimony 10-12-26	Accepted
Exhibit 36	Majkut - Marina Way testimony pt. 2 10-12-26	Accepted
Exhibit 37	Email Testimony: McHugh, Tiedeman, Chamberlain, Rottman	Accepted
Exhibit 38	STAFF PRESENTATION	Accepted
Exhibit 39	Arthur Marx Testimony	Accepted
Exhibit 40	Written Public Testimony Signed Petitions	Accepted
Exhibit 41	Written Public Testimony Signed Petitions	Accepted
Exhibit 42	Written Public Testimony Signed Petitions	Accepted
Exhibit 43	Written Public Testimony Signed Petitions	Accepted
Exhibit 44	Written Public Testimony Signed Petitions	Accepted
Exhibit 45	Written Public Testimony Signed Petitions	Accepted
Exhibit 46	Written Public Testimony Signed Petitions	Accepted
Exhibit 47	Written Public Testimony Signed Petitions	Accepted
Exhibit 48	Written Public Testimony Signed Petitions	Accepted
Exhibit 49	Written Public Testimony Signed Petitions	Accepted
Exhibit 50	Written Public Testimony Signed Petitions	Accepted
Exhibit 51	New ALL Forest Park Sheets #2_Part12	Accepted
Exhibit 52	Written Public Testimony Signed Petitions	Accepted
Exhibit 53	Written Public Testimony Signed Petitions	Accepted
Exhibit 54	Written Public Testimony Signed Petitions	Accepted
Exhibit 55	Written Public Testimony Signed Petitions	Accepted
Exhibit 56	Written Public Testimony Signed Petitions	Accepted
Exhibit 57	Written Public Testimony Signed Petitions	Accepted
Exhibit 58	Written Public Testimony Signed Petitions	Accepted

Exhibit 59	Written Public Testimony Signed Petitions	Accepted
Exhibit 60	Written Public Testimony Signed Petitions	Accepted
Exhibit 61	Written Public Testimony Signed Petitions	Accepted
Exhibit 62	Written Public Testimony Signed Petitions	Accepted
Exhibit 63	Written Public Testimony Signed Petitions	Accepted
Exhibit 64	Written Public Testimony Signed Petitions	Accepted
Exhibit 65	Written Public Testimony Signed Petitions	Accepted
Exhibit 66	Written Public Testimony Signed Petitions	Accepted
Exhibit 67	Written Public Testimony Signed Petitions	Accepted
Exhibit 68	Written Public Testimony Signed Petitions	Accepted
Exhibit 69	Written Public Testimony Signed Petitions	Accepted
Exhibit 70	Written Public Testimony Signed Petitions	Accepted
Exhibit 71	Written Public Testimony Signed Petitions	Accepted
Exhibit 72	Written Public Testimony Signed Petitions	Accepted
Exhibit 73	Written Public Testimony Signed Petitions	Accepted
Exhibit 74	Written Public Testimony Signed Petitions	Accepted
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Exhibit 85	Written Public Testimony Signed Petitions	Accepted
Exhibit 86	Written Public Testimony Signed Petitions	Accepted
Exhibit 87	Written Public Testimony Signed Petitions	Accepted
Exhibit 88	Written Public Testimony Signed	Accepted

	Petitions	
Exhibit 89	Written Public Testimony Signed Petitions	Accepted
Exhibit 90	Written Public Testimony Signed Petitions	Accepted
Exhibit 91	Written Public Testimony Signed Petitions	Accepted
Exhibit 92	Written Public Testimony Signed Petitions	Accepted
Exhibit 93	Written Public Testimony Signed Petitions	Accepted
Exhibit 94	Written Public Testimony Signed Petitions	Accepted
Exhibit 95	Written Public Testimony Signed Petitions	Accepted
Exhibit 96	Written Public Testimony Signed Petitions	Accepted
Exhibit 97	Written Public Testimony Signed Petitions	Accepted
Exhibit 98	Written Public Testimony Signed Petitions	Accepted
Exhibit 99	Written Public Testimony Signed Petitions	Accepted
Exhibit 100	Written Public Testimony Signed Petitions	Accepted
Exhibit 101	Written Public Testimony Signed Petitions	Accepted
Exhibit 102	Written Public Testimony Signed Petitions	Accepted
Exhibit 103	Written Public Testimony Signed Petitions	Accepted
Exhibit 104	Written Public Testimony Signed Petitions	Accepted
Exhibit 105	Written Public Testimony Signed Petitions	Accepted
Exhibit 106	Written Public Testimony Signed Petitions	Accepted
Exhibit 107	Written Public Testimony Signed Petitions	Accepted
Exhibit 108	Written Public Testimony Signed Petitions	Accepted
Exhibit 109	Written Public Testimony Signed Petitions	Accepted
Exhibit 110	Written Public Testimony Signed Petitions	Accepted
Exhibit 111	Written Public Testimony Signed Petitions	Accepted
Exhibit 112	Written Public Testimony Signed Petitions	Accepted
Exhibit 113	Written Public Testimony Signed Petitions	Accepted
Exhibit 114	Written Public Testimony Signed Petitions	Accepted
Exhibit 115	Written Public Testimony Signed Petitions	Accepted
Exhibit 116	Written Public Testimony Signed Petitions	Accepted
Exhibit 117	Written Public Testimony Signed Petitions	Accepted

Exhibit 118	Written Public Testimony Signed Petitions	Accepted
Exhibit 119	Written Public Testimony Signed Petitions	Accepted
Exhibit 120	Written Public Testimony Signed Petitions	Accepted
Exhibit 121	Testimony Emails: Rinker, Haines, Melhoff, Stebbins, Simon-Behrnes, Joslin, O'Connor Ramírez, Lazer, Midson, Elder, Sartor, Rose, Kidney, Willis, Unger, Brewster, Meisenhelter	Accepted
Exhibit 122	Testimony Emails: Steinberger, Copenhaver, Flood, foster, Tipperreiter, Roselani, Gillard, Neuenschwander, Parks, Oehlke, Robinson, Bebee, Cunningham, hailey marie, Doyle	Accepted
Exhibit 123	Anuta Testimony 10-13-26 (1)	Accepted
Exhibit 124	Anuta Testimony 10-13-26 (2)	Accepted
Exhibit 125	Anuta Testimony 10-13-26 (3)	Accepted
Exhibit 126	Rinker Testimony 10-12-26 (2)	Accepted
Exhibit 127	REVISED STAFF PRESENTATION	Accepted
Exhibit 128	Testimony Emails: See the comments section for names of each testimony email	Accepted
Exhibit 129	Testimony Catherine Thompson	Accepted
Exhibit 130	Record Closing Information	Accepted
Exhibit 131	Testimony Emails: See the comments section for names of each testimony email	Accepted
Exhibit 132	Testimony Emails: Olson, Funk, Hettum, Gorrell, Berube, Rainbow, Wolfe, Culbertson, Myers, Mention, Olcott	Accepted
Exhibit 133	Testimony Emails: Yankee, Tokmakian, Hartspring, Ensign, Newton, Salvatore, Neubauer, Hagedorn, Smith, Johnson, Karwaki & Young, Camplair, O'Reilly, Vice, Bolliger, Chin	Accepted
Exhibit 134	Hardy Testimony 10-13-26	Accepted
Exhibit 135	Testimony Emails: See the comments section for names of each testimony email	Accepted
Exhibit 136	Testimony Emails: See the comments section for names of each testimony email	Accepted
Exhibit 137	Testimony Emails: See the comments section for names of each testimony email	Accepted
Exhibit 138	Thompson Testimony (1)	Accepted
Exhibit 139	Thompson Testimony (2)	Accepted
Exhibit 140	Thompson Testimony (3)	Accepted
Exhibit 141	Dullack Testimony (03)	Accepted
Exhibit 142	Dullack Testimony (04)	Accepted
Exhibit 143	Dullack Testimony (05)	Accepted
Exhibit 144	Dullack Testimony (06)	Accepted
Exhibit 145	Dullack Testimony (07 & 08)	Accepted
Exhibit 146	Dullack Testimony (09 & 10)	Accepted

Exhibit 147	New Evidence Emails: See the comments section for names of each testimony email	Accepted
Exhibit 148	Applicant's Slide Presentation	Accepted
Exhibit 149	New Evidence Emails: See the comments section for names of each testimony email	Accepted
Exhibit 150	FPNA Hearing Presentation for PGE Harborton 101426 updated	Accepted
Exhibit 151	FPNA Diagram of Proposed Tree Removals for PGE Harborton P3 101826 PDF	Accepted
Exhibit 152	FPNA Point of Order for PGE LU 26-051203 CU EN GW 101926	Accepted
Exhibit 153	New Evidence Emails: Lining, Newman, Vazquez, Rasmussen, Goffredo, Warnock, Shank, Nolte, McGill, Yarris, King	Accepted
Exhibit 154	Home Building Assoc of Greater Portland - Testimony	Accepted
Exhibit 155	Dullack New Evidence: 13p, 14p	Accepted
Exhibit 156	Dullack New Evidence: 15p, 17p, 18p, 19p	Accepted
Exhibit 157	Dullack New Evidence: 20p, 21p, 22p, 23p	Accepted
Exhibit 158	Dullack New Evidence: 24p, 25p, 26p, 27p, 28p, 29p	Accepted
Exhibit 159	Dullack New Evidence: 30p, 31p, 32p, 33p	Accepted
Exhibit 160	Dullack New Evidence: 34p, 36p, 37p, 38p, 39p, 40p	Accepted
Exhibit 161	Dullack New Evidence: 41p, 42p, 43p, 45p	Accepted
Exhibit 162	Dullack New Evidence: 46p, 48p,49p	Accepted
Exhibit 163	Dullack New Evidence: 51p, 52p, 53p, 55p	Accepted
Exhibit 164	Dullack New Evidence: 56p, 57p, 61p, 62p, 63p, 64p	Accepted
Exhibit 165	New Evidence: Gray, Atkinson, Porter, Calcagno	Accepted
Exhibit 166	01 Portland Parks Marshall Johnson Photos of PGE Harborton site	Accepted
Exhibit 167	44P PGE 2023 CEP-IRP REVISED 2023-06-30 full	Accepted
Exhibit 168	FPNA Record Submission 02 _ 4260012 and LU 26-051203 CU EN GW	Accepted
Exhibit 169	58P FPNA Comments dated February 5 2025 with attachments	Accepted
Exhibit 170	FPNA Record Submission 16P _ 4260012 and LU 26-051203 CU EN GW	Accepted
Exhibit 171	FPNA 47p, 54p WECC 2024	Accepted
Exhibit 172	59p, 60p, FPNA 35p	Accepted
Exhibit 173	New Evidence Emails: Rudy, Nicolai, Ice, Wellik, Forro, Eisenbeis, Lennert	Accepted
Exhibit 174	New Evidence Emails: Jacques, K. Kirkbride, C. Kirkbride, Divett, McDowell, Devine, Boutillette-Brinkman, Cummins	Accepted

Exhibit 175	Testimony Emails: Murray, Leiker, Bushick, Delkin, Beebe Rcv'd in Junk Folder	Accepted
Exhibit 176	New Evidence: 69 and 67 FPNA	Accepted
Exhibit 177	New Evidence: 65, 66, 67, 68, 50 FPNA	Accepted
Exhibit 178	New Evidence Emails: Bango, Morby, Gardner, Ott,	Accepted
Exhibit 179	New Evidence: Chesarek, Koski, Brod, Meyers, Clark, Pitt	Accepted
Exhibit 180	New Evidence: Bouse, Skildum, Killops, Geraci, Laurel, Eisenbeis, Heintz, Bates, Mattek, Thompson	Accepted
Exhibit 181	New Evidence Email: Hakansson, Wagner, Southern, Davies, Handlin, Carpenter, McKain-Storey, Tomlinson, Mann, Thomas, Wilkerson, Vasilev, Fish	Accepted
Exhibit 183	(Meskel) Bird Alliance - Rebuttal Evidence Email	Accepted
Exhibit 184	(Meskel) Bird Alliance - Rebuttal Evidence Email Attachments	Accepted
Exhibit 185	Hardy New Evidence (a., b., FPC Testimony)	Accepted
Exhibit 186	Hardy New Evidence (c., d.)	Accepted
Exhibit 187	Hardy New Evidence Testimony Email	Accepted
Exhibit 188	Hardy New Evidence - Wildlife, Management	Accepted
Exhibit 189	Miller Nash New Evidence Forest Park	Accepted
Exhibit 190	Miller Nash New Evidence Wildfire	Accepted
Exhibit 191	New Evidence Testimony: CBl84, Cook, Wallace, Kelli O.	Accepted
Exhibit 192	Miller Nash 1 of 4	Accepted
Exhibit 193	Miller Nash 3 of 4	Accepted
Exhibit 194	Miller Nash 4 of 4	Accepted
Exhibit 195	Kaiser Permanente Testimony	Accepted
Exhibit 196	New Evidence Testimony: Pisarski, Kevin O'Sullivan, Kate O'Sullivan, Carpenter, Yarris, Smith, Wyrick, Brantingham, Hartley	Accepted
Exhibit 197	Chesarek - FPNA Testimony on PGE	Accepted
Exhibit 198	Miller Nash Rebuttal 1 - Letter and Enclosures 1-4	Accepted
Exhibit 199	Miller Nash Rebuttal 2 - Enclosure 5	Accepted
Exhibit 200	Miller Nash Rebuttal 3 - Enclosures 6-9	Accepted
Exhibit 201	Miller Nash Rebuttal 4 - Enclosures 10-13	Accepted
Exhibit 202	Miller Nash Rebuttal Testimony - PGE letter responding to NMU Mitigation Arguments_10.28.2026	Accepted
Exhibit 203	Hardy - Rebuttal Evidence 10-28-26	Accepted
Exhibit 204	Hardy - Rebuttal Evidence (2) 10-28-26	Accepted
Exhibit 205	Chesark Rebuttal Testimony (1) 10-28-26	Accepted
Exhibit 206	Chesark Rebuttal Testimony -	Accepted

	PGE_Harborton 230_LU_Narrative_REVISED 10.28.2024	
Exhibit 207	Chesarek Rebuttal Testimony - BC northern_red-legged_frog management plan	Accepted
Exhibit 208	Chesarek Rebuttal - Marshall Johnson email about OWEB grant for Newton Wetland project 101226	Accepted
Exhibit 209 (attached)	Applicant's Final Argument	Accepted

STAFF REPORT AND RECOMMENDATION TO THE HEARINGS OFFICER

CASE FILE: LU 26-051203 CU EN GW
PC # 26-010241
HEARINGS OFFICE FILE #4260012
REVIEW BY: HEARINGS OFFICER
WHEN: October 14, 2026, at 1:30pm

This land use hearing will take place online using the Zoom platform. See the instructions on how to participate remotely (online or by phone) at this link: https://www.portland.gov/auditor/hearings/events/2026/10/14/4260012-lu-26-051203-cu-en-gw-type-iii-land-use-hearing or contact the Hearings Office at HearingsOfficeClerks@portlandoregon.gov or 503-823-7307. Additional Hearings Office information is available at www.portland.gov/omf/hearings/land-use.

It is important to submit all evidence to the Hearings Officer. City Council will not accept additional evidence if there is an appeal of this proposal.

PORTLAND PERMITTING & DEVELOPMENT STAFF: Christine Caruso | City Planner
503.823.3323 | PPDPGEHarbortonLUPC@portlandoregon.gov

GENERAL INFORMATION

Applicant: Tina Tippin | Portland General Electric
121 SW Salmon Street | Portland, OR 97204

Owners: City of Portland | Parks & Recreation (Forest Park site)
Attn: Laura Lehman
1120 SW 5th Avenue #1302 | Portland, OR 97204-1926

Portland General Electric (Harborton Substation site)
Attn: Randy Franks
121 SW Salmon Street | Portland, OR 97204

United States of America (Parcel adjacent to Harborton Substation)
620 SW Main Street | Portland, OR 97205-3037

Representative: William Rasmussen | Miller Nash, Llp
1140 SW Washington Street, #700 | Portland, OR 97205

Site Address: Forest Park & Harborton Substation (12500 NW Marina Way)

Legal Description: BLOCK 11 E OF COMPROMISE LINE LOT 1-3, HARBORTON; BLOCK 11 W OF COMPROMISE LINE LOT 1-3 LOT 4-7, HARBORTON; BLOCK 11 LOT 8-10, HARBORTON; BLOCK 11 LOT 11, HARBORTON; BLOCK 11 LOT 12, HARBORTON; TL 100 48.30 ACRES, SECTION 04 1N 1W; TL 700 0.57 ACRES, SECTION 04 1N 1W; TL 200 51.98 ACRES, SECTION 04 1N 1W; TL 2000 19.28 ACRES, SECTION 34 2N 1W; TL 1000 1.22 ACRES DEPT OF REVENUE, SECTION 34 2N 1W; TL 500 1.80 ACRES, SECTION 34 2N 1W; TL 900 3.28 ACRES, SECTION 34 2N 1W; TL 400 15.79 ACRES, SECTION 34 2N 1W; TL 1700 59.73 ACRES, SECTION 34 2N 1W; TL 200 23.89 ACRES, SECTION 04 1N 1W; TL 1000 9.68 ACRES, SECTION 04 1N 1W; TL 1600 1.48 ACRES,

Portland Hearings Office
Case #4260012
Bureau Case #LU 26-051203 CU EN GW
Exhibit #15
Page 1 of 34

	SECTION 34 2N 1W; TL 1900 9.74 ACRES, SECTION 34 2N 1W; TL 600 3.20 ACRES, SECTION 34 2N 1W; TL 500 3.29 ACRES, SECTION 33 2N 1W
Tax Account No.:	R359602460, R359602490, R359602630, R359602690, R359602710, R961040010, R961040100, R961040140, R971340040, R971340160, R971340170, R971340190, R971340210, R971340340, R961040480, R961040450, R971340400, R971340390, R971340370, R971330350, R649940250
Neighborhood:	Forest Park, contact Jerry Grossnickle at landuse@forestparkneighbors.org & Linnton, contact Sarah Taylor at sarahsojourner@mac.com
Business District:	None
District Coalition:	District 4, contact at info@d4cpdx.org
Plan District:	Northwest Hills - Forest Park - Miller Creek & Linnton Subareas
Other Designations:	*Forest Park Natural Resources Management Plan*; *Forest Park and Northwest District Natural Resources Inventory* – Resource Site FP2, Upper Harborton; *Lower Willamette River Wildlife Habitat Inventory* – Site 4.2B (Rank III); FEMA Special Flood Hazard Area; Wildlands Fire Hazard Area
Zoning:	*Base Zones:* Open Space (OS), Heavy Industrial (IH) *Overlay Zones:* Environmental Conservation (c), Environmental Protection (p), Greenway River General (g), Greenway River Natural (n), Greenway River Water Quality (q)
Case Type:	CU EN GW – Conditional Use Review, Environmental Review, Greenway Review
Procedure:	Type III, with a public hearing before the Hearings Officer. The decision of the Hearings Officer can be appealed to City Council.

Proposal: The applicant, Portland General Electric (PGE), is requesting approval to conduct utility improvements within their existing utility easement in Forest Park (Project). These improvements include shifting the location of one power pole and rewiring a segment of existing transmission line to that new pole location (the Harborton-Trojan #1 and #2 230 kV lines) and installing two new poles to support a new, 1,400-foot-long segment of transmission lines (Evergreen-Harborton and Harborton-St. Mary's 230 kV lines). Both the shifted and new transmission line segments will connect west to existing PGE lines within Forest Park and span east across Highway 30 to PGE's existing Harborton Substation.

The proposed transmission line activities will result in significant impacts to 4.7 acres of natural resources within Forest Park including the removal of 375 living trees and 18 dead trees (7,630 inches diameter breast height), permanent fill of two existing wetlands (Wetland A and Wetland B) and impacts to two streams (Stream 1 and Stream 2). The applicant proposes to restore the affected 4.7-acre area using native shrubs, woodland species, Oregon white oak, pollinator plants, and groundcovers. The applicant proposes to mitigate for permanent impacts to resources by providing mitigation funds in the total amount of $5.5 million. The monetary mitigation requirement will fund actions within or adjacent to the park, overseen by Portland Parks & Recreation, including but not limited to:

- Invasive plant management, ecological restoration, and wildfire fuel reduction
- Aquatic & riparian enhancements, including Northern red-legged frog habitat creation
- Acquisition of properties or conservation interests in nearby properties

Most of the project is within the City's Environmental Conservation and Environmental Protection overlay zones within the City's *Forest Park Natural Resource Management Plan* (Forest Park NRMP). The Forest Park NRMP includes a list of certain projects/actions that are in conformance with the NRMP, and which are allowed without a land use review. The NRMP does not specifically address the installation of new or the upgrade of transmission lines/corridors. Therefore, this proposal is considered an "exception" to the NRMP and is required to go through a Type III Environmental Review.

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The project also includes alterations to existing development within the River General and River Water Quality overlay zones which require approval through a Greenway Review. Further, because the applicant is proposing a Rail Line and Utility Corridor Use within the Open Space base zone, a Conditional Use Review is also required. All the aforementioned reviews are being reviewed concurrently under this land use case. The portion of the work within Forest Park is also within the Forest Park Subdistrict of the Northwest Hills Plan District and must meet the additional approval criteria for that subdistrict.

Lastly, in 2024, PGE applied for Phase 3 of the Harborton Reliability Project in Forest Park (LU 24-041109 CU EN GW, HO 4240019). On appeal from the Hearings Officer, City Council denied the Environmental Review portion of the application. Following Council's denial, PGE appealed the decision to the Land Use Board of Appeals (LUBA) and requested the parties mediate. The mediation resulted in an agreement between the City Administrator and PGE. The terms of the agreement specify that PGE will submit a new land use application with supplemental evidence and revised commitments to mitigation, site restoration, construction management and provide funding for a consultant contract to inform City participation in future utility infrastructure planning affecting Forest Park.

The agreement does not bar the City from considering new arguments or evidence. Additionally, final approval of the Application rests with the Hearings Officer, subject to potential appeal to City Council, acting in their quasi-judicial capacity. Nothing in the Agreement can be construed to bind the Hearings Officer, City Council, any elected official, or any decision-maker to approve the Project. The final decision shall be made independently, based upon the record before the decision-maker and in accordance with applicable law.

Information on the agreement including the Settlement Agreement can be found here: https://www.portland.gov/ppd/news/2026/7/9/city-portland-pge-reach-agreement-following-mediation

Applicant's submittal materials can be found here: https://efiles.portlandoregon.gov/record/17984652

Approval Criteria:

To be approved, this proposal must comply with the approval criteria of Title 33, The Portland Zoning Code. The applicable approval criteria are:

- The "**Approval Criteria for Exceptions**" including criteria **A through E in Section B** on page 217 of the *Forest Park Natural Resources Management Plan* (by reference from 33.430.030).
- Approval Criteria for Environmental Review within the Forest Park Subdistrict in the Northwest Hills Plan District in Zoning Code section **33.563.210 A**.
- **33.440.350.A** – All Greenway Reviews (*Greenway Design Guidelines*)
- **33.440.350.G** – Development within the River Water Quality overlay zone setback
- **33.440.350.H** – Mitigation Plan
- **33.815.230** – Rail Lines and Utility Corridors

The Portland Zoning Code is available online at https://www.portland.gov/code/33.

ANALYSIS

Site and Vicinity: Most of the proposed development is sited within Forest Park. Located in the Tualatin Mountains of Northwest Portland, Forest Park is one of the country's largest native urban forest reserves consisting of over 5,200 acres of native forest and 80 miles of trails. Forest Park is separated into three management units (north, central, south). The project area is in the North Management Unit. The North Management Unit consists of approximately 1,550 acres of forest with high resource qualities and low levels of use and is bounded to the south by NW Germantown Road and to the north by NW Newberry Road.

The project area in Forest Park contains an intact forested section surrounded by existing utility corridors. The forested section consists of a second-growth, stratified mixed conifer and deciduous forest dominated by mature Douglas fir and big leaf maple, with a lesser component of cedar, hemlock, alder, and other species. There is a dense mid-story and shrub layer composed of younger trees, vine maple, salmonberry, hazelnut, salal, Oregon grape, and

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other common native shrub species. There is also an intact native ground cover layer composed of sword fern, trillium, waterleaf, candy flower, trailing blackberry, bedstraw, piggyback plant, sedges, and other species. There is minimal presence of invasive weed species in the forested site, with most invasives appearing around the forest edges from the existing transmission line corridors.

The subject site where there is an existing PGE transmission line is a dense mix of native and non-native shrubs and forbs and dispersed trees. There are many species in this area, such as blackberry, thimbleberry, Scotch broom, salal, sword fern, various native and non-native grasses, thistles, and other forbs. Soils appear uncompacted and healthy in most of the forested section of the proposed project area, evident in the abundant and diverse native ground cover. Many areas of the site are very steep, with grades over 30%. Portions of the existing access roads are in poor condition with steep slopes, ruts and failing drainage systems.

A stream (Stream 1) runs through the length of the forested section of the proposed project area. It appears to be an intermittent headwater stream system that flows down from Forest Park to connect to the Willamette River. A second stream (Stream 2) is located north of Stream 1 and is identified as an ephemeral stream and has a stream channel with a bed and bank. The Lower Willamette River supports multiple federally listed species of salmonids. The tributaries flowing from forested headwaters in Forest Park help support water quality of the lower Willamette River.

In addition, the United Stated Department of Agriculture Natural Resources Conservation Service (USDA NRCS) soil survey mapping indicates soil map units with predominately hydric soils and soil map units with hydric soil inclusions. Subsequently, two wetlands, Wetland A and Wetland B, have been identified in the project area, north of the BPA road and situated along an existing maintenance road cut north and south of Steam 1, respectively. Wetland A (1,074 square feet) is an isolated palustrine emergent slope wetland (PEM/S) dominated by reed canarygrass (*Phalaris arundinacea*) incurring hydrology from the nearby road cut and a high-water table. Similarly, Wetland B (1,854 square feet) is an isolated palustrine emergent slope wetland (PEM/S). Wetland B vegetation is periodically mowed and is dominated by reed canarygrass (*Phalaris arundinacea*) and curly dock (*Rumex crispus*). Western red cedar (*Thuja plicata*) and Himalayan blackberry were also recorded as dominants. Hydrology for this wetland is provided by the nearby road cut and a high-water table.

Use of the forested section of the proposed project area by a variety of wildlife is apparent, including pileated woodpecker foraging holes in trees, which is indicative of mature forests. Forested areas of Forest Park such as this subject site support populations of Northern red-legged frogs, listed as a Federal Species of Concern and a State Sensitive Species. Many species of birds, including bald eagles use this site for habitat. Bald eagle nesting activity has been documented in Forest Park near the subject site.

The remainder of the project is proposed within Harborton Substation and adjacent properties. The PGE Harborton property is a 74-acre site on the western bank of the Willamette River, just south of Sauvie Island and the Multnomah Channel. The property is located at 12500 NW Marina Way, Portland, Oregon and lies just inside the Portland city limits. It consists of a parcel (R714233) with an existing substation and parcels R714234 and R725399 that include wetland and wildlife restoration improvements. No development is proposed within the conservation areas. A temporary access road which provides access to existing towers is proposed on parcel R325473.

Zoning: The site is within Portland's Open Space (OS) and Heavy Industrial (IH) base zones, as well as the Environmental Conservation (c), Environmental Protection (p), Greenway River General (g), Greenway River Water Quality (q), River Industrial (i), and Prime Industrial (k) overlay zones, and the Northwest Hills Plan District. The portion of the project within Forest Park is also in Portland's *Forest Park Natural Resources Management Plan* area, which has specific environmental and open space regulations unique to Forest Park.

The Open Space base zone is intended to preserve public and private open and natural areas to provide opportunities for outdoor recreation and a contrast to the built environment, preserve scenic qualities and the capacity and water quality of the stormwater drainage system, and to protect sensitive or fragile environmental areas. The proposed project consists of a Rail Line and Utility Corridor Use within the Open Space base zone; therefore, a Conditional Use Review is required to ensure compliance with the use regulations of this chapter.

The Heavy Industrial base zone provides areas where all kinds of industries may locate including those not desirable in other zones due to their objectionable impacts or appearance. The development standards are the minimum necessary to assure safe, functional, efficient, and environmentally sound development. The Rail Line and Utility Corridor Use is allowed in the IH base zone; the IH zone regulations are not specifically addressed through this review.

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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. One of the purposes of this land use review is to ensure compliance with the regulations of the Environmental Zones.

The Greenway River General overlay zone allows for uses and development which are consistent with the base zoning, which allow for public use and enjoyment of the riverfront, and which enhance the river's natural and scenic qualities. The Greenway Review portion of this case specifically addresses the regulations of this chapter.

The Greenway River Industrial overlay zone encourages and promotes the development of river-dependent and river-related industries which strengthen the economic viability of Portland as a marine shipping and industrial harbor, while preserving and enhancing the riparian habitat and providing public access where practical. No new development is proposed within this overlay zone (construction access only); its regulations are addressed below as part of the Greenway Review.

The Greenway River Water Quality overlay zone is designed to protect the functional values of water quality resources by limiting or mitigating the impact of development in the setback. The Greenway Review portion of this case specifically addresses the regulations of this chapter.

The Prime Industrial overlay zone protects land that has been identified in the Comprehensive Plan as Prime Industrial, and to prioritize these areas for long-term retention. Prime Industrial Land is suited for traded-sector and supportive industries and possesses characteristics that are difficult to replace in the region. In Portland, Prime Industrial land consists of the Portland Harbor, Columbia Corridor, and Brooklyn Yard industrial districts. The regulations protect these areas by preventing, or requiring an off-set for, conversion of the land to another zone or use that would reduce industrial development capacity. The proposed transmission project is not a prohibited use identified within this chapter; therefore, the regulations do not apply.

The Northwest Hills Plan District protects sites with sensitive and highly valued resources and functional values. The portions of the plan district that include the Balch Creek Watershed and the Forest Park Subdistrict contain unique, high-quality resources and functional values that require additional protection beyond that of the Environmental Zone. These regulations provide the higher level of protection necessary for the plan district area and are addressed in this land use review.

The *Forest Park Natural Resources Management Plan* presents a set of goals and actions designed to guide management of natural resources and recreational uses. With preservation of natural resources as a primary goal, the plan recognizes that Forest Park is threatened by overuse unless recreational activities are actively managed and directed. The plan is a multi-purpose plan designed to identify and assess Forest Park natural resources; identify impacts to Forest Park natural resources; prescribe how to protect and enhance Forest Park natural resources; identify appropriate forms and levels of recreation and education for Forest Park; monitor natural resources and provide day to day management and public information; and satisfy the City's criteria for Natural Resource Management Plans. The purpose of this land use review is to ensure compliance with the Plan.

Environmental Resources: The application of the Environmental and Greenway overlay zones is based on detailed studies that have been carried out within the city. Environmental resources and functional values and wildlife habitat present in Environmental and Greenway overlay zones are described in inventory reports cited below.

The portion of the project located within Forest Park is mapped within the *Forest Park and Northwest District Natural Resources Inventory* (2022) within Resource Site FP2, Upper Harborton. Significant natural resource features and functions identified within this resource site, and which are generally found in the project area include:

Significant Riparian Corridor Features: open stream; wetland; land within 50 feet of waterbodies; forest, woodland, shrubland and herbaceous vegetation within 300 feet of waterbodies; and forest vegetation on steep slopes (>25% slope) contiguous to and within 780 feet of waterbodies.

Significant Wildlife Habitat Features: forest patches, and associated and contiguous wetlands, two acres in size or larger.

Special Habitat Areas: Forest Park (Native Oaks, Bottomland Hardwood Forest, Migratory Stopover Habitat, Habitat Corridor, Special Status Species, Special Status Plans, Elk Migratory Corridor); wetlands (W).

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Riparian Corridor Functions: microclimate and shade; stream flow moderation and water storage; bank function and sediment, pollution and nutrient control; large wood and channel dynamics; organic inputs, food web and nutrient cycling; and riparian wildlife movement corridor.

Wildlife Habitat Functions: interior area; food and water; resting, denning, nesting and rearing; movement and migration; reduction of noise, light and vibration; and habitat patches that support special status fish and wildlife species.

The portion of the project located within Forest Park is also subject to the regulations found in the *Forest Park Natural Resources Management Plan*. This management plan (Plan) not only contains regulations and requirements for development within and management of the park, but it also provides a vision for the future state of the park and its resources. Specifically, the Plan addresses the state of and vision for each Unit of the Park. Specifically for the North Unit where this proposal is sited, the Plan has the following to offer, at 105 (emphasis added):

> *A Vision for the North Unit: In 2195 the North Unit is an intact forest approaching an old growth condition. Annual wildlife monitoring confirms that at least 75% of the North Unit provides high quality interior forest habitat, comparable to similar sized blocks of undisturbed forest habitat along the Lower Columbia River. Strategies to prevent, reduce and mitigate fragmentation have been successful. The Portland-Vancouver Urban Growth Boundary, a series of successful greenspace acquisition programs, and the Pacific Greenway initiative have helped protect Forest Park's connection to rural areas north and west of the park. Miller Creek runs clear, clean and cool into a riparian marsh edge at the upper end of Multnomah Channel. Monitoring and studies have led to other strategies to keep recreational use impacts within acceptable limits. Forest Park's reputation as a true urban wildlife reserve is earned from the condition of the North Unit.*

The portion of the project located within the Harborton Substation and adjacent area is mapped within the *Lower Willamette River Wildlife Habitat Inventory* (1986) as Site 4.2C (Rank III) and Site 4/5B (Rank III). The inventory document offers the following descriptions of the sites within this area:

> *The next site is the vacant portion of the Harborton upland (4.2B). The site has a remnant wetland, but is not forested and recorded a lower value for wildlife than the adjacent forested areas, but a higher value than the developed portion of Harborton (4.2C,* [emphasis added]*).*
>
> *The third site is the transmission line right-of-way adjacent to the Harborton site (4/5A&B). Both the riverbank and upland are included. Although the area has been dramatically impacted by the transmission lines and associated clearing of the land, there is a substantial amount of shrubby vegetation that has wildlife value. There are wetlands present on the site, resulting in the higher wetland value. … A stand of large willow and black cottonwoods exists along much of the shoreline, extending back into the upland a short distance.*

Land Use History: City records indicate prior land use reviews on the subject site as follows:

- LUR 71-002944 (CU 076-71): Approval of a Conditional Use for diking and filling within the Willamette River and Multnomah Channel at PGE's Harborton property.
- LUR 73-002629 (CU 066-73): Approval of a Conditional Use to install turbine-powered generators at PGE's Harborton property.
- LUR 86-005301 (GP 003-86): Approval of a Greenway permit for stockpiling at PGE's Harborton property.
- LU 04-008697 EN GW: Approval of an Environmental Review and a Greenway Review for a proposal to excavate a portion of the Olympic Pipeline for inspection and to install a temporary access route to the pipeline through a hardwood wetland forest at the PGE Harborton Property.
- LU 16-239742 GW: Approval of a Greenway Review for tree removal and herbicide application associated with site preparation for habitat restoration at the PGE Harborton Property.
- LU 16-259062 GW: Approval of a Greenway Review for construction of the following at the PGE Harborton Property: Installation of cement deep soil mix soil stabilization to address soil liquefaction within the substation area; construction of a new power substation within a smaller development footprint in the west corner of the current PGE Substation facility; excavation of approximately 560 cubic yards of soil from the human-made levee area; and construction of new stormwater facilities.
- LU 18-151725 GW: Approval of a Greenway Review for a habitat restoration project at the PGE Harborton Property.

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- ❖ LU 21-040550 RP: Approval of a replat to create two parcels from the existing historic lots of record within the PGE Harborton Property.
- ❖ LU 23-032249 EN: Approval of an Environmental Review for geotechnical borings along the transmission line corridor within Forest Park.
- ❖ LU 24-041109 CU EN GW (HO 4240019): City Council denial of an Environmental Review and approval of two Greenway Reviews and a Conditional Use Review for Phase 3 of the Harborton Reliability Project. A Settlement Agreement between the City and PGE resulting from this case includes conditions of approval which will be included in this current review.

With one exception noted above, past land use reviews have no effect on the current proposal.

Agency Review: A "Request for Response" was mailed September 10, 2026. The following Bureaus have provided responses which can be found in Exhibits E.1 to E.9.

- ❖ Environmental Services
- ❖ Transportation
- ❖ Water
- ❖ Fire Bureau
- ❖ Life Safety
- ❖ Site Development
- ❖ Tree Permitting
- ❖ Police Bureau
- ❖ Portland Parks & Recreation

Neighborhood Review: A Notice of a Public Hearing on a Proposal in Your Neighborhood was mailed on **September 21, 2026**. Several comments were submitted directly to the Hearings Office. Due to time constraints, staff were unable to review and respond to the comments prior to finalizing this report.

ZONING CODE APPROVAL CRITERIA

Environmental Review

Before addressing the relevant approval criteria below, staff finds it necessary to respond to the applicant's argument that the project should be considered an allowed use under the Forest Park NRMP. In short, the applicant argues that because the NRMP recognizes existing utility infrastructure in the Park and the potential for future projects, this particular utility project should be considered an allowed use. However, the NRMP is very clear that only specific listed projects in Chapter 8, Section A.1 are allowed uses. This project is not in that list, nor does it qualify for processing as a minor amendment under Section A.2. Therefore, it must be processed as an Exception to the Plan, per Section B, which states that Exceptions are processed as a Type III Environmental Review.

Further, staff would like to address the applicant's use of the term "established utility corridor" throughout their application materials. The project area currently consists of a 4.7-acre undisturbed patch of second-growth forest that is surrounded by existing constructed utility corridors. The presence of an easement alone does not convert this intact natural area into an "established utility corridor," a term that typically refers to a long-standing, actively used, linear infrastructure corridor. Staff agrees that there are existing utility corridors within the project area, but the full project and the related disturbance area are not within an established or existing utility corridor.

The relevant approval criteria for the Environmental Review portion of this case are listed in the Forest Park NRMP Chapter 8 and in Zoning Code Chapter 33.563.

I. Forest Park NRMP "Approval Criteria for Exceptions"

A. The proposal meets all the criteria for minor amendments.

Approval Criteria for Minor Amendments:

A. There is a demonstrated need for the proposal.

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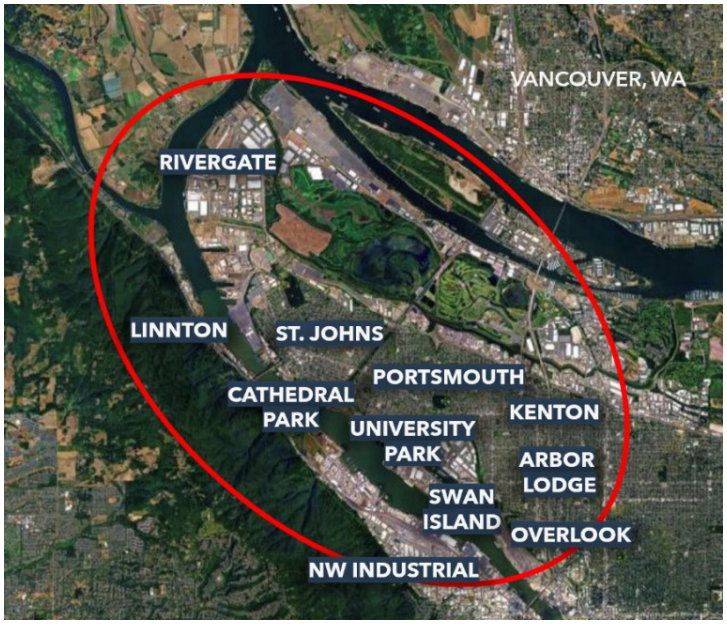
Findings: Because the City Zoning Code (Title 33) does not specifically define "need," the term is interpreted by the applicant according to its ordinary dictionary meaning: a lack of something necessary, desirable, or useful, or a condition requiring remedy (Exhibit A.41, page 21). The documented transmission system deficiency must be resolved to comply with mandatory reliability standards and prevent service interruptions, thus demonstrating a need for the project.

1. Grid Constraints and Outage Risks Beginning in 2028

The applicant, PGE, is upgrading its aging transmission system due to increasing electrical demand, changes in how electricity is generated and used, and greater strain during extreme weather. These conditions require substantial system improvements.

The constraint in this case involves the transmission network around the Harborton Substation. According to PGE's Summary of Reliability Needs Memo (Exhibit A.5), federally required planning studies show that beginning in 2028, the existing configuration will not have sufficient capacity or redundancy during peak demand. If any one of three major transmission facilities is out of service, remaining facilities serving North and Northwest Portland would exceed allowable operating limits.

When transmission lines exceed these limits, they pose risks of overheating, line sag, electrical faults, and cascading equipment failures. To avoid these risks and comply with reliability requirements, PGE would have to shed load, interrupting service to as much as 87 percent of roughly 55,000 customers in the affected areas (circled in red below) during periods of high demand.



2. Federal Requirements Determine When Transmission Improvements Are Needed

As described in detail in the applicant's Summary of Reliability Needs Memo (Exhibit A.5), the determination of need for transmission improvements arises from mandatory federal reliability standards. These standards require utilities to evaluate system performance under foreseeable outage scenarios, conduct ongoing contingency analysis, and implement corrective actions when studies identify violations. This creates a nondiscretionary basis for when improvements must occur.

PGE's transmission-planning process is coordinated with regional utilities and transmission providers and is subject to federal transparency requirements. Planning methodologies, cycles, and transmission plans are publicly available (see Exhibits A.11 to A.21), and PGE must follow these federally established procedures.

Thus, the need for improvements in the Harborton area results from required reliability standards and an established, regulated planning process and not from internal policy choices.

3. Identified Need Must Be Addressed by 2028

Successive planning cycles consistently identify that the current configuration serving North and Northwest Portland will not meet required reliability standards beginning in 2028. This is a known and increasingly pressing deficiency as demand forecasts grow and operational margins narrow.

PGE's internal planning studies show that under three single-contingency outage scenarios during peak demand, remaining transmission facilities would exceed safe operating limits, requiring service interruptions for tens of thousands of customers (see Exhibit A.41, Figure 7, page 28). As demand increases, the number of days in which these conditions could occur also increases.

According to the applicant, without this corrective action, the system will fail to meet mandatory reliability requirements by 2028 and would not be able to provide uninterrupted service. Oregon law likewise requires utilities to maintain safe and reliable service and address identified overloading risks through infrastructure improvements.

Both federal requirements and system performance data clearly establish a demonstrated need for this Project. *This criterion is met.*

B. The proposed action is consistent with Forest Park Natural Resources Management Plan Goals and Strategies.

The *Forest Park Natural Resource Management Plan* identifies four goals (two Conservation Goals and two Recreational Goals) and ten strategies.

Conservation Goals

1. Protect Forest Park's native plant and animal communities, its soil and its water resources while managing the forest ecosystem in order to grow a self-sustaining ancient forest for the enjoyment and benefit of future generations.
2. Design management and restoration efforts to:
   - Maintain and enhance regional biodiversity
   - Provide wildlife habitat and migration opportunities
   - Improve water quality and aquatic habitat
   - Repair damaged and fragmented natural systems.

Findings: The criterion requires determining whether the Project is consistent with the NRMP's Goals and Strategies. Because the City code does not define "consistent," it is interpreted in its ordinary sense: in agreement, compatible, and capable of existing together without contradiction.

Staff would like to begin by offering a counter argument to the applicant's narrative statement about their conformance with this criterion (Exhibit A.41, page 31), specifically, "…the Project is consistent with the Forest Park Plan goals and strategies because the Plan expressly contemplates the continued use, maintenance, redevelopment, and construction of utility infrastructure within utility easements that existed when the Plan was adopted."

Staff disagrees with this statement. The NRMP's acknowledgment of existing utility easements is not an authorization for major new infrastructure development within them. The NRMP treats these corridors as legacy impacts requiring long-term mitigation and vegetation management, not preferred development areas. Its goals prioritize reducing fragmentation and ecological disturbance, and consistency with the NRMP requires aligning with those objectives, not simply remaining within an easement boundary. Therefore, the applicant's interpretation overstates the NRMP's intent and does not demonstrate that the proposed Project is consistent with Forest Park's goals and strategies in and of itself.

Rather, the NRMP emphasizes protecting high-value resources while acknowledging that already disturbed areas (to wit: utility corridors) require different management approaches. This is demonstrated by the Utility Corridor Management Project (RE-8C/N) (NRMP, Page 159) which is not focused on the redevelopment of existing easements but rather on restoring, mitigating, and managing negative ecological impacts associated with pre-existing utility corridors/development. Instead, it repeatedly stresses avoiding additional disturbance, avoiding

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increases in easement footprint, and reducing fragmentation in Forest Park's highest-value habitat areas (such as the North Management Unit).

The Project's consistency with the NRMP comes from the fact that it is in an area already impacted by established transmission corridors, as well as the proposed construction management, restoration and mitigation. The affected forest patch provides significant environment benefits; however, it is currently surrounded by existing utility infrastructure. Locating the Project in this location, expanding existing utility corridors, as opposed to creating a fully new corridor, avoids additional fragmentation, and protects more sensitive interior forest areas.

The Project design also reflects the Plan's conservation priorities. Disturbance areas are minimized, tree removal is limited to what is required for safety clearances, and soil disturbance is avoided when possible. Construction timing, access controls, erosion control, and other best management practices are used to reduce short-term impacts.

The Project's restoration measures support the NRMP's goal of repairing fragmented systems. Following construction, the corridor will be restored with native shrubs, groundcover, pollinator-supporting species, downed wood where appropriate, and shorter-stature native trees such as Oregon white oak. These restored habitats increase ecological function within the utility corridor while remaining compatible with safe operation of the transmission line.

The consistency determination considers the Project as a whole, including the restoration and mitigation components. The mitigation package focuses on improving habitat, biodiversity, invasive species removal, wildfire risk reduction, aquatic resource enhancement, and long-term ecological resilience. Mitigation funding could support restoration and fire risk reduction activities throughout Forest Park, helping to protect the resources as an offset to the detrimental impacts at the project site.

Overall, the Project's location and design are consistent with the NRMP's intent to protect the highest-value resources, concentrate activity in already disturbed areas, and improve long-term stewardship of Forest Park. These measures advance the two Conservation Goals defined by the NRMP including repairing damaged systems, increasing habitat diversity, enhancing wildlife habitat, improving water resources, expanding oak habitat, and controlling invasive species. Taken together, the onsite restoration at the Project site and off-site enhancement in other areas of Forest Park provide ecological improvements that strengthen Forest Park's long-term health and resilience.

Recreational and Educational Goals

1. Protect and enhance the value of Forest Park as a regionally-significant recreational resource – a place that can accommodate recreational and educational use at appropriate seasons of the year without environmental damage.
2. Enhance the value of Forest Park as a regionally-significant educational resource – an urban laboratory for environmental research and resource enhancement and restoration.

Findings: The proposed Project does not impact the goals to enhance and protect the value of Forest Park as a regionally significant recreational or educational resource. *These goals do not apply.*

The *Forest Park Natural Resource Management Plan* identifies 10 strategies to help reach the goals. They are:

1. Implement Sustainable Resources Program
2. Divide Forest Park into Management Units
3. Acquire and Protect Additional Land
4. Manage Recreation to Protect Natural Resources
5. Improve interpretive, educational and research opportunities
6. Improve Public Access
7. Improve Park Safety
8. Develop Recreational Opportunities at Other Sites
9. Improve Park Staffing and Funding
10. Continue Public Involvement

Strategy 1 Implement Sustainable Resources Program

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Findings: This strategy directs Portland Parks and Recreation to create Sustainable Resource Program. While the proposal does not directly contribute to or conflict with ability of the City to carry out such a program, the mitigation from this project will contribute to priorities listed in the strategy, including enhancing and restoring resources, controlling exotic vegetation and managing fire hazards. *The mitigation component of the project supports the objectives of this Strategy.*

Strategy 2 Divide Forest Park into Management Units

Findings: The delineation of management units within Forest Park has been achieved. *This Strategy is not applicable.*

Strategy 3 Acquire and Protect Additional Land

Findings: The mitigation proposal includes funding that may be used by the City of Portland to acquire and protect additional land. *The mitigation component of the Project supports this Strategy.*

Strategy 4 Manage Recreation to Protect Natural Resources

Findings: Aside from temporary access route closures during construction, the proposal will have no permanent effect on the existing recreational access routes or the City of Portland's ability to manage recreation for the protection of natural resources. *This Strategy is not applicable.*

Strategy 5 Improve Interpretive, Educational and Research Opportunities

Findings: The proposal does not impact the ability of the City of Portland to improve interpretive, educational, and research opportunities. *This Strategy is not applicable.*

Strategy 6 Improve Public Access

Findings: The proposal does not adversely affect the ability of the City of Portland to improve public access. *This Strategy is not applicable.*

Strategy 7 Improve Park Safety

Findings: This strategy is focused on improving safety around unwanted and illegal activities in the Park through public information, user education, patrols and enforcement. The proposal does not impact the ability of the City of Portland to carry out this strategy. *This Strategy is not applicable.*

Strategy 8 Develop Recreation Opportunities at Other Sites

Findings: The proposal does not impact the ability of the City of Portland to develop recreation opportunities at other sites. *This Strategy is not applicable.*

Strategy 9 Improve Park Staffing and Funding

Findings: The proposal does not impact the ability of the City of Portland to improve park staffing and funding. *This Strategy is not applicable.*

Strategy 10 Continue Public Involvement

Findings: The proposal does not impact the ability of the City of Portland to continue public involvement for Forest Park. *This Strategy is not applicable.*

Overall Findings: The proposed Project was reviewed against the Forest Park NRMP Goals and Strategies. Recreational and Educational Goals 1 and 2 and Strategies 2 and 4 through 10 are not applicable to the proposal. The proposed Project is consistent with Conservation Goals 1 and 2 and Strategies 1 and 3. *This criterion is met.*

C. Alternative locations and design modifications were evaluated to show that the proposal has the least significant detrimental environmental impacts of the practicable alternatives.

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Findings: The applicant provided a response to this criterion in their narrative (Exhibit A.41, pages 48 to 52), in their updated 2026 Alternatives Analysis document (Exhibit A.4), and provided a more narrowly focused analysis in their Completeness Response Memo (Memo, Exhibit A.37). The information provided in the Memo was specifically focused on alternative designs and construction methods for the proposed alignment and, along with the broader alternatives analysis provided for this application (2026 Alternatives Analysis) is summarized below.

This criterion requires the applicant to demonstrate that no practicable alternative locations or practicable design changes exist that would lessen environmental impacts. The applicant takes the position that the analysis applies specifically to the 1,400-foot transmission line segment and related improvements connecting Harborton Substation to the Forest Park transmission system. The applicant notes that "practicable" is defined in City code as what can be achieved considering cost, technology, and logistics within the Project's overall purpose (see 33.910).

In their narrative (Exhibit A.41), the applicant responds to public comments from the first application that asked PGE to disprove the feasibility of any alternative concept capable of meeting the underlying reliability need. They assert that this exceeds what this approval criterion requires; rather the criterion focuses on alternative "locations" and "design modifications" for the proposal and, at most, practicable in-park alternative locations for the transmission use. They argue this does not require disproving all theoretical system alternatives or non-infrastructure strategies; such a broad interpretation would turn location and design-based criteria into an unlimited system planning review and be inconsistent with federally mandated transmission planning requirements.

The applicant states that even if a broader showing were required, none of the suggested alternatives (such as rooftop solar, battery storage, demand response, virtual power plants, or behind the meter generation) can resolve the specific reliability deficiency at issue. They explain that PGE already incorporates distributed energy resources, efficiency, demand response, solar, storage, transportation electrification, and other customer-side resources into its planning models, meaning their anticipated impacts are already embedded in the analysis identifying the Harborton area deficiency.

They also note that some of the noted alternatives depend on voluntary customer adoption, site-specific conditions, and participant enrollment, which PGE cannot mandate. Moreover, the amount of existing distributed energy resources in North Portland (approximately 12 MW of rooftop solar and 8 MW of storage) falls far short of the roughly 238 MW needed to address the post-contingency transmission overloads. As a result, the applicant argues that distributed resources cannot feasibly eliminate the reliability problem, cannot be deployed at the required scale by 2028, and cannot provide the reliable, location-specific transmission capacity and redundancy needed to comply with federal reliability standards.

Practicable design modifications

The applicant states that practicable design modifications have already been incorporated and that no further modifications would reduce environmental impacts while still meeting transmission safety and reliability obligations. The Memo describes extensive refinement of the proposal, including removal of four previously proposed structures and a permanent access road, reduction in grading areas, tighter equipment circulation routes, use of taller poles and steel monopoles with smaller footprints.

Similarly, the applicant evaluated construction method alternatives for the permanent landings (full bench cuts, balanced cut and fill, structural retention, phased excavation/partial restoration, and matting over minimally graded surfaces [see Memo, Table 4]). The applicant selected methods tailored to each landing to minimize the overall disturbance footprint (balanced cut and fill at the two lower landings and phased excavation with partial restoration at the upper landing) because these methods resulted in the smallest practicable disturbance envelopes, minimized import/export of material, and reduced exposure of sensitive resources.

For tree clearing, the applicant compared three alternatives and selected "Partial Clearance with Impact Reductions," (Memo, Table 2, page 3) which reduced removals to 393 trees and added topping or girdling in areas where habitat retention was feasible and safe. This approach resulted from a second pass arborist review that individually assessed riparian, border zone, and high-value habitat trees and tightened equipment circulation to avoid additional ground disturbance.

Practicable alternative locations

The applicant also evaluated practicable alternative locations for the segment in their narrative (Exhibit A.41, pages 51 to 52) and 2026 Alternatives Analysis (Exhibit A.4, throughout). The applicant asserts that alternative locations are

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limited to alignments capable of meeting the Project's specific reliability deficiency; routes requiring substantially greater length, new corridors, new property rights, expanded permitting, revised system configuration, or meaningfully different construction scope constitute fundamentally different projects rather than "alternative locations" as the criterion intends.

Earlier analyses, including the 2022 Toth Report (first application) and the updated 2026 Alternatives Analysis, examined both in-park and out-of-park alignments, multiple routing concepts, and alternative configurations. These evaluations considered environmental, property, engineering, permitting, safety, and cost factors. The broader alternatives analysis provided with the initial application concluded that none of the alternatives were practicable.

The updated 2026 Alternatives Analysis provides additional depth, demonstrating not only impracticability but infeasibility. Each potential alternative presents multiple constraints that prevent it from meeting the underlying need for the proposed Project, particularly the requirement to place the project in service by 2028 to comply with Federal Energy Regulatory Commission (FERC) reliability standards and avoid outage risks for North and Northwest Portland.

The updated analyses conclude that no alternative locations can meet the federal 2028 in-service requirement while also avoiding greater environmental impacts. Constraints related to schedule feasibility, topography, safety requirements, and electrical system configuration render all other conceivable alternatives impracticable or infeasible.

Conclusion

Based on the information in 2026 Alternatives Analysis and Completeness Review Memo, the applicant has demonstrated that the proposed location and design represent the least environmentally detrimental practicable alternative. The combination of reduced structure count, elimination of a permanent access road, minimized work areas, tailored landing construction methods, and refined tree clearing practices shows that practicable design and location modifications have been evaluated and incorporated to minimize resource impacts. *This criterion is met*.

D. A construction management plan and a mitigation plan will minimize impacts on resources and restore adjacent disturbed areas.

Findings: In their narrative (Exhibit A.41, pages 61 to 62), the applicant states that the Project meets Minor Amendment Criterion D because the Construction Management Plan (Exhibits C.32 to C.46), Arborist Report/Tree Plan (Exhibit A.6), Restoration Plan (Exhibit C.46 to C.60), and Habitat Mitigation Plan (Exhibit A.3) incorporate extensive measures to avoid, minimize, restore, monitor, and mitigate impacts to Forest Park's natural resources. As described in the application materials, the Project's location within PGE's existing 1971 easement and within or adjacent to existing utility corridors inherently reduces impacts by avoiding disturbance to forest areas that are not already impacted by utility corridors. The design has been refined through an alternatives analysis process (Exhibit A.4) to further reduce disturbance through removal of four originally proposed poles and a permanent access road, shortening of an access spur, reduction of grading and tower-pad impacts, use of steel monopoles with smaller footprints, and limiting tree removal to what is necessary for safe transmission line clearance.

In addition to design level minimization, the applicant proposes detailed construction phase protections through its Construction Management Plan. Sensitive resources will be identified and flagged prior to construction, work will be confined to designated areas and approved access routes, erosion and sediment control measures will be installed and maintained to protect resources to be left undisturbed.

Further, the applicant's updated Tree Protection Plan includes a two-part system of fencing, boundary demarcation, trunk protection, and arborist oversight to safeguard trees retained within and adjacent to the work area. Because continuous rigid fencing around all retained trees is not practicable during active logging operations and may pose safety hazards, the applicant proposes the following system:

- Boundary demarcation. Root protection zone (RPZ) limits will be marked in the field through clearly identified boundary markers, consistent with the labeled RPZ boundaries shown on the Tree Protection Plan sheets (see Exhibit A.6). Boundary markers will remain in place for the duration of construction.
- Fencing. Orange plastic mesh construction fencing will be installed along active work edges where construction occurs adjacent to a protected RPZ. This fencing will be maintained or promptly reset as work areas shift, consistent with the Tree Plan specifications.

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- Trunk protection. Retained trees located within 20 feet of active felling, processing, or loading operations will receive physical trunk protection consisting of 2x4 lumber at least six feet long, loosely banded around the trunk and root flare.
- Arborist supervision. A Certified Arborist will be onsite during any encroachment into an RPZ at any phase of work and will direct installation, removal, resetting, and placement of continuous fencing and other tree protection measures as conditions require.

The applicant states that this combination of boundary demarcation, temporary fencing at active work edges, trunk protection during high-risk operations, and arborist supervision provides effective and practical protection for retained trees within an active logging environment. PGE will continue coordination with City staff and its project arborist to refine the location and details of fencing and markers on updated plan sheets.

Following construction, temporary disturbance areas will be restored with native vegetation suitable for long-term coexistence with transmission infrastructure operation. Restoration includes woodland, shrub, riparian, and pollinator plantings, removal and control of invasive species, and strategic use of woody material to support structural habitat functions. Restoration is intended to establish a stable native plant community and reduce long-term ecological effects of construction. The Restoration Plan includes performance standards, monitoring, maintenance, reporting, and adaptive-management requirements for at least ten years, followed by ongoing vegetation management (Exhibit A.3, Section 12, pages 75 to 77).

Lastly, as discussed throughout this report, the applicant's Habitat Mitigation Plan (Exhibit A.3) and associated $5.5 million mitigation payment further support compliance with this criterion. Mitigation funding provides the resources necessary to implement large-scale habitat improvements both within and adjacent to the Project area, including native forest restoration, invasive species removal, understory enhancement, and riparian stabilization. These measures are specifically designed to offset unavoidable impacts by accelerating habitat recovery and improving ecological conditions across a broader landscape than the construction footprint alone. This substantial financial investment and long-term stewardship framework demonstrate that the Project will not only minimize impacts during construction but will also provide durable ecological benefits over time.

Based on the applicant's proposed construction management measures, tree protection system, restoration plan, mitigation commitments, and long-term monitoring, staff finds that the Construction Management Plan and Mitigation Plan include measures that will minimize impacts on resources and restore disturbed areas. Conditions of Approval are necessary to ensure the proposed restoration and monitoring are carried out, and the proposed mitigation funds are provided. With these conditions, *this criterion is met*.

Overall Findings for Approval Criteria for Exceptions A: This criterion requires the applicant to demonstrate the proposal meets all the criteria for minor amendments. The applicant demonstrated compliance with the applicable approval criteria.

B. The proposal is a park-related development, or no alternative locations exist outside of Forest Park for the proposal.

Findings: The proposal is not a park-related development. While the applicant asserts in their narrative (Exhibit A.41, pages 53 to 54) that the proposed transmission line expansion and upgrade is a park-related development and that the term park-related development should be interpreted broadly, the Forest Park NRMP's structure and purpose indicate a narrower meaning than the applicant suggests. The NRMP does not define the term, but its overall framework emphasizes protection of Forest Park's ecological, recreational, and natural resource functions. Within that context, "park-related development" is best understood as development that directly supports the Park's intended purpose such as ecological restoration, resource management, or recreational facilities, not large-scale utility infrastructure.

The applicant's interpretation relies on the ordinary meaning of "related" to argue that any development with a geographic tie to Forest Park qualifies. However, the location of existing utilities within the Park does not automatically transform utility expansion into park-related development. The mere presence of a long-standing easement or preexisting infrastructure does not create a functional relationship with Forest Park's mission or values. Instead, it reflects historical land use decisions made before the adoption of the NRMP, not an endorsement of additional utility development as "park-related."

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Furthermore, Exception Criterion B is intended to prevent new development within Forest Park unless it is both necessary and inherently tied to the Park's purposes. Reading "park-related development" to include major utility upgrades would effectively eliminate this safeguard by allowing any infrastructure project located in a pre-existing easement to qualify, regardless of its impacts or its lack of relationship to park functions. This would undermine the protective intent of the NRMP and expand the exception far beyond its reasonable scope.

In short, although the Park contains legacy utility corridors, the proposed transmission line upgrades serve regional electrical system needs rather than Forest Park's ecological or recreational objectives. The Project may be proposed within Forest Park, but location alone does not establish the type of substantive relationship necessary to classify it as "park-related development."

The applicant goes on to state that even if the proposal were not considered park-related development, Exception Criterion B is met because the proposed transmission line segment must directly connect the Harborton Substation to existing facilities already situated within the Forest Park utility corridor. Moving the project outside of Forest Park would be a different project rather than an alternative location. Staff does not agree with this very narrow reading of this criterion, which was clearly intended to strictly limit non-park-related development that could be located elsewhere. Instead this criterion should be interpreted to mean that a project that meets the demonstrated need cannot be achieved outside of Forest Park.

The applicant did provide findings to support this broader interpretation requiring evaluation of other potential locations outside Forest Park that would meet the need to address transmission deficiencies by 2028. No feasible alternatives were found that could address the identified reliability and capacity need. In response to concerns raised during the previous application (LU 24-041109 CU EN GW), PGE commissioned a 2026 alternatives study by David Evans and Associates (DEA), focused solely on feasibility (Exhibit A.4). That study found that most concepts raised in the prior proceeding are not true alternatives because they would not resolve the specific system deficiencies affecting Harborton Substation. DEA then evaluated the only concepts that could potentially meet the need:

- Replacing existing Forest Park ridge structures with substantially taller towers,
- A new Marina Way transmission route, and
- The proposed Forest Park segment.

Each option was assessed for property rights, regulatory requirements, permitting, constructability, and whether it could be completed by 2028. The study concluded that the Forest Park route is the only feasible alternative.

The tall tower concept was found infeasible because it would require additional easements within Forest Park, extensive engineering to test constructability, and lacks adequate space at the base of the hill due to existing utility infrastructure. It would also remain primarily inside Forest Park and would not reduce environmental impacts; instead, it would likely increase construction footprint, access needs, and vegetation management areas.

The Marina Way concept, previously studied through eight route variations (Toth Report, 2022) and provided for the previous review, was also determined infeasible. Each route would require a new transmission corridor across multiple properties and likely face denial from the PUC given existing easement rights and cost implications. The routes conflict with property restrictions protecting the Harborton Habitat Restoration Site under a federal consent decree, cannot meet numerous federal, state, and local permitting requirements, and face cumulative constraints from rail, highway, utility, pipeline, wetland, and industrial development limitations that prevent identification of a constructible alignment.

By comparison, the proposed Forest Park route relies on PGE's existing 1971 easement, expands existing utility corridors, avoids new property acquisition, presents no fatal constructability issues, and can be completed by 2028. The applicant emphasizes that timing is critical: the need is to correct a reliability deficiency before the system risks falling out of compliance with federal standards and facing mandatory load shedding beginning in 2028. Alternatives such as the Marina Way routes would require more than seven years to complete, making them infeasible on timing alone. For these reasons, none of the concepts outside Forest Park constitute feasible alternatives to the proposed Project.

As described above, the ability to address the need for this project outside of Forest Park is highly constrained by the timeframe to address deficiencies in the system by 2028. To help avoid time constraints for future projects, PGE has agreed to engage in a planning dialogue with the City concerning future infrastructure work within Forest Park. In

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addition, PGE has proposed a condition of approval requiring PGE to provide funding for an independent consultant contract to inform the City's participation in the planning dialogue. With the condition that the proposed consultant funding is provided within 30 days of a City decision of approval, *this criterion is met*.

C. There are no practicable alternative locations within Forest Park suitable for the use in which the development will have less adverse impact on resource values.

Findings: This criterion requires the applicant to demonstrate that there are no practicable alternative locations within Forest Park where the same use could occur with less adverse impacts on resource values. Unlike Minor Amendment Criterion C or Exception Criterion B, this standard evaluates alternative locations for the broader electric transmission "use," but still limits that qualifier to practicable sites located inside Forest Park.

According to the applicant, no such location exists. The proposed alignment is a 1,400-foot segment situated entirely within PGE's existing 1971 Easement and within or adjacent to pre-existing utility corridors that has supported high-voltage transmission infrastructure for decades. It provides the closest feasible connection between Harborton Substation and existing 230-kV facilities, makes use of existing utility rights, and concentrates disturbance in an area that is already influenced by transmission infrastructure.

The applicant states that shifting the use to any other location in Forest Park would require a longer alignment, expanded easements, additional access improvements, and more complicated construction, resulting in disturbance to areas with equal or greater resource value. They also assert that relocating the use would conflict with the NRMP direction to avoid expanding utility easements and to manage utility impacts within existing corridors.

The applicant argues that alternatives that would require substantially different routing concepts, such as a significantly longer corridor, creation of a new transmission right-of-way, acquisition of additional property, reliance on different permitting authorities, reconfiguration of the electric system, or a materially different construction scope, are not considered "practicable alternative locations" because they represent entirely different projects and therefore fall outside the scope of the criterion. Staff agrees that any alternative locations for the proposed use must be "practicable" under this criterion but does not agree that alternative locations should be dismissed simply because they present more or different challenges then the applicant's preferred alternative.

The applicant did also provide findings to support their proposal under a broader interpretation of this criterion, explaining that no practicable alternative locations exist within Forest Park that could meet the Project need with less impact on resource values. PGE's analysis, beginning with the 2024 application's Alternatives Analysis (Toth Report, 2022) and expanded in the 2026 Alternatives Analysis (Exhibit A.4), evaluated all potential in-park and out of park locations, alternative routing concepts, and different design configurations. That analysis considered environmental constraints, property feasibility, engineering requirements, permitting pathways, safety implications, and cost impacts. The applicant states that no alternative was determined to be practicable.

The 2026 Alternatives Analysis provides additional detail illustrating that alternatives are not merely impracticable but infeasible. Each potential alternative fails to satisfy the underlying project need, including the requirement that the improvement be in place by 2028 to meet FERC reliability standards and avoid increasing the risk of outages affecting North and Northwest Portland. As documented, every alternative would either fail to meet this timeline, introduce new system vulnerabilities, or trigger additional construction and permitting requirements that would result in greater environmental disturbance than the proposed alignment.

Based on this comprehensive evaluation, the record shows that no practicable alternative locations exist that could meet the identified need while resulting in less adverse impact on Forest Park's resource values. *This criterion is met*.

D. Any long-term adverse impacts of the proposed action on resource values are fully mitigated within the Management Unit.

Findings: The applicant states that Exception Criterion D is met because the Project's long-term adverse impacts on resource values will be fully mitigated within the North Management Unit (see Habitat Mitigation Plan, Exhibit A.3). To summarize, the applicant provides that the Project's long-term effects depend on site context: the work affects 4.7 acres of intact forest adjacent to existing utility corridors, does not establish a new easement, and does not expand the 1971 Easement. They argue the impacted area consists of edge habitat within a long-standing utility setting, and the restoration measures described earlier will further reduce long-term effects by establishing native vegetation suitable for transmission line safety needs.

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The applicant acknowledges that the Project will still have impacts requiring mitigation, including mature tree canopy loss and conversion of forest habitat to lower stature vegetation, as well as impacts to streams and wetlands. They report that these impacts will be fully addressed through mitigation within the North Management Unit; the Habitat Mitigation Plan identifies several projects that will directly benefit this portion of Forest Park, such as wetland improvements for Northern red-legged frog breeding habitat, stream and riparian enhancement, large-scale invasive-species and wildfire ladder fuel removal, and native revegetation beyond the Project's restoration area. These measures are intended to offset the same resource values affected by the Project and provide ecological benefits at a scale exceeding the Project's localized footprint.

Under the Mediation Agreement, PGE agreed to a condition of approval to provide mitigation funding in the amount of $5.5 million. If these mitigation funds are later used in other parts of Forest Park after priorities in the North Management Unit are met, overall compliance with the criterion would still be maintained. Because Forest Park functions as an interconnected ecological system, broader projects such as invasive species removal, wildfire risk reduction, and fire lane improvements benefit the North Management Unit by lowering reinvasion risk, improving ecological resilience, and reducing wildfire danger. The mitigation funding could also enable the acquisition of higher-value habitat to expand the North Management Unit.

As described in the Habitat Mitigation Plan, the mitigation funds will support compensatory projects targeting resource values affected by the Project, including invasive species removal, native revegetation, habitat enhancement, and related restoration work. According to the Habitat Mitigation Plan, the mitigation funds could support restoration or enhancement of multiple acres within Forest Park. Combined with onsite restoration, the applicant states that this mitigation package will more than offset localized impacts, advance Forest Park management goals and strengthen Forest Park's long-term ecological health, resilience, and stewardship.

To ensure the long-term adverse impacts of the proposed action on resource values are fully mitigated, the applicant will be required to make the proposed payment in the amount of $5.5 million to the Restore Forest Park Fund prior to the start of construction. With this condition, *this criterion is met*.

E. The proposal is consistent with the purpose of the Environmental Zones

Findings: This criterion requires the proposal to be consistent with the purposes of the City's Environmental Zones. The Project is located within the Environmental Protection (p) overlay zone. Portions of the overall site are within the Environmental Conservation (c) overlay zone; however, only construction access is proposed in that area.

1. Purposes of Environmental Zones

The purpose of Environmental Zones as stated in the Zoning Code are as follows:

- *Environmental zones protect 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. These regulations also help meet other City goals, along with other regional, state, and federal goals and regulations. The environmental regulations also carry out* Comprehensive Plan policies and objectives. (33.430.010)

- *The Environmental Protection zone provides the highest level of protection to the most important resources and functional values. These resources and functional values are identified and assigned value in the inventory and economic, social, environmental, and energy (ESEE) analysis for each specific study area. Development will be approved in the environmental protection zone only in rare and unusual circumstances. (33.430.015)*

- *The Environmental Conservation zone conserves important resources and functional values in areas where the resources and functional values can be protected while allowing environmentally sensitive urban development. (33.430.017).*

2. The proposal is consistent because it is necessary and carefully designed to avoid and mitigate impacts

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The proposed Project fits the type of carefully designed necessary development contemplated within Environmental Protection overlay zones. It meets a critical public need and is required under federal and state law. Rather than creating a new corridor in an area that has not been previously impacted by utilities, the Project remains entirely within the existing 1971 easement and within and adjacent to existing utility corridors. Its design reduces permanent disturbance, limits grading, eliminates structures originally proposed, minimizes tree removal, and keeps impacts to those required for safe transmission line construction and operation. Construction practices and restoration measures further reduce impacts as stated in other findings throughout this report. These features align with the central purpose of environmental regulations – allowing critical development when it has been deliberately designed to avoid, minimize, restore, and mitigate impacts to protected resources.

3. The proposal is consistent with the Environmental Protection overlay zone's expectation that development be rare and unusual

The "rare and unusual circumstances" language in Zoning Code Section 33.430.015 is a purpose statement, not a standalone approval criterion. The question is whether the Project aligns with that purpose. According to the applicant, the circumstances are exceptional: the Project occurs entirely within a pre-existing utility corridor and the 1971 Easement, which already authorizes transmission facility construction, operation, maintenance, and expansion. The infrastructure is longstanding, serves the region, and cannot be relocated without fundamentally altering the Project. The Project responds to an identified deficiency in the transmission system and is required to meet federal and state reliability obligations; conditions that are indeed unusual. Approval of the Project therefore aligns with the Environmental Protection overlay zone's purpose of limiting development to exceptional situations.

4. Mitigation measures strengthen consistency with Environmental Zone purposes

The Project's consistency is reinforced by substantial mitigation. In addition to onsite restoration, the applicant proposes a mitigation payment of $5.5 million to support restoration and enhancement projects, including wildfire risk reduction, stream and wetland enhancement, habitat restoration, and other ecological improvements across Forest Park. These measures will offset localized impacts and actively improve habitat quality, ecological resilience, invasive species control, aquatic resources, and long-term stewardship of Forest Park, directly advancing the purposes of the Environmental Zones.

As described above, the proposal meets the requirement to be consistent with the environmental zones because it includes a rare and unusual critical infrastructure project with a demonstrated need, extensive alternatives were evaluated to ensure the location of the project is the least detrimental to resources, it minimizes impacts through refined design, and incorporates extensive restoration and mitigation measures that will offset long-term impacts by improving ecological conditions in Forest Park. *This criterion is met*.

Section I Conclusion

The proposal was reviewed against the Approval Criteria for Exceptions (A through E) and Approval Criteria for Minor Amendments (A through D) of the Forest Park NRMP as part of the Environmental Review. The applicant demonstrated conformance with the applicable approval criteria for Minor Amendments and Exceptions.

II. Additional criteria required by Plan District

SECTION 33.563 NORTHWEST HILLS PLAN DISTRICT

According to the Northwest Hills Plan District Map 563-1, the subject site is in the Forest Park Subdistrict of the Northwest Hills Plan District.

Planner Note: In their narrative (Exhibit A.41, pages 74 to 75), the applicant asserts that the Project is not subject to Zoning Code Section 33.563.210 because development within Forest Park is governed exclusively by the Forest Park NRMP's approval criteria, which replace the standard Environmental Review criteria in Zoning Code Section 33.430.250. Therefore, neither PCC 33.430.250 nor the supplemental Northwest Hills Plan District criteria in PCC 33.563.210 apply to the project.

Staff does not agree with that interpretation. Zoning Code Section 33.430.030, *Relationship to Other Regulations*, explicitly states that certain study areas identified in 33.430.020 include additional environmental regulations within Plan Districts and that these regulations either supplement or supersede those in Chapter 33.430. Both the Forest Park

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NRMP and the Northwest Hills Plan District are included in that list. Further, 33.430.060 states that the regulations of 33.430 apply to all Environmental Zones except those in specified areas, including City-owned land within the Forest Park NRMP, making it clear that the NRMP supersedes 33.430.

In addition, 33.700.070.E establishes the hierarchy of Zoning Code regulations, stating that any area governed by base zoning, overlay zoning, or a plan district is subject to **all** (emphasis added) applicable regulations of each.

Further, 33.563.020, *Where the Regulations Apply*, specifies that the regulations of Chapter 33.563 apply to the Northwest Hills Plan District and its subdistricts, and that Sections 33.563.200 through .210 apply specifically to the Forest Park Subdistrict.

Nothing in these provisions exempts a proposal from the requirements of these code sections simply because it is subject to the Forest Park NRMP. No qualifier or exception exists that removes applicability of 33.563.200 to .210 for projects within the Forest Park Subdistrict. Accordingly, staff concludes that these regulations do apply to the Project and must be addressed in the review. Likewise, the applicant provided findings against these criteria.

Forest Park Subdistrict

33.563.210 Additional Approval Criterion. In addition to the applicable approval criteria of Section 33.430.250, an environmental review application will be approved if the review body finds that all the following approval criteria are met:

A. Wildlife. The location, quantity and structural characteristics of forest vegetation will be sufficient to provide habitat and maintain travel corridors for the following indicator species: pileated woodpecker, sharp-shinned hawk, Roosevelt elk, white-footed vole, and red-legged frog. Standards to meet this criterion are in the applicable Habitat Evaluation Procedure developed by the US Fish and Wildlife Service.

Findings: The proposal is located within and adjacent to existing utility corridors that have been present in Forest Park for decades and is already bordered by existing PGE and BPA transmission facilities. The Project affects an area of habitat within an established utility setting.

The applicant provided a description of the Habitat Evaluation Procedure (HEP) and why a full HEP analysis isn't necessary or beneficial in this situation (Exhibit A.42). The applicant further provided an evaluation of impacts to habitat and travel corridors for the listed species. The applicant's analysis states the impact will be limited, and the proposed restoration and mitigation will adequately offset these impacts.

The restoration and mitigation measures as required by other approval criteria of this review further ensure that wildlife habitat and movement opportunities will be maintained. Restoration within the utility corridor will establish native woodland, shrub, riparian, and pollinator support habitat, while mitigation projects will improve habitat quality elsewhere within Forest Park through invasive species removal, native revegetation, stream and wetland enhancement, and related habitat improvement efforts. Mitigation projects supporting Northern red-legged frog habitat directly benefit one of the indicator species identified in the criterion. Further, mitigation funds may be used to acquire, protect, and expand wildlife habitat.

Accordingly, when viewed together with the proposed restoration and mitigation, the proposal will not impair wildlife habitat or travel corridors. *This criterion is met*.

B. Parks and Open Space. Overall scenic, recreational, educational and open space values of Forest Park will not be diminished as a result of development activities; and

Findings: This criterion focuses on the overall values of Forest Park, not localized changes within a project site. As such, the proposal will not diminish the overall scenic, recreational, educational, or open space values of Forest Park. The Project is confined to an area already impacted by existing utility corridors and will not affect most the Park's natural areas, trail system, recreational opportunities, or educational resources. Following construction, disturbed areas will be restored with native vegetation compatible with transmission-line safety requirements.

Moreover, as noted in previous findings throughout this report, the restoration measures associated with the Project will improve ecological conditions in Forest Park. The proposed enhanced mitigation payment will fund invasive plant management, ecological restoration, wildfire fuel reduction, aquatic & riparian enhancements, including Northern red-legged frog habitat creation, and acquisition of properties or conservation interests in

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nearby properties. These improvements will enhance the overall scenic, recreational, educational, and open space values of Forest Park, to offset the impacts at the localized project site. *This criterion is met*.

C. Miller Creek Subarea. Within the Miller Creek Subarea, shown on Map 563-1, development activities will not degrade natural water quality, quantity, and seasonal flow conditions, and will not increase water temperatures above 68°F. In addition, development activities will not decrease opportunities for fish and amphibian passage.

Findings: The proposed transmission line expansion and upgrades are not proposed within the Miller Creek Subarea; *this criterion does not apply.*

Section II Conclusion

As part of the Environmental Review portion of this land use case, the proposal was reviewed against the Additional Approval Criteria of the Forest Park Subdistrict within the Northwest Hills Plan District Zoning Code Chapter. Approval Criteria 33.563.210.A and .B were met by the proposal and criterion .C does not apply.

III. Greenway Review

The relevant approval criteria for the portion of the transmission line project within Harborton Substation and adjacent properties are listed in 33.440.350.

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

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

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

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

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

Findings: There is not a Greenway trail designation shown on City maps for the property in the *Willamette Greenway Plan*, therefore Issues A, B, and F do not apply.

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

Guidelines:

1. Natural Riverbanks. The natural riverbank along the Willamette River should be conserved and enhanced to the maximum extent practicable. Modification of the riverbank should only be considered when necessary to prevent significant bank erosion and the loss of private property, or when necessary for the functioning of a river-dependent or river-related use.

2. Riparian Habitat. Rank I riparian habitat areas, as identified in the wildlife habitat inventory, should be conserved and enhanced with a riparian landscape treatment. Other riparian habitat should be conserved and enhanced through riparian landscape treatments to the maximum extent practical. Conservation however does not mean absolute preservation. Some discretion as to what vegetation should remain and what can be removed and replaced should be permitted. Riparian habitat treatments should include a variety

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of species of plants of varying heights that provide different food and shelter opportunities throughout the year.

Findings: The proposal does not include work on or near the riverbank and this issue does not apply.

Issue D. Riverbank Stabilization Treatments: This Issue "applies to all applications for Greenway Approval [which propose riverbank stabilization treatments]." This guideline promotes bank treatments for upland developments that enhance the appearance of the riverbank, promote public access to the river, and incorporate the use of vegetation where possible;

Guidelines:

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

Findings: No modification of the riverbank is proposed as part of this proposal and this issue does not apply.

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

Guidelines:

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

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

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

Findings: The purpose of this issue is to ensure compliance with the landscape standards found in Zoning Code Section 33.440.230, *Landscaping*. These standards require conformance with riverbank landscape treatments when alterations are made to a site that are over the monetary threshold found in Zoning Code Section 33.440.230.D.1 ($366,300 as of the date of this report). Based on aerial photographs of the applicable parcel's (R325473) riverfront, this standard appears to be met. At the time of permit, the applicant will be required to demonstrate how this standard is currently being met by providing an existing vegetation survey or how they intend to meet it with a planting plan. Based on the need to demonstrate compliance with this requirement, *this Issue can be met by the proposal.*

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

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

Findings: There are no viewpoints or view corridors identified on the site, therefore, Issues G and H do not apply.

Findings: Issues A, B, C, D, F, G, and H are not applicable, and Issue E is met by the proposal; therefore, *this criterion is met*.

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

Findings: The proposal includes a small amount of temporary disturbance for access in the River Industrial overlay zone on a lot with river frontage. However, since the disturbance is for temporary access only and the proposed development is taking place on the adjacent lot which does not contain river frontage or a River Industrial overlay zone designation, *this criterion does not apply*.

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

D. Development on land within 50 feet of the River Natural zone. The applicant must show that the proposed development or fill on land within 50 feet of the River Natural zone will not have a significant detrimental environmental impact on the land in the River Natural zone.

Findings: The proposed development is not within or within 50 feet of a River Natural overlay zone; therefore, *these criteria are not applicable.*

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

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

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

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

3. The proposal will not:

a. Restrict boat access to adjacent properties;

b. Interfere with the commercial navigational use of the river, including transiting, turning, passing, and berthing movements;

c. Interfere with fishing use of the river;

d. Significantly add to recreational boating congestion; and

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

Findings: The proposed Project does not include disturbance or development within or riverward of the Greenway Setback. Development within the River Water Quality overlay zone setback is addressed in Criterion .G below.

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

G.1. Streets, right-of-way dedications, driveways, walkways, outfalls, and **utilities**. For streets, right-of-way dedications, driveways, walkways, outfalls, and utilities, the applicant's impact evaluation must demonstrate that all of the following are met:

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a. Proposed development or right-of-way (ROW) locations, designs, and construction methods have the least significant detrimental impact to the functional values of the water quality resource area than other practicable and significantly different alternatives including alternatives outside the River Water Quality overlay zone setback**;**

b. The location, design, and construction method of any outfall or utility proposed within a River Water Quality overlay zone has the least significant detrimental impact to the functional values of the water quality resource area than other practicable alternatives including alternatives outside the River Water Quality overlay zone setback;

c. Water bodies are crossed only when there are no practicable alternatives with fewer significant detrimental impacts. Where a water body is crossed, the location, design, and construction method of that crossing has the least significant detrimental impact to the functioning of the water body and considering practicable alternatives;

d. There will be no significant detrimental impact on functional values in areas designated to be left undisturbed within the River Water Quality overlay zone setback;

e. All significant detrimental impacts on functional values that cannot be avoided will be mitigated by meeting the requirements of Subsection 33.440.350.H; and

f. The mitigation plan ensures that the proposed development will not contribute to a cumulative loss of functional values over time.

Findings: Proposed work in the River Water Quality overlay zone setback is limited to temporary access to adjust existing wiring, and there will be no change to the existing structures therein. It is not anticipated that there will be any significant detrimental impact to the functional values of the water quality resources at Harborton Substation or adjacent properties. The only work proposed within the River Water Quality setback (wetland) is related to temporary access for the wire adjustments at existing Tower 3000 (see Exhibits C.19 to C.21). This temporary work involves access on matted routes to avoid vegetation impacts.

The project site is about 800 feet away from the Willamette River top of bank. The proposed temporary work does involve temporary access in a wetland, but no permanent water body crossing. It does not involve any exterior alterations, excavations, or fills aside from temporary access matting and wire relocations, which does not alter the existing Tower 3000 structure. The installation of new towers west of Harborton Substation requires the removal of four Douglas firs totaling 70 inches DBH; however, the tree removal does not occur within the River Water Quality setback. Therefore, because the proposed work within the River Water Quality setback is temporary and will avoid tree and vegetation impacts by use of matting and incidental soil disturbance will be reseeded with a native wetland seed mix (Exhibits C.57 to C.60), no significant detrimental impacts on functional values are anticipated within the River Water Quality overlay zone setback.

Upon construction completion and removal of the temporary access road, the applicant proposes to restore the disturbed areas using relevant seed mix and plantings to the affected areas. Due to the temporary impact of the proposal on the setback, mitigation is not required as no detrimental impacts are expected; however, the applicant is proposing 11,717 square feet of enhancement area within the Greenway River Water Quality overlay zone by removing invasive blackberry and planting 468 shrubs (Exhibit C.57) at six different enhancement areas at the Harborton Substation site to ensure any short-term impacts are mitigated. *This criterion is met.*

H. Mitigation or remediation plans. Where a mitigation or remediation plan is required by the approval criteria of this chapter, the applicant's mitigation or remediation plan must demonstrate that the following are met:

1. Except when the purpose of the mitigation could be better provided elsewhere, mitigation will occur:
   a. On site and as close as practicable to the area of disturbance;
   b. Within the same watershed as the proposed use or development; and
   c. Within the Portland city limits.

2. The applicant owns the mitigation or remediation site; possesses a legal instrument that is approved by the City (such as an easement or deed restriction) sufficient to carry out and ensure the success of the mitigation or remediation plan; or can demonstrate legal authority to acquire property through eminent domain;

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3. The mitigation or remediation plan contains a construction timetable and a minimum 1 year monitoring and maintenance plan that demonstrates compliance with Subsection 33.248.090.E and includes the following elements:
   a. Identification of the responsible party or parties that will carry out the mitigation or remediation plan;
   b. Identification of clear and objective performance benchmarks that will be used to judge the mitigation or remediation plan success; and
   c. contingency plan that indicates the actions to be taken in the event that performance benchmarks are not met.

Findings: Proposed impacts to the River Water Quality overlay zone setback include the installation of a temporary access road and disruption of existing wetland vegetation. As such, a mitigation plan is technically not required by the approval criteria; however, to mitigate for impacts, the applicant proposes to install a total of 468 shrubs within enhancement areas south of the substation.

Therefore, *although this criterion does not technically apply, it will be met by the proposal*.

Section III Conclusion

The proposed transmission line work at Harborton Substation was reviewed against the Approval Criteria for Greenway Reviews. In this case, all criteria were met by the proposal or did not apply to the proposal.

IV. Conditional Use Review

The relevant approval criteria for the proposed Utility Corridor Use in the Open Space base zone are listed in 33.815.230 Rail Lines and Utility Corridors.

These approval criteria allow Rail Line And Utility Corridor uses where their location will not unduly interfere with other land uses and with the street system. The approval criteria are as follows:

A. The proposed rail line or utility corridor is sufficiently separated from nearby land uses so as to allow for buffering of the uses, especially in residential areas. In the case of railroad lines, separation distances should consider the expected number, speed, size, types, and times of trains.

Findings: The proposal has three main components, the creation of a new transmission line with new and reused utility poles, the improvement and maintenance of existing utility areas that are part of an existing transmission corridor, and the connection of the new utility lines across NW Marina Way to the Harborton utility compound. The proposed new utility corridor is adjacent to an existing utility corridor within the boundary of Forest Park which is zoned Open Space. The new corridor parallels the existing corridor, running northeast-southwest through the park along established utility accessways. New towers and improvements to the existing utility lines are proposed in the Open Space zone. There are no residentially-zoned sites or residential use areas adjacent too or near the project site so there are no impacts to buffering of other uses. There are no railroad lines associated with the proposal.

Therefore, *this criterion is met.*

B. The rail line or utility corridor will not substantially impact the existing or planned street system, or traffic, transit, pedestrian, and bicycle movement and safety.

Findings: PP&D Transportation reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services and had the following response: "The applicant's response to this approval criterion begins on page 66 of the narrative. The project will primarily impact land inside of Forest Park which is used for recreational purposes not transportation purposes. The are no planned public rights-of-way which will be impacted by the proposal. The portions of the utility corridor that intersect with the public transportation system are all within rights-of-way which are designed to allow for overhead utilities. The proposal includes work that will string new utility lines over the public rights-of-way for both NW Marina Way and NW St. Helens Rd. (Hwy 30), both of which are Oregon Department of Transportation (ODOT) facilities. All permitting for this activity is through ODOT. The applicant's narrative reflects that they are currently working with ODOT to permit this activity including the necessary highway lane closures. The installation of the overhead utilities will not impede the use of the roadways for transportation purposes outside of the construction phase. Some disruption of service on the

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existing roadways will be necessary as is common with all utility and transportation projects in public rights-of-way. As noted in the applicant's narrative, the construction impacts to the travelling public are being planned in coordination with the Oregon Department of Transportation to minimize disruption to the travelling public. The proposed utility lines will not result in any long-term closures or loss of capacity for the existing street system."

The Transportation response further indicated that the plans do not show any work happening in right-of-way controlled by PBOT and raised no objection to the request.

There will be no changes made to the existing street system where the project abuts NW Skyline Blvd, NW Marina Way, or the highway. If there are impacts to traffic, transit, pedestrian, or bicycle movement or safety, they will occur during construction and may include temporary road or trail closures. The Wildwood Trail, which is a recognized and actively managed trail within Forest Park, intersects the utility corridor in one location. There is no construction in that area so trail impacts will be limited to necessary closures or detours for construction activities needed in areas of the work zone. There is also a non-formal running route created by members of the public that is not managed by Urban Forestry, Portland Parks and Recreation, or any other division of the City, which follows multiple BPA and other utility roads and includes pieces of formal park trails. This non-formal running route is used mostly in the winter and will have almost no impact from construction as a lot of the work in the utility corridor will not occur during winter months. Any impacts to the running route would also be limited to necessary closures or detours for construction activities.

The review comments from PP&D Transportation have no issues with the project and did not request any Conditions of Approval. There will be no long-term changes to street, traffic, transit, pedestrian or bicycle movement, or to existing trails. In addition to no lasting impacts on the street system, the project is not located within or nearby transit, pedestrian, or bicycle systems so these will not be impacted by the proposed work.

Therefore, *this criterion is met.*

Section IV Conclusion

The placement of the utility corridor within the Open Space base zone was reviewed against the Conditional Use approval criteria. For this required review, all criteria were found to be met by the proposal.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards 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.

At the time of building permit issuance for the work at the Harborton Substation site, the applicant will be required to demonstrate compliance with Greenway Plantings found in Zoning Code Section 33.440.230.

CONCLUSIONS

The applicant proposes alteration of existing and the installation of a new transmission line in Forest Park and Harborton Substation. With the conditions stated below, the applicant has provided findings demonstrating the proposal meets the applicable approval criteria.

TENTATIVE STAFF RECOMMENDATION

Approval of an Environmental Review for:

- An Exception to the Forest Park Natural Resources Management Plan to allow for the alteration of existing and the installation of a new transmission line;
- Permanent fill of two wetlands;
- Impacts to Stream 1 and Stream 2;
- Removal of 375 living trees and 18 dead trees (7,630 inches diameter breast height); and
- 4.7 acres of natural resource disturbance.

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Approval of a Greenway Review for:
- Removal of four (4) trees;
- Installation of a temporary access road; and
- Installation of three (3) steel poles.

Approval of a Conditional Use Review for:
- Portland General Electric (PGE) utility improvements within an existing utility easement in Forest Park to include:
- Removing one power pole, installing one new power pole and rewiring a segment of existing transmission line to that new pole location;
- Installing two new poles to support a new, 1,400-foot-long segment of transmission lines;
- Connecting the shifted and new transmission line segments west to existing PGE lines within Forest Park and east across Highway 30 to PGE's existing Harborton Substation.

in substantial conformance with Exhibits C.5 to C.7 and C.19 to C.60. Approval is subject to the following conditions:

A. A PP&D Permit(s) is required for development. The Conditions of Approval listed below shall be noted on appropriate plan sheets submitted for permits (building, zoning, grading, erosion control, etc.). Plans shall include the following statement, ***"Any field changes shall be in substantial conformance with approved LU 26-051203 CU EN GW Exhibits* C.5 to C.7 and C.19 to C.60.*"***

B. A "Mitigation Funds" payment in the amount of $5,500,000 must be made to the Restore Forest Park Fund after the issuance of construction permits and prior to the clearing of vegetation for construction of the project.

C. The applicant shall consult with the City on future utility work within Forest Park. This consultation must follow the requirements of the Settlement Agreement as stated in Section 6, pages 7 to 8 (Exhibit A.40). The proposed independent consultant funding ($250,000) must be provided to the City within 30 days of issuance of a decision of approval by the Hearings Officer, or City Council in the case of an appeal.

D. Construction Management including erosion control and work zone delineation measures must be installed as shown on Exhibits C.32 to C.45, Construction Management Plan. Tree protection measures must be followed as stated within the Tree Plan (Exhibit A.39).

1. No mechanized construction vehicles are permitted outside of the approved "Project Limits." All planting work, invasive vegetation removal, and other work to be done outside the Limits of Construction Disturbance, shall be conducted using handheld equipment.

E. The PP&D Permit(s) required in Condition A must include approval and inspection of a restoration plan in substantial conformance with Exhibits C.46 to C.60, Restoration Plans. Any plant substitutions shall be selected from the *Portland Plant List* and shall be substantially equivalent in size to the original plant.

1. Permit plans shall show:
   a. The location of the trees, shrubs and ground covers required by this condition to be planted in the restoration area and labeled as "new required landscaping". The plans shall be to scale and shall illustrate a naturalistic arrangement of plants and should include the location, species, quantity and size of plants to be planted.
2. Plantings shall be installed between October 1 and March 31 (the planting season).
3. Prior to installing required plantings, non-native invasive plants shall be removed from all areas within 10 feet of plantings, using handheld equipment.
4. If plantings are installed prior to completion of construction, a temporary bright orange, 4-foot high construction fence shall be placed to protect plantings from construction activities.
5. After installing the required restoration plantings, the applicant shall request inspection of the plantings and final the PP&D Permit.
6. The applicant shall arrange to accompany the PP&D inspector to the site to locate plantings for inspection.

F. The applicant shall monitor the required plantings in Forest Park for ten years to ensure survival and replacement as described below. The applicant is responsible for ongoing survival of required plantings beyond the designated

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ten-year monitoring period.

1. Prior to issuance of the PP&D Permit, the applicant must submit and pay fees for review of the Landscape Monitoring Reports required below.
2. After installation and inspection of the initial restoration plantings, the applicant must submit 5 monitoring and maintenance reports at Years 1, 3, 5, 7, and 10 for review and approval to the Land Use Services Division of PP&D containing the monitoring information described below. Submit the first report within 12 months following the final inspection approval of the permit required under Condition A. Submit subsequent reports in the timeframes described above. Monitoring reports shall contain the following information:
    a. The monitoring reports must demonstrate compliance with Objective 1 of Section 10, *Performance Standards of* the Habitat Mitigation Plan (Exhibit A.3).
    b. Vegetation health and survival surveys as detailed in Section 11.3 of the Habitat Mitigation Plan (Exhibit A.3).
    c. Photo documentation as detailed in Section 11.4 of the Habitat Mitigation Plan (Exhibit A.3).
    d. A count of the number of planted trees and shrubs that have died. Replanting is required to meet the minimum planting densities stated in Exhibits C.46 to C.60 unless otherwise dictated by the Adaptive Management Plan as detailed in Section 12.4 of the Habitat Mitigation Plan.

G. The applicant shall monitor the required Greenway plantings for two years to ensure survival and replacement as described below. The applicant is responsible for ongoing survival of required plantings beyond the designated two-year monitoring period.

1. Prior to issuance of the PP&D Permit, the applicant must submit and pay fees for review of the Landscape Monitoring Reports required below.
2. After installation and inspection of the initial restoration plantings, the applicant must submit two annual monitoring and maintenance reports for review and approval to the Land Use Services Division of PP&D containing the monitoring information described below. Submit the first report within 12 months following the final inspection approval of the permit required under Condition A. Submit subsequent reports 12 months following the date of the previous monitoring report. Monitoring reports shall contain the following information:
    a. A count of the number of planted shrubs that have died. Replanting is required to meet the minimum planting densities stated in Exhibits C.46 to C.60.
    b. The percent coverage of ground covers. If less than 80 percent of the mitigation planting area is covered with groundcovers at the time of the annual count, additional groundcovers shall be planted to reach 80 percent cover (replacement must occur within one planting season).
    c. A list of replacement plants that were installed.
    d. Photographs of the restoration area and a site plan, in conformance with approved Exhibits C.46 to C.60, Restoration Plan, showing the location and direction of photos.
    e. An estimate of percent cover of invasive species (ivy, blackberry, reed canarygrass, teasel, clematis) within 10 feet of all plantings. Invasive species must not exceed 15 percent cover during the monitoring period.

H. 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.

PROCEDURAL INFORMATION

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 July 8, 2026. The application was determined to be complete on September 2, 2026.

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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 extended at the request of the applicant. In this case, the applicant did not extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on December 31, 2026.**

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

Conditions of Approval. If approved, this project may be subject to specific conditions of approval, 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.

This report is not a decision. This report is a recommendation to the Hearings Officer by Portland Permitting & Development. The Hearings Officer may adopt, modify, or reject this recommendation. The Hearings Officer will make a decision about this proposal within 17 days of the close of the record. To comment, you may testify at the hearing, submit comments at www.portland.gov/omf/hearings/land-use; email your comments to HearingsOfficeClerks@portlandoregon.gov; write to the Land Use Hearings Officer, 1900 SW Fourth Ave., Suite 3100, Portland, OR 97201; or FAX your comments to 503-823-4347.

You will receive mailed notice of the decision if you write a letter received before the hearing or testify at the hearing, or if you are the property owner or applicant. This Staff Report will be posted on Portland Permitting & Development website at https://www.portland.gov/ppd/zoning-land-use/public-notices. Enter the case file number in the keyword search.

Appeal of the decision. The decision of the Hearings Officer may be appealed to City Council, who will hold a public hearing. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

Who can appeal: You may appeal the decision only if you submit written comments which are received before the close of the record, if you testify at the hearing, or if you are the property owner or applicant. Appeals must be filed within 14 days of the decision. **An appeal fee of $7,240 will be charged (one-half of the PP&D LUS application fee, up to a maximum of $7,240).** Assistance in filing the appeal and information on fee waivers are available from Portland Permitting & Development website: https://www.portland.gov/ppd/zoning-land-use/land-use-review-fees-and-types/land-use-review-appeals.

Recording the final decision. If this land use review is approved the final decision will be recorded with the County Recorder. *Unless appealed,* the final decision will be recorded by Portland Permitting & Development.

Expiration of this approval. Generally, land use approvals (except Comprehensive Plan and Zoning Map Amendments) expire five years from the date of the final decision unless one of the actions below has occurred (see Zoning Code Section 33.730.130 for specific expiration rules):

- A City permit has been issued for the approved development,
- The approved activity has begun (for situations not requiring a permit), or

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Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within seven 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 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.

Planner's Name: Chris Caruso

Date: October 2, 2026

EXHIBITS (not attached unless indicated)

A. Applicant's Statement:
   1. Applicant's Original Narrative & Site Plans, August 2026
   2. Application Overview
   3. 2026 Habitat Mitigation Plan
   4. 2026 Alternatives Analysis Report
   5. Summary of Reliability Memo
   6. Tree Plan, June 2026
   7. 1971 Easement
   8. Geotechnical Report
   9. Mediation Agreement
   10. Harborton Habitat Development Plan
   11. PGE Local Transmission Plan 2015
   12. PGE Local Transmission Plan 2016
   13. PGE Local Transmission Plan 2017
   14. PGE Local Transmission Plan 2018
   15. PGE Local Transmission Plan 2019
   16. PGE Local Transmission Plan 2020
   17. PGE Local Transmission Plan 2021
   18. PGE Local Transmission Plan 2022
   19. PGE Local Transmission Plan 2023
   20. PGE Local Transmission Plan 2024
   21. PGE Local Transmission Plan 2025
   22. 2023 CEP-IRP
   23. 2023 CEP-IRP (2025 Rev)
   24. PGE Mediation Materials
   25. PNUCC Regional Forecast
   26. NERC 2025 LTRA
   27. WECC Year 20 Report
   28. IEA 2024 Review
   29. Oregon Energy Strategy
   30. CEP-IRP Portfolio Analysis Refresh Addendum
   31. NERC TPL-001-5.1
   32. PGE 2025 Annual Reliability Report to PUC
   33. WECC 2026 Data Manual
   34. FERC OATT

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35. 2024 Alternatives Analysis (First Application)
36. Randy Franks Timing Memo
37. Completeness Response Memo
38. Completeness Response Letter
39. Revised Tree Plan, August 2026
40. Settlement Agreement
41. Applicant's Revised Narrative, September 2025
42. Supplemental Habitat Evaluation Procedure (HEP) Analysis

B. Zoning Map (attached)

C. Plans & Drawings:
1. G001 Overall Site Plan
2. G002 Aerial Photograph Sheet 1 of 3
3. G003 Aerial Photograph Sheet 2 of 3
4. G004 Aerial Photograph Sheet 3 of 3
5. G005 Tree Table Sheet 1 of 3
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8. L001 Existing Conditions Plan Sheet 1 of 11
9. L002 Existing Conditions Plan Sheet 2 of 11
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11. L004 Existing Conditions Plan Sheet 4 of 11
12. L005 Existing Conditions Plan Sheet 5 of 11
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29. L111 Proposed Development Plan Sheet 11 of 13
30. L112 Proposed Development Plan Details I Modification to Lattice Towers Sheet 12 of 13
31. L113 Proposed Development Plan Details II New Tubular Steel Pole Structure (Profile) Sheet 13 of 13
32. L201 Construction Management Plan Sheet 1 of 14
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35. L204 Construction Management Plan Sheet 4 of 14
36. L205 Construction Management Plan Sheet 5 of 14
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38. L207 Construction Management Plan Sheet 7 of 14
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43. L212 Construction Management Plan Details I Sheet 12 of 14
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47. L302 Restoration Site Plan Sheet 2 of 15
48. L303 Restoration Site Plan Sheet 3 of 15
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50. L305 Restoration Site Plan Sheet 5 of 15
51. L306 Restoration Site Plan Sheet 6 of 15
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54. L309 Restoration Site Plan Sheet 9 of 15
55. L3010 Restoration Site Plan Sheet 10 of 15
56. L311 Restoration Site Plan Sheet 11 of 15
57. L312 Restoration Site Plan Sheet 12 of 15
58. L313 Restoration Site Plan Details I Sheet 13 of 15
59. L314 Restoration Site Plan Details II Sheet 14 of 15
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D. Notification information:
   1. Request for response
   2. Posting letter sent to applicant
   3. Notice to be posted
   4. Applicant's statement certifying posting
   5. Mailing list
   6. Mailed notice

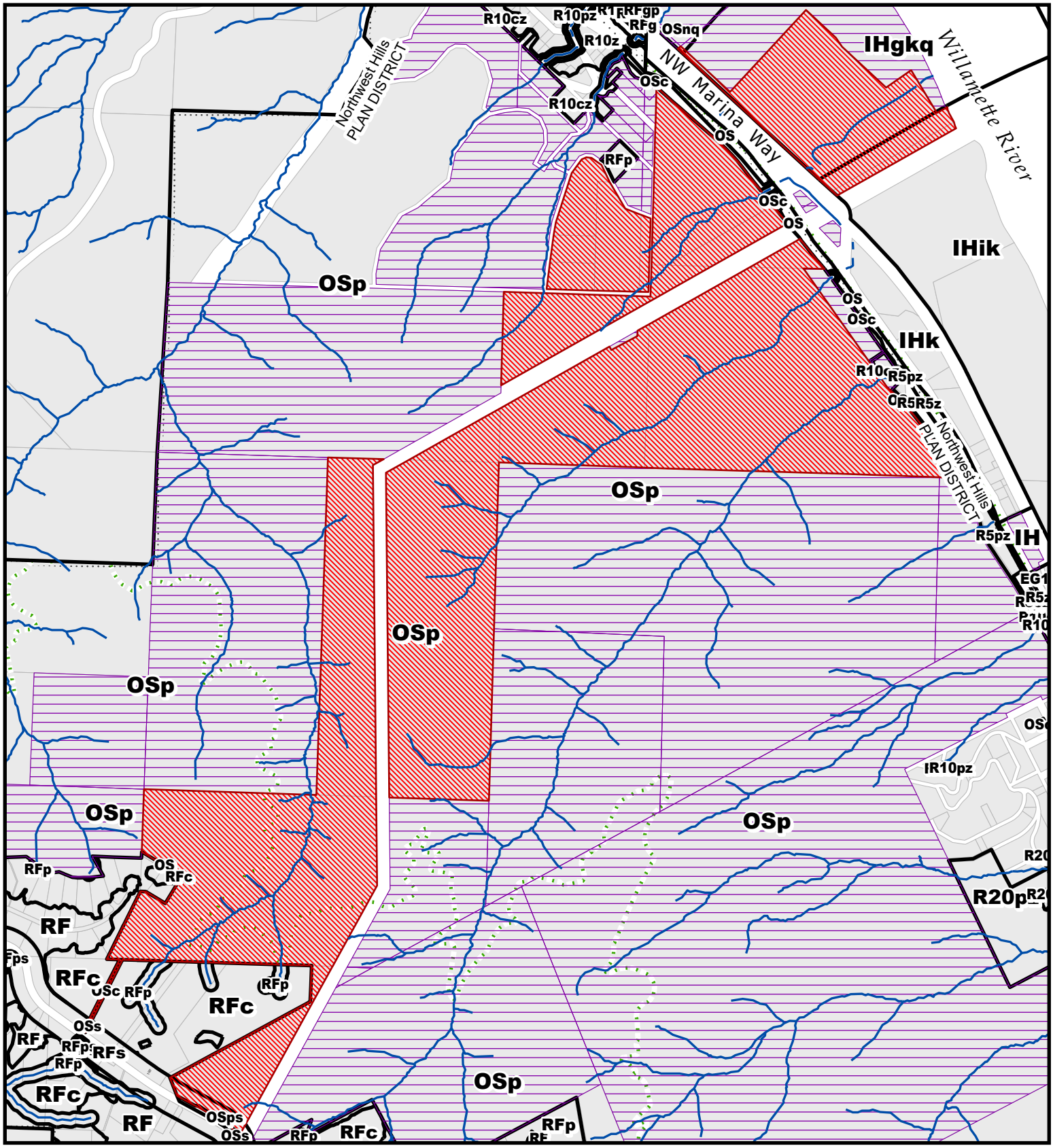
E. Agency Responses:
   1. PP&D Environmental Services
   2. PP&D Transportation
   3. PP&D Water
   4. PP&D Life Safety
   5. PP&D Site Development
   6. PP&D Tree Permitting
   7. Police Bureau
   8. Fire Bureau
   9. Portland Parks & Recreation

F. Letters: None Received

G. Other:
   1. Original LUR Application
   2. Pre-Application Memo
   3. Completeness Memo with attachments

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503-823-4000 Traducción e Interpretación | Biên Dịch và Thông Dịch | 口笔译服务 | Устный и письменный перевод | Turjumaad iyo Fasiraad | Письмовий і усний переклад | Traducere și interpretariat | Chiaku me Awewen Kapas | अनुवादन तथा व्याख्या



For Zoning Code in Effect Post June 1, 2025

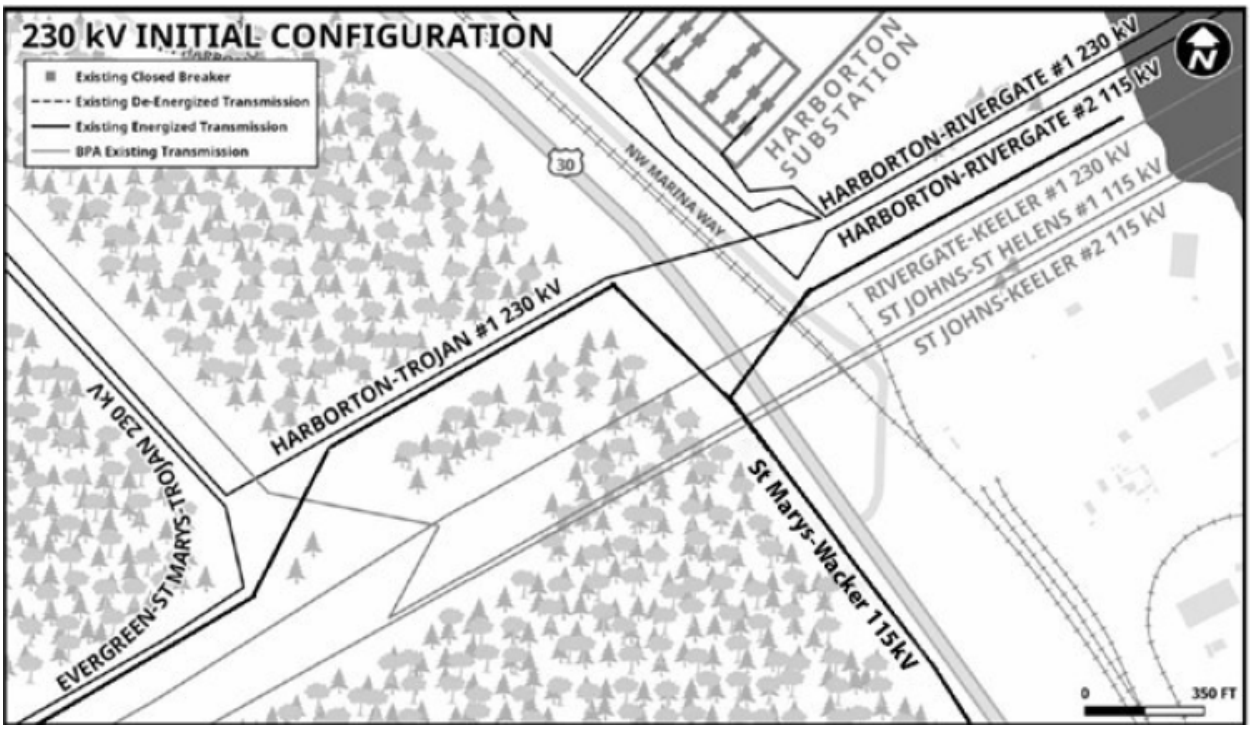
ZONING

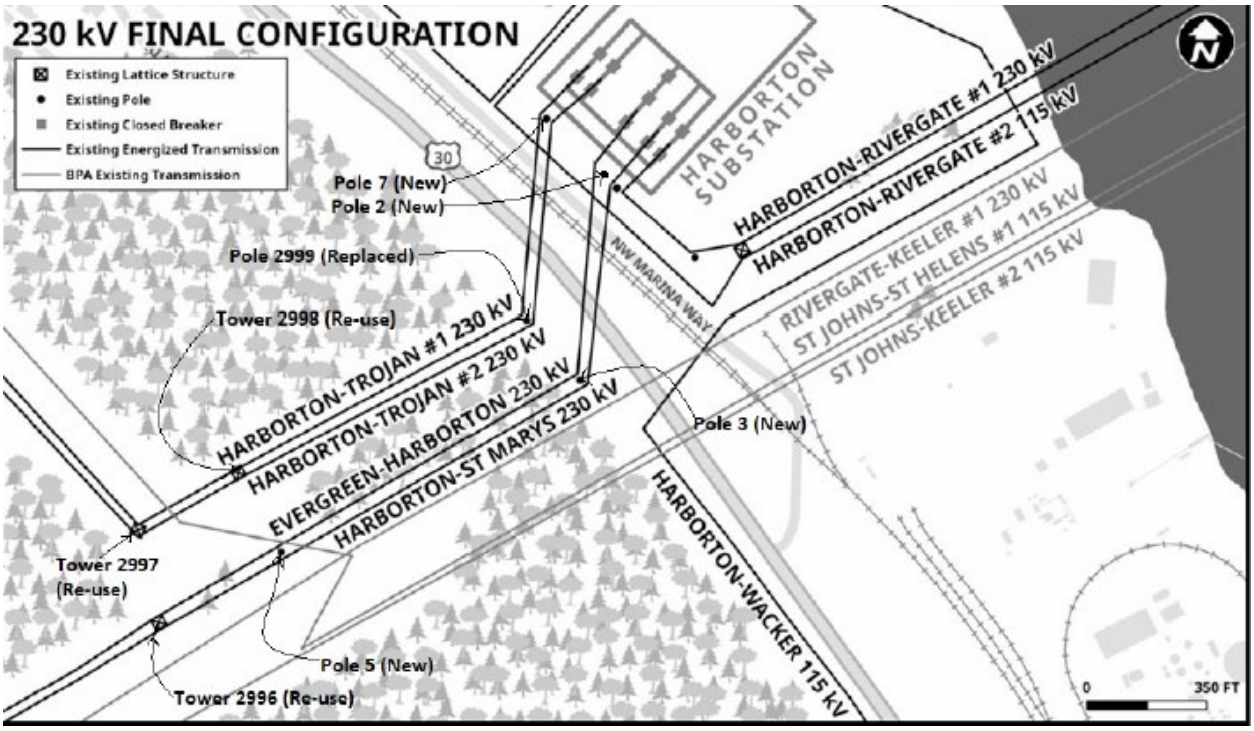
THIS SITE LIES WITHIN THE:
NORTHWEST HILLS PLAN DISTRICT
FOREST PARK SUBDISTRICT
MILLER CREEK & LINNTON SUBAREAS

- Stream
- Site
- Also Owned Parcels
- Plan District Boundary Line
- Recreational Trails

File No.	LU 26 - 051203 CU EN GW
1/4 Section	Multiple
Scale	1 inch =1,000 feet
State ID	2N1W34 101
Exhibit	B Jul 20, 2026

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230 kV INITIAL CONFIGURATION
Existing Closed Breaker
Existing De-Energized Transmission
Existing Energized Transmission
BPA Existing Transmission
HARBORTON SUBSTATION
30
NW MARINA WAY
HARBORTON-RIVERGATE #1 230 kV
HARBORTON-RIVERGATE #2 115 kV
RIVERGATE-KEELER #1 230 kV
ST JOHNS-ST HELENS #1 115 kV
ST JOHNS-KEELER #2 115 kV
HARBORTON-TROJAN #1 230 kV
EVERGREEN-ST MARYS-TROJAN 230 kV
St Marys-Wacker 115kV
0
350 FT


230 kV FINAL CONFIGURATION
Existing Lattice Structure
Existing Pole
Existing Closed Breaker
Existing Energized Transmission
BPA Existing Transmission
HARBORTON SUBSTATION
30
Pole 7 (New)
Pole 2 (New)
Pole 2999 (Replaced)
Tower 2998 (Re-use)
NW MARINA WAY
HARBORTON-RIVERGATE #1 230 kV
HARBORTON-RIVERGATE #2 115 kV
RIVERGATE-KEELER #1 230 kV
ST JOHNS-ST HELENS #1 115 kV
ST JOHNS-KEELER #2 115 kV
HARBORTON-TROJAN #1 230 kV
HARBORTON-TROJAN #2 230 kV
EVERGREEN-HARBORTON 230 kV
HARBORTON-ST MARYS 230 kV
Pole 3 (New)
HARBORTON-WACKER 115 kV
Tower 2997 (Re-use)
Pole 5 (New)
Tower 2996 (Re-use)
0
350 FT



Harborton Reliability Project

PGE | DAVID EVANS AND ASSOCIATES INC.

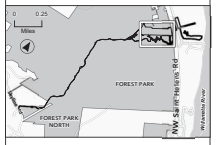
Aerial Photograph
Sheet 2 of 7

G003

4/24/2024

Legend
- Limits of Disturbance
- Forest Park Boundary

NOTES:
Imagery Source: Oregon State Imagery Program (OSIP), 2022



0 50 100 Feet
1 inch equals 58 feet

North

Portland Hearings Office
Case # 426012
Bureau Case # LU 26-051203 CU EN GW
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From:	Mossberger, Laura
To:	Hearings Office Clerks
Cc:	Rasmussen, William
Subject:	PGE Case Number 4260012 (Harborton Reliability Project, Case File LU 26-051203 CU EN GW / PC# 26-010241)
Date:	Wednesday, November 4, 2026 3:32:44 PM
Attachments:	Transmittal Letter to Hearings Officer, 4921-2637-4878 v.3.pdf PGE Applicant"s Final Argument to Hearings Office 4927-6333-5389 v.3.pdf PGE Rebuttal Response Matrix, 4909-1699-7597 v.5.pdf Summary of Analyses and Supporting Materials by Criterion, 4905-4495-2029 v.2.pdf

Good afternoon, Clerks -

Please submit the attached into the record for the above-referenced case. Thank you!

Laura J. Mossberger
Legal Assistant to Adrian Anderson, Jeff Condit, Steven Liday, Will Rasmussen, and Cozette Tran-Caffee

Miller Nash LLP
1140 SW Washington St, Ste 700 | Portland, OR 97205
Direct: 503.205.2399 | *Office*: 503.224.5858
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Exhibit #209
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William L. Rasmussen
william.rasmussen@millernash.com
503.205.2308 (direct)

November 4, 2026

VIA EMAIL
HEARINGSOFFICECLERKS@PORTLANDOREGON.GOV

David Doughman, Hearings Officer
City of Portland Hearings Office

Re: Harborton Reliability Project, Phase 3
Hearings Office Case No. 4260012 (LU 26-051203 CU EN GW)
Applicant's Final Written Argument, Enclosures, and Processing Extension

Dear Hearings Officer Doughman:

On behalf of Portland General Electric Company (PGE), the applicant in this matter, I submit PGE's final written argument and two supporting enclosures for your consideration. The submission consists of three documents:

1. *Applicant's Final Written Argument.* This memorandum is PGE's final argument in support of its application for a 1,400-foot extension of its transmission lines to the Harborton Substation. It responds to the principal arguments raised by the project opponents, including the effect of the City Council's 2025 decision on the first application, the governing evidentiary standards and legal framework, the adequacy of the North Management Unit mitigation, project need, alternatives, consistency with the Forest Park Plan, and impacts on wildlife habitat and travel corridors.

2. *PGE's Response Table.* This enclosure summarizes the principal arguments in the opposition comments and PGE's response to each, grouped by approval criterion, with citations to evidence in the record.

3. *Summary of Compliance with Approval Criteria.* This enclosure is a criterion-by-criterion guide to the analysis and evidence in the record that support the application.

PGE agrees to extend the deadline for the Hearings Office to render a decision on this application by three days, to November 23, 2026. PGE also agrees to extend the 120-day processing deadline in ORS 227.178. PGE hereby agrees to extend the 120-day deadline by 29 days, to January 29, 2027.

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4921-2637-4878.3

The need to move this project forward is urgent to protect Portland neighborhoods from power outages during peak usage from extreme weather events. Despite this urgency, PGE grants these extensions to enable a full and complete land use process.

Thank you for your attention to this matter. Please let me know if you have any questions.

Very truly yours,



William L. Rasmussen

Enclosures

Memorandum

To: David Doughman, Hearings Officer, City of Portland

From: William L. Rasmussen and Steven G. Liday, Miller Nash LLP

Date: November 4, 2026

Subject: Harborton Reliability Project, Phase 3 – Hearings Office Case No. 4260012 (LU 26-051203 CU EN GW) – Applicant's Final Written Argument

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This memorandum is the final written argument of Portland General Electric Company ("PGE") in support of PGE's application ("Application") for a 1,400-foot extension of its transmission lines to the Harborton Substation (the "Project") to avoid the risk of federally mandated power outages to North and Northwest Portland.

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Summary of Arguments

This memorandum responds to the principal arguments raised by Project opponents. As explained in more detail below:

- **The 2025 decision on the first application, which relied on materially less evidence and analysis, does not control.** Oregon law requires the Hearings Officer to evaluate this Application on its own merits and record, which differ significantly from those of the first application.

- **The opposition comments apply incorrect evidentiary and code-interpretation standards.** Opponents disregard the applicable preponderance-of-the-evidence standard, rely on lay opinions to challenge technical expert evidence, and overlook federal and state law and constitutional limitations that govern the City's review. Opposition comments fail to address new expert testimony and evidence demonstrating the need for the Project and the lack of alternatives.

- **The Project's long-term impacts are fully mitigated within the North Management Unit (NMU).** The natural resource benefits of the proposed invasive-species removal, forestland acquisition and protection, and other mitigation measures within the NMU will far exceed the Project's long-term impacts.

- **The Project addresses a documented, mandatory reliability need.** The record demonstrates that, beginning in 2028, the transmission system serving North and Northwest Portland will no longer satisfy applicable federal reliability standards under specified contingencies—a deficiency PGE is federally obligated to address.

- **A theoretical transmission line along Marina Way is not a viable alternative.** A transmission line along Marina Way—the only alternative outside Forest Park that opponents meaningfully advance—faces substantial property, legal, and permitting obstacles that render it infeasible regardless of cost. The Toth Report does not establish

otherwise, and opposition comments ignore the more recent alternatives analysis prepared for the current Application.

- **The wildlife habitat criterion does not require a formal HEP study.** The criterion asks whether wildlife habitat and travel corridors will remain sufficient, not whether PGE has completed a formal Habitat Evaluation Procedure (HEP) study, which the City has never required and which is not designed for evaluating a single project site or appropriate for the City's in-lieu fee mitigation approach, which places the responsibility for mitigation in the City's hands.

In addition to the analysis below, PGE comprehensively addresses the opponents' claims in the accompanying response table (the "Response Table"), which is designed to aid the Hearings Officer in addressing specific issues raised by opposition comments.

A. Council's decision on the first application does not dictate the decision on this Application, which should be approved.

Several opponents urge denial because Council reversed the environmental review approval of PGE's first application in May 2025. They characterize the proposals as identical and urge reliance on the 2025 Council findings and staff report rather than the current record.[1]

Contrary to these claims, LUBA and Oregon courts have long recognized that successive applications for the same project are not only permitted but expressly contemplated by Oregon's land use system.[2] Accordingly, a prior denial does not bind the decision-maker in a subsequent proceeding, who must independently apply the approval criteria to the current record.[3] Moreover, because adjudicative bodies generally resolve only the legal issues

[1] *E.g.*, Exhibit 31 at 15 (Hoffman); Exhibit 123 at 1–2 (Anuta); Exhibit 183 at 1 (Bird Alliance); Exhibit 205 at 2 (FPNA). Council's decision is City Council Findings, LU 24-041109 CU EN GW (May 7, 2025) (Exhibit 145; also Exhibit 125 at 63–178) ("Council Findings").

[2] *Lawrence v. Clackamas Cnty.*, 180 Or App 495, 503, 43 P3d 1192 (2002) ("As LUBA recognized in its opinion, land use is not static. Local land use regulations generally permit applicants to file successive applications. LUBA noted: 'If one proposal for development is denied, land use ordinances anticipate and allow for additional attempts for modified, or even the same, development.' *Lawrence*, 40 Or LUBA at 518–19."); *see also Nelson v. Clackamas County*, 19 Or LUBA 131, 140 (1990). This is why local governments must adopt findings identifying the changes or additional evidence needed to obtain approval of a proposal. *Botts Marsh LLC v. City of Wheeler*, 326 Or App 215, 218, 532 P3d 544 (2023) (holding that the local findings were not "sufficient to inform applicant of the nature and types of changes in the proposal that will be necessary to obtain approval[.]") (internal quotations omitted).

[3] *Nelson*, 19 Or LUBA at 140 ("we believe the system of local government land use adjudications established by state statute and local regulations places primary importance on * * * [among other things,] the ability of a local government tribunal to make an independent determination on the application of those approval criteria to the facts before it. This system is incompatible with giving preclusive effect to issues previously determined by a local government tribunal in another proceeding."); *Femling v. Coos County*, 34 Or LUBA 328, 334 (1998) ("We also reject petitioners' argument that either claim or issue preclusion binds the county to its 1993 finding or 1993

presented to them,[4] a prior legal conclusion does not preclude a different determination based on a legal argument the prior decision did not address, even if the decision was issued by a higher-level review body.[5]

Here, Council's decision does not bind the Hearings Officer, for three distinct reasons: (1) the proposal is significantly different because impacts are reduced, on-site restoration is improved, off-site mitigation is enhanced, and PGE provided extensive additional information on need and alternatives.; (2) the supporting application materials and factual record contain substantial new evidence and more comprehensive analysis; and (3) the Application is supported by new legal arguments that were not presented to or considered by Council.

First, concerning the proposal, PGE has more than doubled its mitigation commitment, from the ordinance-required fee-in-lieu payment to a $5.5 million condition of approval, and has committed $250,000 for an independent consultant to assist the City in planning for future utility work in the Park.[6] On top of the increased mitigation payment, PGE has also revised the site restoration plan, extended restoration monitoring and maintenance from five to ten years with annual reporting to City staff for oversight, adopted a tree-clearing approach that tops or girdles more trees to preserve standing habitat, added a tree protection system with arborist supervision, reduced the impact area by avoiding construction access through sensitive riparian areas, reduced the total number of trees removed, and continuing to coordinate with the City on alternative construction management methods and work areas.[7]

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determination of noncompliance * * *. Similarly, the county is not bound to resolve 'claims' made in one application consistently with 'claims' in earlier applications.") (quotations omitted).

[4] *Crowley v. City of Hood River*, 81 Or LUBA 490, 498 (2020) ("LUBA does not review the entire record of a local proceeding to identify issues that could potentially lead to reversal or remand of the challenged decision. Instead, LUBA reviews the parties' arguments challenging the local decision in the briefs submitted to LUBA."); *City of Portland v. Ayers*, 93 Or App 731, 736, 764 P2d 556 (1988) ("The arguments that defendant makes to us define the scope of our inquiry.").

[5] *See, e.g.*, *Engweiler v. Persson*, 354 Or 549, 559–63, 316 P3d 264 (2013) (in the context of appellate courts, analyzing the extent to which an argument was raised, briefed, and argued by the parties, and thus addressed by the court, in deciding whether to revisit a holding in a prior case); *Sundermier v. State ex rel. Pub. Emps. Ret. Sys.*, 269 Or App 586, 594, 344 P3d 1142 (2015) (recognizing that even for Supreme Court precedent, a holding is binding only on issues that were addressed by the court and necessary for its ultimate holding).

[6] *Compare* Council Findings at 12, 53 (first application relied on the fee-in-lieu payment), *with* Staff Report at 26 (Conditions B and C), *and* 2026 Habitat Mitigation Plan (Exhibit A.3) ("Mitigation Plan") at 38 (Table 6; fee-in-lieu amount of $2,574,675). PGE also committed to a structured planning dialogue on future work in the Park and to semiannual briefings on its behind-the-meter programs. Agreement for New Application (Exhibit A.40) ("Agreement") ¶¶ 6, 8.

[7] Completeness Response Memo (Exhibit A.37) ("Completeness Memo") at 2–3 (Table 2), 9–12 (Table 4), 14–17; Mitigation Plan at 72–77; Staff Report at 12–14, 26–27 (Conditions D–F); *compare* Council Findings at 42–43, 53, 58 (faulting the absence of construction-method alternatives and the five-year monitoring period).

Beyond these changes to the Project itself, PGE has substantially expanded the factual and legal support for the Application. The following table summarizes material new evidence and legal arguments that address the grounds for Council's prior denial and support approval of the current Application. The new legal arguments are documented in PGE's revised and resubmitted Narrative, dated September 23, 2026 ("Narrative"). Most opposition comments on the current Application ignore this substantial new evidence and argument.

Criteria	New Evidence	New Arguments
Demonstrated Need	• Reliability/Needs Memo by Dr. Ian Beil, PhD, with 2022–2025 study results (Ex. A.5) • Timing memo by PGE's transmission project manager (Ex. A.36) • NERC TPL-001-5.1 and Local Transmission Plans, 2015–2025 (Exs. A.11–A.21, A.31)	• Interpretation of the term "need" must avoid conflict with state/federal laws and constitutional mandates. (Narrative at 11–19) • The City cannot disregard a "need" that is imposed by state and federal law. (Narrative at 11–14, 24–29)
Consistency with Purpose of Environmental Zones and Forest Park Plan	• Enhanced Mitigation Plan and, enhanced on-site restoration, and $5.5 million condition (Ex. A.3; Staff Report at 26; Narrative at 5) • Revised restoration, construction management, and tree plans (Exs. A.37, A.39, C.32–C.60) • Wildfire expert letter and City wildfire and restoration documents (Exs. 189–194, 198)	• "Consistent" means compatible when the Plan is read as a whole (Narrative at 29–30) • The Plan recognizes and accommodates existing utility easements, and the avoidance doctrine applies (Narrative at 15–19, 31)
Alternatives	• 2026 Alternatives Analysis, a feasibility study responding to Council's direction re studying alternatives (Ex. A.4) • Tree-clearing and construction-method alternatives (Ex. A.37, Tables 2–4) • Marina Way timing analysis and federal Harborton Habitat Restoration site deed restriction (Exs. A.10 at 19, A.36) • Reliability/Needs Memo by Dr. Ian Beil, PhD (Ex. A.5)	• The three alternatives criteria must be interpreted by their unique and narrow language (Narrative at 48-50) • The criteria only address alternative locations and design modifications for "the proposal" (Narrative at 48–57) • Practicability and feasibility must account for condemnation, Public Utility Commission Certificate of Public Convenience and Necessity requirements for condemnation, and federal reliability requirements (Narrative at 51–60)

Mitigation of Long-Term Impacts	• Mitigation Plan identifying North Unit projects (Ex. A.3 at 58–71) • Principal Environmental Science Specialist letter tying each long-term impact to North Unit mitigation (Ex. 202) • Forestland sales and parcel data near the North Unit (Ex. 193 at 134–37)	• Expanded analysis tying long-term impacts to offsetting mitigation measures in the NMU (Ex. 202) • Ordinance 191314 fixes the fee and requires same-unit spending (Narrative at 60–64) • Contract Clause and exactions limits (Narrative at 15–18)
Wildlife Habitat and Travel Corridors	• Enhanced Mitigation Plan (Ex. A.3) • Supplemental HEP Analysis by DEA's senior biologist (Ex. A.42)	• The reference to HEP supplies an analytical approach, not a sufficiency standard, and a formal HEP study is not required (Narrative at 74–82)

In short, the Application responds to the deficiencies Council identified through substantial revisions to the Project, new and more substantial supporting evidence, and additional legal analysis addressing the applicable approval criteria. Approval based on this materially expanded record would not overturn or contradict Council's decision on the first application.

The change in staff's recommendation illustrates this point. In 2024, staff recommended denial of the environmental review application.[8] The current Staff Report recommends approval, and its findings on the contested criteria rely on substantial new evidence, including the Needs Memo, updated alternatives and construction analyses, enhanced Mitigation Plan, and supplemental wildlife assessment.[9]

Contrary to the accusations in some comments, the Staff Report is not the product of compulsion, a "pay-off," or a "backroom deal."[10] The Agreement resulted from a formal mediation process, conducted under LUBA's rules, in which every party to the appeal participated, including Forest Park Conservancy, Forest Park Neighborhood Association and Bird Alliance of Oregon, even if they did not all ultimately join in the Agreement.[11] All material proposals and responses were routed to all mediation parties. Based on that additional

[8] Exhibit 142 at 60. Even on that record, the Hearings Office approved the first application. Council Findings at 1.

[9] Staff Report at 8–9 (citing Summary of Reliability Needs Memo (Exhibit A.5) ("Needs Memo")), 12–16 (citing 2026 Alternatives Analysis (Exhibit A.4) and Completeness Memo), 16–17 (citing Mitigation Plan), 19 (citing Supplemental Habitat Evaluation Procedure Analysis (Exhibit A.42) ("HEP Analysis")).

[10] *E.g.*, Exhibit 122 at 47 (Hillside Neighborhood Association: "tantamount to bribe, a pay-off by PGE"); Exhibit 185 at 57–58 (Forest Park Conservancy ("FPC"): Agreement is "flawed and unethical" and "forced City Staff"); Exhibit 20 at 3 (Andrews: "backroom deal"); Exhibit 32 at 2 (Majkut: "forced amnesia").

[11] Agreement, Recitals F–G.

information and proposal revisions developed during the extensive mediation process, City administrative leadership concluded that the revised Project satisfies the approval criteria.[12]

The Agreement did not dictate that conclusion, but rather recorded it, while expressly requiring an evidence-based staff report and clarifying a means of reaching a different recommendation in light of compelling new evidence.[13] Ultimately, the Staff Report should be evaluated based on its findings and cited evidence, not speculation about staff motives.

B. The opposition comments ignore evidentiary standards, preemptive state and federal utility law, and constitutional limitations.

Several recurring opposition arguments misunderstand PGE's burden, the weight of technical evidence, and the effect of federal and state utility obligations. The relevant legal principles are summarized below.

1. The Application is subject to a preponderance of the evidence standard.

Some comments demand an "absolute guarantee," "exceptional proof" of need, or exhaustion of every conceivable alternative.[14] The governing standards do not impose such requirements.

In Oregon, land use applications are reviewed under a "preponderance of the evidence" standard of proof.[15] This is the lowest of the three standards of proof and requires proof showing that it is "more likely than not" that a requirement has been met.[16]

PGE comfortably meets that burden. Its transmission-planning studies, successive alternatives reviews, site-specific habitat work, arborist analysis, construction plans, and expert submissions independently support the relevant criteria. This evidence is not contradicted by persuasive

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[12] *Id.*, Recital J.

[13] *Id.* ¶ 7(A)–(B); *see* Staff Report at 3 ("The final decision shall be made independently, based upon the record before the decision-maker and in accordance with applicable law.").

[14] *E.g.*, Exhibit 121 at 23–24 (Meisenhelter: "no absolute guarantee"); Exhibit 20 at 4 (Andrews: "exceptional proof of need").

[15] *See, e.g.*, *Friends of Yamhill Cnty., Inc. v. Board of Comm'rs of Yamhill Cnty.*, 351 Or 219, 246–47, 264 P3d 1265 (2011) ("The county's job as the trier of fact was to decide by a preponderance of the evidence" whether the application satisfied the approval standard); *Teen Challenge Int'l Pac. Nw. Ctrs. v. Lane Cnty.*, 67 Or LUBA 300, 307 (2013) (agreeing with the parties "that 'preponderance of the evidence in the record' is the correct standard of proof[.]"); *Morgan v. Jackson Cnty.*, 78 Or LUBA 188, 196–97 (2018), *rev'd and remanded on other grounds*, 290 Or App 111, 414 P3d 917 (2018), *rev den*, 362 Or 860, 418 P3d 758 (2018) ("We agree with petitioner that the evidentiary standard the hearings officer should apply to determine whether the applicant met its burden of proof on the elements of a nonconforming use verification is more accurately described as a 'preponderance of the evidence,' rather than 'substantial evidence.'").

[16] *Matter of B. P.*, 328 Or App 267, 272, 538 P3d 577 (2023).

countervailing evidence in the record, much less expert evidence. Based on the evidence in the record PGE meets the burden of proof required to show that the application should be approved.

2. Technical findings require a reasoned response to expert evidence.

Under Oregon land use law, a decision-maker may weigh conflicting evidence, but cannot simply disregard relevant, competent expert testimony without a reasoned evidentiary basis.[17] Here, the record includes analysis by qualified experts addressing the disputed technical issues. For example, Dr. Ian Beil explains the studies identifying three contingency overloads beginning in 2028 and the potential need to shed approximately 238 Megawatt (MW), or 87 percent of peak load, in an area serving about 55,000 customers.[18] Likewise, David Evans & Associates screened more than 20 concepts, evaluated the remaining routes in 2026, and documented the lack of a feasible alternative to the Project.[19]

Opponents dispute this analysis, but do so primarily through unsupported assertions, without providing comparable technical analysis or identifying substantive flaws in PGE's expert assessments. While some commenters have semi-relevant professional experience, their comments do not establish expertise on the specific technical questions presented or provide the site-specific analysis necessary to rebut PGE's evidence.[20] Accordingly, the opposition comments provide no reasoned evidentiary basis for rejecting PGE's expert evidence.

3. Federal and state utility duties inform application of the land use criteria.

The Narrative describes the comprehensive regulation of electric utilities under federal and state law.[21] Under the Federal Power Act, FERC and North American Electric Reliability Corporation administer mandatory reliability standards that require PGE to study its system, identify violations, and implement corrective action plans. Oregon law independently requires PGE to provide adequate and safe service, subject to Oregon Public Utility Commission's oversight of resource planning, rates, and condemnation.[22] Local land use regulations are

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[17] *LandWatch Lane Cnty. v. Lane Cnty.*, 80 Or LUBA 205, 219–20 (2019); *Utah Int'l, Inc. v. Wallowa Cnty.*, 7 Or LUBA 77, 1982 WL 521343, at *4 (Dec. 3, 1982).

[18] Needs Memo at 1, 4–6 (PDF pages).

[19] 2024 Alternatives Analysis at 7; 2026 Alternatives Analysis at 7–8, 25; Memorandum from Randy Franks, PGE (June 11, 2026) (Exhibit A.36) ("Franks Memo") at 1.

[20] One academic who addressed wildfire candidly states that his letter "does not constitute a site-specific wildfire hazard assessment." Exhibit 128 at 50 (Shandas)

[21] Narrative at 11–14, 24–29.

[22] 16 USC § 824o; 18 CFR pt 39; NERC Reliability Standard TPL-001-5.1 (Exhibit A.31) R2, R2.7; ORS 757.020; ORS 758.015; OAR 860-023-0091; OAR 860-090-0030; *see* Narrative at 11–14.

preempted to the extent that compliance with both local and superior law is impossible or to the extent they stand as an obstacle to the purposes of superior law, and the City must construe its code, where possible, to operate consistently with that law.[23]

These laws do not exempt PGE from the land use process. They do define the legally required purpose the City must respect in construing its criteria, evaluating timing, and considering alternatives that would not feasibly or timely correct the federally defined deficiency. Although these obligations materially inform the City's review, opponents fail even to acknowledge them. Their arguments therefore rest on an incomplete legal framework, particularly where they would require PGE to pursue alternatives that cannot satisfy its mandatory reliability obligations.

The need for the Project is established based on federal requirements. Without a fix to this transmission system the risk of rolling outages starts as soon as 2028. The only way to address the federally defined deficiency at this point without the Project would be to have rolling outages during the triggering events.

4. Constitutional limitations also shape how the approval criteria must be interpreted and applied.

As the Narrative explains, the City granted PGE a 100-year Easement in 1971 to "erect, operate, maintain, repair, rebuild, and patrol one or more electric power transmission lines."[24] Reading the later-adopted Forest Park Plan to nullify those express rights would raise serious questions under the U.S. and Oregon Contract Clauses and constitutional prohibitions on takings.[25] The Hearings Officer need not resolve these issues, however, because the criteria are otherwise satisfied.[26] Nevertheless, these constitutional protections inform how the City must interpret and apply the approval criteria to the Project.

Most opponents disregard PGE's Easement and the constitutional protections associated with it. The few arguments addressing those rights are unpersuasive. For example, one commenter claims that the Easement grants only a right to "patrol over or improve" existing lines and that

[23] *Chamber of Com. of the United States of Am. v. Bonta*, 62 F4th 473, 482 (9th Cir 2023); *Ashland Drilling, Inc. v. Jackson Cnty.*, 168 Or App 624, 635, 4 P3d 748 (2000); *Qwest Corp. v. City of Portland*, 275 Or App 874, 883, 365 P3d 1157 (2015).

[24] Narrative at 15–19.

[25] 1971 Easement (Exhibit A.7) ("Easement"), Agreement at 1, 3–4, § I.

[26] US Const, Amend V; *Nollan v. Cal. Coastal Comm'n*, 483 US 825 (1987); Dolan v. City of Tigard, 512 US 374 (1994); see Narrative at 17–18.

it ended when the Trojan plant closed.[27] The Easement says neither. It grants the right to "erect" "one or more" transmission lines, runs for 100 years with a renewal option, applies within a surveyed legal description, and terminates only after five continuous years of nonuse or PGE's insolvency, neither of which has occurred. Trojan appears in the ordinance's recital, not in the operative grant.[28]

Other commenters argue that the Project violates the Easement's Exhibit A clearing diagram.[29] That argument fails for three reasons. First, compliance with an easement covenant is a real estate matter, not an approval criterion. Second, Exhibit A is a clearing specification that describes how the right-of-way is to be cleared, not a limit on the number or location of lines, and the Project's clearing is designed to comply with its 18-foot conductor-clearance safety standard.[30] Third, the Easement requires PGE to comply with all applicable federal and state laws, so to the extent the 1970 diagram could be read to conflict with current safety and including state safety rules in OAR 437-007-0230 (Power Line Safeguards) and the High Voltage Overhead Line Safety Act.[31]

Nor does the Easement's requirement that PGE comply with applicable laws authorize the City to extinguish PGE's contractual rights through subsequently adopted land use regulations. In *Southern California Gas Co. v. City of Santa Ana*, 336 F3d 885, 896–97 (9th Cir 2003), the Ninth Circuit rejected the same argument. The court held that such a provision does not authorize a city to adopt regulations that compromise the agreement's material terms. The same principle applies here: the Easement's compliance-with-laws provision does not authorize the City to nullify, through subsequent regulations such as the Forest Park Natural Resources Management Plan, the transmission-line rights it expressly granted PGE.[32]

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[27] Exhibit 122 at 17–21 (Cunningham); Exhibit 31 at 21 (Hoffman).

[28] Easement, Agreement at 3–4, § I, § XV; *id.*, Ordinance No. 132226 § 1.

[29] Exhibit 180 at 12–13 (Thompson); Exhibit 20 at 6 (Schopp).

[30] Compare Easement, Exhibit A, Sheet 2 (Clearing Diagram) and Tree Plan at 3–5.

[31] Easement, Agreement § XI.

[32] The opponent's argument is even weaker here than in *Santa Ana*. Section XI of the Easement does not mention later-adopted laws or reserve authority to restrict the grant. Rather, it governs PGE's use of the Easement, citing fire prevention as an example. The covenant also applies only to laws "applicable to the use of" the Easement, begging the question whether later-adopted restrictions can lawfully prohibit uses expressly authorized by the grant. Reading this general compliance covenant to nullify the specific grant to "erect" "one or more" transmission lines would render those rights illusory and improperly subordinate the specific grant to a general covenant.

Accordingly, the City must, where reasonably possible, interpret and apply its approval criteria consistently with the Easement and applicable statutory and constitutional protections.[33] The Easement expressly allows for removal of vegetation and construction of additional lines within its legal description. Opponents' interpretations fail to account for these important legal rights.

C. The mitigation proposed for the North Management Unit fully mitigates the Project's long-term adverse impacts.

Opponents argue that the commitment is merely a $5.5 million payment, that the North Management Unit ("North Unit") lacks restoration opportunities, and that invasive-plant removal is not mitigation.[34] The record demonstrates otherwise.

Exception Criterion D requires that "[a]ny long-term adverse impacts of the proposed action on resource values are fully mitigated within the Management Unit."[35] The criterion is limited to long-term impacts. Short-term construction impacts are addressed by Minor Amendment Criterion D, which requires construction management and mitigation plans that minimize impacts and restore disturbed areas—a criterion staff found met.[36] And even under Council's reading, which looks for replacement of lost resource values "in both scale and type, and within the same Management Unit," with compensation for temporal loss, the record demonstrates full mitigation.[37]

Analysis of this criterion requires first identifying the Project's effects, separating the temporary construction effects from lasting long-term changes, accounting for on-site restoration, and then determining whether North Unit measures offset what remains. Council faulted the first application at the last step.[38] The Mitigation Plan and Herlocker letter now supply that analysis, resource category by resource category.[39]

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[33] *Portland Gen. Elec. Co. v. Clackamas Cnty.,* LUBA No. 2024-069, 2025 WL 416059, at *5 (Jan. 23, 2025); *Qwest Corp*., 275 Or App at 883; Narrative at 18–19.

[34] Exhibit 205 at 3 (FPNA); Exhibit 183 at 5 (Bird Alliance); Exhibit 134 at 5 (FPC); *see also* Exhibit 31 at 6 (Coalition: "impossible to mitigate"); Exhibit 137 at 33–36 (West Multnomah Soil & Water Conservation District ("WMSWCD")).

[35] Plan at 217.

[36] Plan at 217; Staff Report at 13–14.

[37] Council Findings at 57–58.

[38] *Id.* at 44, 57–58.

[39] Mitigation Plan at 58–71; Exhibit 202 at 2–8 & Table 1.

1. The residual long-term impacts are limited and identified.

The Project's long-term impacts are limited by the nature of the site. The Project converts about 4.7 acres of edge-influenced, second-growth forest within PGE's existing easement to native woodland, shrub, and herbaceous habitat; it affects up to 0.068 acre of reed canary grass wetland formed by seepage from an access-road cut; and it reduces riparian canopy along part of one intermittent stream.[40] It is not a clear-cut. Nearly half of the trees inventoried in the project area (363 of 756) will be retained, a central block of forest will remain as a no-work area, and 34 trees will be topped or girdled to retain standing habitat rather than felled.[41]

The disturbed areas will be restored with 3.5 acres of native woodland, including 386 Oregon white oaks, and 1.2 acres of native shrub habitat, with snags, downed wood, and ten years of monitoring and adaptive management and annual reporting to City staff to ensure successful plant establishment and the prevention of noxious weed infestation.[42] PGE does not discount the loss of mature canopy. But the remaining long-term impact is a change in habitat type on a few acres at the edge of a far larger, intact block of forest.

Comments describing the site as "old growth," "untouched," or "the most highly protected area of Forest Park" are plainly incorrect.[43] The stand lies in the extreme northeast corner of the Park beside Highway 30, inside a utility easement, and—as Council itself found—is "surrounded to the north, south, and west by existing cleared and maintained transmission corridors and to the east by Highway 30."[44] The stand is roughly 250 feet wide and is thus considered edge habitat in its entirety under the Forest Park Plan, which defines "edge" habitat as that part of the canopy within 200 feet of its edge.[45] While PGE recognizes that the stand provides resource value, it is not interior or irreplaceable under the Plan's own terms.

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[40] Mitigation Plan at 7, 14, 27–28; Exhibit 202 at 2–3. FPNA argues that the City's planning-level inventory map shows Stream 2 continuing below the forest patch. Exhibit 197 at 3, 7. The site-specific delineation describes Stream 2 as "an ephemeral drainage with no direct surface connection to downstream waters," whose lower end "infiltrates into the hillside." Mitigation Plan at 28.

[41] Completeness Memo at 2, 12–13; Mitigation Plan at 30 (Table 4), 46; Tree Plan at 6. The retained share is our arithmetic from those figures.

[42] Mitigation Plan at 38–39, 51–58, 72–77; Staff Report at 26–27 (Condition F).

[43] *E.g.*, Exhibit 131 at 14–15; Exhibit 134 at 1 (FPC); Exhibit 181 at 10.

[44] Council Findings at 60; HEP Analysis at 13; Mitigation Plan at 7; Staff Report at 3, 7. The Plan itself records PGE's easement on the Harborton leg as 375 feet wide, with its south edge "not used." Plan at 163.

[45] HEP Analysis at 11; Exhibit 148 at 14; Plan at 45.

2. The North Unit mitigation measures fully address each long-term impact.

a. Invasive-species removal and native revegetation

The centerpiece of the North Unit mitigation is invasive-species removal and native revegetation. PP&R's Restore Forest Park initiative has identified two North Unit priority weed-removal areas totaling 315 acres, which the fee-in-lieu portion of the funds alone could treat.[46] Even the most conservative figure in the record—PP&R's 2024 estimate that "as many as 75 acres" of North Unit forest remain affected by large noxious-weed populations—is 16 times the 4.7-acre conversion.[47] At either end of that range, the mitigation far exceeds the impact. And the funding will "expand established control, follow-up treatment, and native-revegetation work" into those areas; PGE does not ask the City to count restoration that others have already funded.[48]

The Plan identifies this work as the Park's most important natural resource priority. It calls ivy removal "probably the park's highest natural resource management priority," warns that a poorly supported effort "will only prolong the transformation of Forest Park to a 5,000 acre 'ivy desert,'" and states that arresting the spread of ivy "is critical in areas such as the North Unit."[49] For the North Unit specifically, the Plan directs that "English ivy should be eradicated" and that "[e]radication from this unit should be a priority."[50] The Plan explains why: ivy "forms dense carpets that exclude other vegetation," interferes with "the regeneration of trees such as Douglas fir," and causes "[e]xtremely serious negative impacts to wildlife populations," leaving amphibians absent.[51] Ivy and related invasive species thus threaten the Plan's primary goal of growing "a self-sustaining ancient forest."[52]

The City's more recent Forest Park planning confirms that priority. PP&R's current Renew Forest Park initiative identifies "the spread of invasive plants" as "a primary threat to forest health," and its Restore Forest Park program is a "$20+ million, 20-year initiative" to remove

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[46] Exhibit 202 at 2, 4 (Herlocker, citing PP&R's priority areas and per-acre cost estimate).

[47] Mitigation Plan at 59. The ratio is our arithmetic.

[48] Exhibit 202 at 4.

[49] Plan at 148–49; *see also id.* at ix (directing increased ivy removal "with special attention to the North Management Unit where natural resources are of the highest quality"), 101 (Strategy 1: "control of English ivy is critically important").

[50] *Id.* at 105, 148.

[51] *Id.* at 43, 148.

[52] *Id.* at 98 (Conservation Goal 1).

invasive species and replant native plants.[53] Council's own fee-in-lieu ordinance explains that "comprehensive restoration over large areas, including the removal of invasive species and revegetation with shrubs and forbs, is mitigation more readily needed in the park."[54] And the City's 2017 FEMA grant application describes invasive species as causing the "suppression of natural forest regeneration."[55]

Removing invasive species across dozens or hundreds of acres of the North Unit will restore native understory, allow conifer regeneration, improve habitat for birds, small mammals, and amphibians, and advance the ancient-forest trajectory across an area many times the size of the impact.[56] That benefit far more than compensates for selective tree removal and conversion to woodland habitat on 4.7 acres of a stand already surrounded by utility lines.

Moreover, contrary to the comments, the Project will not result in higher wildfire risk.[57] The City itself emphasizes that invasive-species removal is one of the most important fire-risk reduction measures in Forest Park. PP&R states that invasive plants "increase risk of fire frequency, size, and intensity," that they "can also serve as 'ladder fuels' that can carry a fire burning in low-growing vegetation to taller vegetation, resulting in more intense wildfire," and that it "is working to reduce wildfire risk in Forest Park by removing invasive plants and fuels."[58] Even the opponents' academic witness concedes that an exposed surface may be warmer "without necessarily producing a more hazardous fire environment if combustible fuels are removed or effectively managed."[59] That is precisely what the restoration and mitigation provide.

b. Purchase and protection of forestland for the North Unit

The mitigation funds can also protect forestland connected to the North Unit. Four forested properties near the North Unit, totaling about 59 acres, sold for a combined $4.25 million since

[53] Exhibit 189 at 1, 8.

[54] Ordinance No. 191314, Impact Statement (Purpose of Proposed Legislation and Background Information) (2023).

[55] Exhibit 193 at 102; *see also id.* at 113 ("suppressed native seed banks are able to regenerate once invasive cover is removed").

[56] Plan at 43, 65, 148; Mitigation Plan at 59; Exhibit 202 at 4.

[57] *E.g.*, Exhibit 128 at 4–6, 45–50; Exhibit 205 at 31–32; Exhibit 185 at 59.

[58] Exhibit 190 at 4, 7–8. Council has likewise found that wildfire risk at the wildland-urban interface is "significant and growing due to the buildup of hazardous wildfire fuels which includes large biomasses of invasive species." Exhibit 193 at 131 (Ordinance No. 190514, Finding 2).

[59] Exhibit 128 at 47 (Shandas). Likewise, PGE's wildfire expert explains that selective canopy removal "does not automatically create a uniformly drier or more fire-prone forest," and potential fire behavior "depends on the completed fuel complex, not on canopy cover alone." Exhibit 198 at 1–2.

July 2022—and each of those properties had a dwelling.[60] At those prices, the roughly $2.9 million above the fee-in-lieu amount alone could acquire forestland several times the size of the impact area, and conservation easements—which the Plan notes "might be obtained for much lower costs"—would protect still more.[61] Opponents' own figures confirm the point: in April 2026, they estimated that $5.1 million would conserve 80 to 100 acres around the north end of the Park.[62] That land lies in the corridor connecting the Park to the Coast Range, which the Plan identifies as critical to wildlife movement and a priority for acquisition.[63]

The Plan directs that "[t]hreatened land considered critical for wildlife passage or for watershed protection should be acquired or protected with conservation easements," and its Strategy 3 calls for acquiring land "through fee purchase or through the purchase of conservation easements that limit development."[64] The City's 2011 Ecological Prescriptions likewise recognize that "[t]he preservation and management of the interior lands of Forest Park alone will not protect the species diversity found within the park's boundaries."[65] FPC itself has described a conservation easement north of the Park as supporting "the permanence of the wildlife corridor between the Oregon Coast Range and the Tualatin Hills."[66] Both the Agreement and the Staff Report identify acquisition as an intended use of the funds.[67] The mitigation funds will allow the City to acquire substantially larger tracts of interior closed canopy forest for conservation, providing materially higher resource values than the edge habitat in the Project area.

c. Other projects in the North Unit

Invasive-species removal and forestland protection for the NMU more than offset the loss of forest habitat, which is the Project's principal long-term impact. The Mitigation Plan nevertheless identifies additional North Unit projects matched to the Project's smaller impacts on wetlands and streams. It proposes new or expanded stillwater wetlands near the Newberry Trail entrance and along Firelane 12 to provide red-legged frog breeding habitat, which the Plan describes as "rare or absent" in the Park. It also proposes a new crossing and riparian

[60] Exhibit 193 at 134–36; Exhibit 202 at 5–6.

[61] Plan at 137. The comparison is our arithmetic from Exhibit 193 at 134 and Mitigation Plan at 38.

[62] Exhibit 204 at 12–13.

[63] Plan at 52, 65, 136–37.

[64] Plan at 105–06; *see also id.* at 136–38 (Project RP-5All, protecting "Forest Park's linkage to the Coast Range").

[65] Exhibit 192 at 39.

[66] Exhibit 193 at 138.

[67] Agreement ¶ 3(C)(iii); Staff Report at 17.

restoration where an intermittent stream now flows across the Newton Road trail and has cut an erosive headcut.[68] These projects replace 0.068 acre of degraded roadside wetland with higher-value breeding habitat, repair stream and riparian functions, and could reduce frogs' reliance on crossing Highway 30 to reach breeding habitat.[69]

Although clearly not rebuttal evidence, an email FPNA submitted on October 28, 2026, shows that the Oregon Watershed Enhancement Board (OWEB) approved $247,262 in partial funding toward the Newton Wetland project.[70] PGE will obviously not count the work covered by this new grant as its own mitigation. The Plan calls for roughly doubling the size of the Newton Wetland, and the Mitigation Plan identifies other wetland sites, so the mitigation funds can simply expand or complement the grant-funded work, or support similar project elsewhere, and preferably closer to the Highway 30 migration corridor (e.g., Firelane 12).[71] The mitigation funds can also cover the portions of the Newton Wetland project not funded by OWEB. Regardless, the Newton Wetland project is not necessary to mitigate the Project's long-term impacts.[72]

3. The proposed mitigation is more than sufficient to fully mitigate the Project's long-term impacts in the North Unit.

Taken together, these measures address each long-term impact with mitigation of the same type, within the North Unit, at many times the scale of the impact, beginning within a year of tree clearing.[73] PGE's principal environmental science specialist concludes that "the mitigation identified for the North Unit will fully mitigate the Project's long-term adverse impacts on resource values within the North Management Unit, as NRMP Exception Criterion D requires."[74] No qualified expert says otherwise. The scale and timing of the work also answer Council's concern about temporal loss: benefits from invasive removal and riparian repair begin early, across an area far larger than the impact, while the restored corridor matures.[75] Opponents' claim that full mitigation is "impossible" is also difficult to reconcile with their own settlement

[68] Mitigation Plan at 60–61; Plan at 58; Exhibit 202 at 5.

[69] Mitigation Plan at 22, 61; Exhibit 202 at 5.

[70] Exhibit 208. That email was not rebuttal evidence: it predates the hearing, and FPNA had already relied on it in its October 21 letter. It was one of a litany of new, non-rebuttal materials filed by FPNA on October 28. Exhibit 197 at 4 & n.9; Exhibit 203 at 1–29; Exhibit 204 at 19–20; Exhibit 205 at 50, 55–57; Exhibit 207.

[71] Plan at 171–72 (Project RE-11N); Mitigation Plan at 61, 65.

[72] *See* Exhibit 202 at 5–7 (North Unit mitigation analysis not relying on the Newton Wetland).

[73] Exhibit 202 at 6–7 (Table 1 and analysis of functions, scale, timing, and durability); Mitigation Plan at 76.

[74] Exhibit 202 at 8.

[75] *Id.* at 7–8; *see* Council Findings at 58.

position.[76] In any event, whether more money could have been negotiated, or who should control it, is not the question under Exception D. The question is whether the Project's long-term impacts are fully mitigated within the North Unit, and they are.

Further, opponents are wrong that the payment is a blank check to the City. Ordinance 191314 authorizes PP&R to receive mitigation payments, requires same-management-unit restoration, places the proceeds in the Forest Park Trust Fund, generally calls for expenditure within five years, and requires annual reporting.[77] That framework answers concerns over accounting and location.[78] Ordinance 191314 also constitutes a City-approved method for using PP&R-administered restoration instead of applicant-implemented mitigation.[79] It is powerful evidence that this approach is appropriate. The required project-specific showing is supplied by the Mitigation Plan and Herlocker's functional analysis.

The Easement and constitutional principles separately counsel against construing Criterion D to demand disproportionate obligations unrelated to the Project's actual impacts.[80] That issue need not be reached because the mitigation demonstrated here satisfies the criterion.[81]

Finally, PGE is willing to accept a condition of approval that reinforces the requirement in Ordinance 191314 that the fee-in-lieu funds be spent as described in the Mitigation Plan.[82]

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[76] FPC and FPNA's October 28 chronology recounts PGE's mediation offer letters (Exhibit 204 at 17–19), an unusual step given the confidentiality that ordinarily attends mediation, which was expressly required in the formal mediation terms. While PGE will not respond, it only notes that the chronology omits the organizations' own proposal, which appears earlier its the same exhibit. In April 2026, FPC, FPNA, and Bird Alliance offered to join in a remand agreement if PGE paid $7.5 million in mitigation, with $5.1 million to be transferred to a trust "managed by a partnership led by the Forest Park Conservancy." *Id.* at 12–13.

[77] Ordinance No. 191314, Findings 7–8, Directives A–C, and Impact Statement (Forest Park Trust Fund, same-management-unit spending, five-year period, and reporting).

[78] Exhibit 197 at 4.

[79] Ordinance No. 191314, Finding 7; Impact Statement.

[80] Easement, Agreement at 1, §§ III–VI.

[81] *See* the constitutional discussion above; Narrative at 15–17.

[82] For example, Condition B could be revised by City decision makers to state: ""Mitigation Funds" payment in the amount of $5,500,000 must be made to the City of Portland for deposit in the Forest Park Trust Fund after the issuance of construction permits and prior to the clearing of vegetation for construction of the project. An amount not less than the fee-in-lieu amount calculated under Ordinance No. 191314 must be deposited in the Trust Fund's North Management Unit order and spent within the North Management Unit. The Mitigation Funds must be used for the mitigation projects identified in the Habitat Mitigation Plan (Exhibit A.3) or for the acquisition of land or conservation easements adjoining or connected to the park for addition to the North Management Unit. PP&R will prepare a mitigation plan describing the projects, locations, acreage, and timeline for the funds and will report annually on funds spent and mitigation accomplished, consistent with Ordinance No. 191314."

D. On Project need, the record establishes a demonstrated need to meet federal requirements by correcting an identified reliability deficiency anticipated to occur during peak demand periods beginning in 2028, to avoid risk of material power outages.

Minor Amendment Criterion A asks whether "[t]here is a demonstrated need for the proposal."[83] The criterion requires a demonstrated need, not proof that an outage is certain. It does not ask the Hearings Officer to choose a different energy policy or to require a utility to wait for a blackout before correcting a known deficiency. PGE's annual studies from 2022 through 2025 show that, beginning in 2028, the loss of any one of three transmission elements during peak demand would overload the remaining facilities serving North and Northwest Portland, and that the Project resolves each overload.[84] Without the Project, PGE would have to shed up to 238 MW—about 87 percent of peak load in an area serving roughly 55,000 customers.[85] These are modeled contingencies that federal standards obligate PGE to plan for. The obligation arises before the failure, which is the point of preventive reliability standards.[86]

Opponents' contrary arguments address a different question. Regional reserve margins and statewide forecasts measure resource adequacy; the Harborton deficiency is a contingency overload on the transmission facilities serving a particular load area.[87] Distributed resources cannot close that gap: the area has about 12 MW of rooftop solar and 8 MW of distributed storage against a 238 MW deficit.[88] And PGE's federally filed transmission plan lists the Evergreen–Harborton reconductoring project as a separate project with a 2032 completion date, alongside the Harborton Reliability Project rather than in place of it—consistent with the record evidence that PGE's grid "requires more connections, not higher capacity versions of existing connections."[89] The repeated identification of the deficiency across study years, the magnitude of the load at risk, and the absence of any timely substitute readily satisfy Criterion A, as staff found.[90]

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[83] Plan at 217.

[84] Needs Memo at 4–5 (PDF pages); Staff Report at 8–9.

[85] Needs Memo at 5–6 (PDF pages).

[86] TPL-001-5.1, R2, R2.7 (Exhibit A.31).

[87] *E.g.*, Exhibit 135 at 9–10 (Mendoza, citing ODOE data); Exhibit 205 at 8–15 (FPNA); *see* Needs Memo at 4–6 (PDF pages).

[88] Needs Memo at 7 (PDF page).

[89] Needs Memo, App. C (2025 Local Transmission Plan) at PDF 48, 50; Council Findings at 52 (quoting PGE's first-record evidence).

[90] Staff Report at 9.

E. The alternatives criteria are satisfied.

Comments on alternatives ignore the text of the criteria, incorrectly assert that the Toth Report shows there are viable alternatives, and contend that a route along Marina Way remains available.[91] Each argument fails.

1. The alternatives criteria address only design changes and alternative locations for the proposal.

Three criteria address alternatives, and each is directed at locations and designs for the proposal. Minor Amendment Criterion C asks whether "[a]lternative locations and design modifications were evaluated" to show that the proposal has the least detrimental impact "of the practicable alternatives." Exception Criterion B asks whether "alternative locations exist outside of Forest Park for the proposal." Exception Criterion C asks whether there are "practicable alternative locations within Forest Park suitable for the use."[92] None asks whether a different project—or a policy that is not a project at all—could address the need. Yet many of the opponents' purported alternatives are exactly that: battery storage, rooftop solar, demand response, reconductoring other lines, load-shed agreements with data centers, and delaying service to new customers.[93] These are not design changes or alternative locations for a similarly-sized transmission segment. They are entirely different projects and proposals, and some have nothing to do with transmission infrastructure.[94]

Even under staff's broader reading, which asks whether the need can be met outside Forest Park, the criteria are satisfied.[95] PGE's analyses screened more than 20 concepts and found that most would not resolve the Harborton deficiency even if built. The 2026 Alternatives Analysis carried the remaining concepts through a feasibility analysis that applies Council's own test and expressly does not rest on cost or inconvenience. Opponents generally ignore the factual basis documented in the 2026 Alternatives Analysis, and instead focus on the older Toth Report.

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[91] *E.g.*, Exhibit 25 at 24 (Hefner); Exhibit 32 at 5–7 (Majkut); Exhibit 31 at 19–21 (Hoffman); Exhibit 205 at 33–41 (FPNA).

[92] Plan at 217.

[93] *E.g.*, Exhibit 134 at 4 (FPC); Exhibit 135 at 9–10 (Mendoza); Exhibit 205 at 13–15, 39, 41 (FPNA).

[94] *See Department of Transp. v. Stallcup*, 341 Or 93, 101, 138 P3d 9 (2006); *Northwest Nat. Gas Co. v. City of Gresham*, 359 Or 309, 323–24, 374 P3d 829 (2016); Narrative at 48–57. For the same reason, comments that Phase 3 must be evaluated with possible future phases misread the criteria, which apply to the proposal made in an application and placed before the Hearings Officer. Future phases will require their own review, and the Agreement provides for a planning dialogue that does not predetermine any future project. Narrative at 7–8; Agreement ¶ 6(A), (E); Staff Report at 26 (Condition C).

[95] Staff Report at 15–16.

The Needs Memo shows why distributed resources cannot close a 238 MW gap with about 20 MW of local rooftop solar and storage. And the Completeness Memo documents the design and construction-method alternatives Council found missing. Within the Park, the only other concept that could meet the need—replacing ridge structures with much taller towers—would require additional easement area in Forest Park and wider clearing, and the base of the hill lacks space for the necessary infrastructure, contrary to the Plan's direction to avoid expanding utility easements.[96]

2. The Toth Report does not support claims that there are viable alternatives to the Project.

The Toth Report was a preliminary screening analysis based on cursory, desktop information. The Toth Report offered an initial view on limited data and flagged issues for further investigation.[97] Even on its own terms, it did not find Alternatives 4 and 8 feasible. It found only that they "remain feasible for further discussion" because their remaining severe impediment—relocating the existing 115 kV line—"may be surmountable with further study," and its mitigated summary table still rates every route, including Alternatives 4 and 8, as facing a severe impediment.[98]

The Toth Report was not prepared by experts in many of the subjects it evaluated, and the gaps show.[99] It reported that "[n]o Endangered Species were identified in the Project Area," yet DEA later estimated that the Marina Way corridor would affect two ESA-listed salmon-bearing streams and a red-legged frog breeding site.[100] It rated zoning a "Mild" impediment once a

[96] 2026 Alternatives Analysis at 15–17, 26–27; Staff Report at 15; Plan at 159. 2024 Alternatives Analysis at 7; 2026 Alternatives Analysis at 7–8, 15–17 (taller ridge structures infeasible), 25; Needs Memo at 6–7 (PDF pages); Completeness Memo at 2–3, 7–13. Concepts that would not deliver an additional 230 kV source into Harborton Substation, such as reconductoring existing lines, do not resolve the deficiency. 2026 Alternatives Analysis at 7; *see* Council Findings at 52 (quoting PGE's first-record evidence that its grid "requires more connections, not higher capacity versions of existing connections").

[97] The Toth Report (Exhibit 168, cited by the report's internal page numbers) was a broad screening exercise prepared for PGE's internal planning, not a feasibility determination. Labeled "Version 1," it describes itself as an attempt "to identify potential routes * * * and assess impediments to route feasibility." Toth Report at 1, 3. Its ratings rest on agency data and features "digitized from satellite imagery and street view photographs," plus one site visit by PGE personnel, and each of its maps is "for informational purposes, and should only be used as such." *Id.* at 5, 16; *id.*, App. (map disclaimers).

[98] Toth Report at 22, 27–28 & Table 2. Under the report's own rule, "[t]he presence of any unmitigated Severe Impediment renders a route alternative infeasible." *Id.* at 6.

[99] It does not identify any wetland scientist, biologist, or land use or property attorney among its preparers, and its environmental and zoning ratings rest on desktop data.

[100] Toth Report at 14; 2026 Alternatives Analysis at 28 & n 13; *see also* PGE Mediation Materials (Exhibit A.24) ("Mediation Materials"), Doc. 3, at PDF p. 54.

conditional use permit issued, without addressing Multnomah County's Willamette River Greenway and Significant Environmental Concern overlays.[101] And it noted only that the Harborton Conservation Area is protected "by formal agreements," without examining them. Those agreements, now incorporated in a 2025 federal consent decree, impose a deed restriction that "cannot be amended or waived by PGE or the City."[102]

In the years since the Toth Report, each of those questions has been examined in progressively greater detail, in response to City staff's requests and Council's direction that out-of-park alternatives "be more thoroughly and transparently pursued":[103]

- *2024 Alternatives Analysis.* DEA, with senior transmission-planning input from Stephen S. Miller, P.E., evaluated more than 20 alternatives. It found that 230 kV poles on Marina Way "would not be able to also accommodate the existing 115 kV" circuit, that new and wider easements would be needed, and that landowner outreach had met "refusal by at least one key property."[104]

- *Mediation Materials.* PGE provided further analysis of the Marina Way constraints parcel by parcel, including areas requiring acquisition or condemnation, fish-bearing streams, wetlands, a historic farmhouse, the deed restriction, floodplain, and county overlays, along with a schedule comparison to five recent PGE transmission projects.[105]

- *2026 Alternatives Analysis.* DEA carried the Toth routes forward and found that a 230 kV corridor would require expanding the existing 60-foot easement to 125 feet across 9 to 15 properties, that the Harborton Wetland Restoration site deed restriction cannot be waived, and that "there is no clearly constructible alignment for a new 230 kV transmission line along Marina Way."[106] Even then, those routes would affect 1.7 to 4 acres and 136 to 350 trees inside Forest Park, and they would take more than seven years to complete.[107]

[101] Toth Report at 14, 17–27; 2026 Alternatives Analysis at 20–21.

[102] Toth Report at 12; 2026 Alternatives Analysis at 19–20.

[103] Council Findings at 51.

[104] 2024 Alternatives Analysis at 7, 10–11, 20.

[105] Mediation Materials, Doc. 1, at PDF pp. 35–37; Doc. 2, at PDF pp. 50–51; Doc. 3, at PDF pp. 53–56; Doc. 7, at PDF pp. 175–76.

[106] 2026 Alternatives Analysis at 7–8, 17–22.

[107] *Id.* at 28 (Table 2); Franks Memo at 1.

In short, opponents cannot establish feasibility by quoting the preliminary report's request for further study while disregarding the subsequent study.[108]

3. Marina Way is not a viable alternative.

Marina Way is not a viable alternative for reasons that have nothing to do with cost or PGE's preferences:[109]

- *Property.* A roughly 7,000-foot line would require enlarged easements across 9 to 15 properties, including potentially affected homes or businesses.[110] Involuntary acquisition would trigger the Certificate of Public Convenience and Necessity process, which evaluates need and alternative routes.[111]

- *Restoration covenant.* The Harborton Habitat Restoration Site has a perpetual restriction on new structures and disturbance, incorporated into a federal consent decree. The record identifies no unilateral means for PGE or the City to waive it.[112]

- *Existing line.* The corridor contains a 115 kV circuit and distribution facilities that cannot simply be placed on the proposed 230 kV structures. No feasible separate alignment for relocation has been identified.[113]

- *Physical barriers.* Railroad clearances, Highway 30 right-of-way, pipelines, steep slopes, and floodplain constrain possible alignments. DEA found no clearly constructible route.[114]

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[108] Exhibit 25 at 23–24 (Hefner); *see* 2026 Alternatives Analysis at 8, 17–22.

[109] 2026 Alternatives Analysis at 25 (alternatives "are not infeasible because they are less preferred or because they would involve greater cost or inconvenience"); *see* Council Findings at 50.

[110] 2026 Alternatives Analysis at 17–18, 28 (Table 2).

[111] 2026 Alternatives Analysis at 9, 11, 18, 21, 25; ORS 758.015; Franks Memo at 4.

[112] Harborton Habitat Development Plan (Exhibit A.10), App. J (Declaration of Covenants, Conditions, and Restrictions) at 2–4; 2026 Alternatives Analysis at 19–20 & nn.6–11 (citing *United States v. ACF Industries, LLC*, No. 3:23-cv-01603-SI (D Or)).

[113] 2026 Alternatives Analysis at 20–22; 2024 Alternatives Analysis at 11, 20; Franks Memo at 4–5; Toth Report at 22, 27.

[114] 2026 Alternatives Analysis at 9–10, 19, 21–22.

- *Permitting.* Marina Way implicates County land use, City review, and potentially federal and state environmental and historic-resource approvals; these requirements add substantive uncertainty and time.[115]

- *Greater impacts and schedule.* The route could affect 1.5–3 acres of wetlands, six streams, floodplain, and red-legged frog breeding habitat, while still affecting 1.7–4 acres and 136–350 trees in Forest Park.[116] PGE's timing analysis estimates more than seven years.[117]

These constraints are interrelated. As DEA explains, "[a] design change intended to avoid one constraint would often worsen another."[118] A series of individually plausible map segments is not a feasible end-to-end transmission line.

Nor is the 2028 date a deadline of PGE's own making.[119] It is the date by which federally required studies show that the system will violate mandatory reliability standards, and PGE has identified the Harborton deficiency in its near-term Local Transmission Plans since 2015.[120] Marina Way fails without regard to timing, but timing independently confirms that it is not an available alternative.

Opponents' late-filed route variations do not change this conclusion. FPNA's suggestion that the line terminate at PGE property north of the Wapato bridge changes only the north connection—a termination point DEA selected to avoid a transmission crossing of the Sauvie Island bridge—and leaves every Marina Way obstacle in place.[121] FPNA's report that unnamed County planners consider utility projects exempt from County review identifies no code provision and cannot displace the provisions DEA identifies.[122] And the Bateman Seidel letter on PGE's 1945 easements does not show that those easements could be expanded to a "potentially doubled" corridor for a different voltage class across neighboring land. The letter

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[115] *Id.* at 10–13, 20–21 (citing MCZC 39.5520, 39.5530, 39.5570, 39.5590, 39.5900–.5925, and 39.7015).

[116] *Id.* at 28 (Table 2).

[117] Franks Memo at 1, 3.

[118] 2026 Alternatives Analysis at 22.

[119] *Contra* Exhibit 25 at 24 (Hefner).

[120] Needs Memo at 4–6 (PDF pages); TPL-001-5.1, R2.7; Exhibits A.11–A.21; *see* Council Findings at 51 (faulting the first record for lacking "specific, credible information" on the 2028 date). One commenter notes that PGE's public FAQ refers to completion "by 2028 or soon after." Exhibit 19 at 21 (Nauman). The 2026 Alternatives Analysis uses the same window—"by 2028, or at the absolute latest by 2029." 2026 Alternatives Analysis at 14. Marina Way's seven-plus-year schedule falls years outside either formulation. Franks Memo at 1, 3.

[121] Exhibit 205 at 39–40, 50; 2026 Alternatives Analysis at 17; Toth Report at 7.

[122] Exhibit 205 at 40; 2026 Alternatives Analysis at 11–13, 20–21.

concedes that the prior-use rule is "generally true" and relies on cases recognizing evolving uses "of the same character"; the case on which it relies for expansion turned on a grant to dig a millrace "as deep and wide as may be necessary."

F. The Project is consistent with the Forest Park Plan's goals and strategies.

Opponents argue that clearing forest in the North Unit cannot be consistent with the Plan's conservation goals or its vision of an intact North Unit.[123] This argument misreads the operation of the approval criterion and the existing record.

Minor Amendment Criterion B asks whether the Project is "consistent with" the Plan's goals and strategies. "Consistent" means compatible, or capable of existing together, when the Plan is read as a whole; it does not require that a proposal independently advance every goal, and it permits the weighing of competing goals.[124] Staff applied that standard and found the Project consistent with Conservation Goals 1 and 2 and Strategies 1 and 3.[125]

Three points confirm staff's conclusion. First, the Plan anticipates continued utility use within existing easements. It records PGE's easements and their unused widths, recognizes that utility service roads "are necessary for periodic maintenance and can provide critical access for fire crews," expects that powerline facilities will be redeveloped, and asks utilities to adopt improved practices "on a voluntary basis" until easement agreements are modified.[126] Its objective to "[a]void expansion or addition of utility easement areas" is satisfied, because the Project adds none.[127] Second, the Project's location avoids the fragmentation the Plan guards against. As staff found, locating the Project in an area "already impacted by established transmission corridors," rather than creating a new corridor, "avoids additional fragmentation, and protects more sensitive interior forest areas."[128] Third, the restoration and mitigation directly advance the Plan's goals and strategies by removing the invasive species the Plan treats as its highest natural resource priority, creating amphibian breeding habitat, repairing streams, and protecting land critical to wildlife passage.[129]

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[123] *E.g.*, Exhibit 27 at 1–4 (Ingalsbe); Exhibit 134 at 6–7 (FPC); Exhibit 205 at 16–30 (FPNA).

[124] *Sky Lakes Med. Ctr., Inc. v. Oregon Dep't of Hum. Servs.*, 310 Or App 138, 149, 484 P3d 1107 (2021); *Waker Assocs., Inc. v. Clackamas Cnty.*, 111 Or App 189, 193–94, 826 P2d 20 (1992); *Preserve the Pearl, LLC v. City of Portland*, 72 Or LUBA 261, 271 (2015); *see* Narrative at 29–30.

[125] Staff Report at 9–11.

[126] Plan at 161–63.

[127] *Id.* at 159; Staff Report at 17–18.

[128] Staff Report at 10.

[129] Plan at 98 (Conservation Goal 2), 101 (Strategy 1), 105–06 (Strategy 3); Staff Report at 10–11.

Opponents' reliance on staff's observation that the forested patch is not itself an "established utility corridor" does not change the analysis.[130] PGE does not claim the wooded patch is already cleared; it relies on its location within an existing easement amid long-standing transmission facilities, which staff reasonably considered in its consistency finding.[131]

G. The construction management and mitigation plans satisfy Minor Amendment Criterion D.

Minor Amendment Criterion D requires a construction management plan and a mitigation plan that minimize impacts on resources and restore adjacent disturbed areas.[132] Council faulted the first application for not evaluating alternative construction methods.[133] The record now contains that evaluation. PGE compared multiple tree-clearing approaches and selected the one that removes the fewest trees while topping or girdling others to retain habitat. It compared landing configurations and five construction methods for the pole landings and selected the least-disturbing method for each landing. It defined logging access using temporary slash haul roads and removable log-stringer bridges at stream crossings. And it adopted a tree protection system of root-zone boundary markers, active-edge fencing, trunk protection, and arborist supervision.[134] Mechanized equipment is confined to the approved project limits.[135] Staff found the criterion met.[136]

FPNA suggests that PGE should have evaluated other methods, such as removing the upper trees from the BPA Road or using narrower logging roads.[137] FPNA offers no engineered design or analysis showing that either would reduce impacts while meeting safety and constructability requirements. The criterion requires evaluation and minimization, which the record documents.

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[130] Exhibit 27 at 1–3 (Ingalsbe); Exhibit 205 at 2–3, 26 (FPNA); *see* Staff Report at 7.

[131] Staff Report at 7, 10; Mitigation Plan at 7.

[132] Plan at 217.

[133] Council Findings at 42–43.

[134] Completeness Memo at 2–3 (Table 2), 7–12 (Tables 3–4), 14–17; Staff Report at 12–14.

[135] Staff Report at 26 (Condition D.1).

[136] *Id.* at 13–14.

[137] Exhibit 205 at 33–34.

H. The Project will not materially affect the sufficiency of forest vegetation for wildlife habitat and travel corridors.

Opponents argue that the Application does not satisfy PCC 33.563.210(A) because PGE did not submit a "true" HEP study quantifying whether forest vegetation will be sufficient to provide habitat and maintain travel corridors for the five indicator species.[138]

The code does not require such a study. The criterion asks whether "[t]he location, quantity and structural characteristics of forest vegetation will be sufficient to provide habitat and maintain travel corridors" for five indicator species, and it states that "[s]tandards to meet this criterion are in the applicable Habitat Evaluation Procedure developed by the US Fish and Wildlife Service."[139] It refers to standards, not to a study or process, and it requires only the "applicable" procedure. The City has never required a numerical HEP study under this criterion—including in its own Forest Park application.[140] The HEP developed by the USFWS does not provide a procedure applicable to projects of this type.

- USFWS has published habitat suitability index models for only one of the five indicator species, the pileated woodpecker. Without those models, "completion of an HEP is not possible."[141]

- HEP is a comparative accounting method that produces habitat units. It establishes no threshold of "sufficiency," so even a complete HEP would not answer the question the criterion asks.[142]

- HEP models require minimum habitat areas far larger than any Forest Park development site. The pileated woodpecker model assigns a habitat suitability of zero unless at least 320 acres of habitat exist, and the criterion identifies no geographic unit for the analysis.[143]

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[138] *E.g.*, Exhibit 25 at 23 (Hefner: "The code names the method of proof, and the applicant has not used it."); Exhibit 137 at 35 (WMSWCD).

[139] PCC 33.563.210(A); Staff Report at 19.

[140] HEP Analysis at 2 & n.1 (five environmental reviews of utility work in Forest Park from 2020 to 2025 addressed the criterion through qualitative habitat analysis); Narrative at 80 & nn.186–90 (PP&R's own 2018 application, in which PP&R stated that "[t]here is no requirement * * * that new comprehensive wildlife habitat studies must be prepared").

[141] HEP Analysis at 3–4. Opponents' own experts acknowledge the missing models. Exhibit 137 at 35 (WMSWCD).

[142] HEP Analysis at 2–4.

[143] Narrative at 81 n.192; HEP Analysis at 2.

The substance of the criterion is whether forest vegetation will remain sufficient to provide habitat and maintain travel corridors for the indicator species. DEA's supplemental analysis answers that question species by species, at both the project site and the surrounding 119-acre resource area.[144] It concludes that the Project "will not materially affect the suitability of Forest Park or the approximately 119-acre surrounding evaluation area as habitat or travel corridors for any of the five indicator species." Forest cover in the resource area shifts only from 69 to 65 percent, no interior forest is affected, and no new barrier to movement is created. The restored corridor will provide browse for elk, snags and downed wood for pileated woodpeckers, and taller shrub linkages for wildlife movement, while the mitigation adds breeding habitat for the red-legged frog.[145] Staff agreed that the criterion is met.[146] Opponents' complaint that staff relied on an "established utility setting" misreads the finding. Staff described the undisputed context—a site "already bordered by existing PGE and BPA transmission facilities"—which is consistent with its observation that the wooded patch is not itself a cleared corridor.[147]

I. Conclusion.

The record demonstrates that the Project satisfies every applicable approval criterion. The Project corrects an identified reliability deficiency affecting about 55,000 customers in North and Northwest Portland, using a 1,400-foot segment inside an easement the City granted for that purpose, with restoration and mitigation that will improve the North Unit's resource values well beyond the Project's impacts and allow the project to meet required federal standards for transmission reliability.[148] PGE respectfully requests that the Hearings Officer approve the Application, subject to the conditions recommended in the Staff Report, with Condition B revised as proposed above. PGE's responses to all remaining substantive comments are set out in the accompanying Response Table.

[144] HEP Analysis at 7–15.

[145] *Id.* at 9–15; Mitigation Plan at 57, 61.

[146] Staff Report at 19.

[147] Exhibit 137 at 35 (WMSWCD); Staff Report at 7, 19.

[148] Needs Memo at 5 (PDF page); Exhibit 202 at 2.

PGE'S RESPONSE TABLE

Harborton Reliability Project, Phase 3 – Hearings Office Case No. 4260012 (LU 26-051203 CU EN GW)
Enclosure to Applicant's Final Written Argument (November 4, 2026)

This table summarizes the principal arguments in the opposition comments and PGE's responses, grouped by approval criterion. The comment citations are examples, not a complete list of every comment that makes an argument.

Citation conventions. "Ex." refers to the Hearings Office exhibit list, cited by stamped page. "Ex. A.__" and "Ex. C.__" refer to the application exhibits and plans listed in the Staff Report at 29–31. Application documents are cited by printed page, or by PDF page where none is printed (Needs Memo). "Final Argument § __ at __" refers to the lettered sections and numbered subsections of PGE's Final Written Argument, followed by its page and footnote numbers (for example, "§ C.3 at 16 & n.82"). Legal authorities are not cited in this table; the cited pages of the Final Argument and Narrative analyze them.

Short forms. "Agreement" (Agreement for New Application, Ex. A.40); "Completeness Memo" (Completeness Response Memo, Ex. A.37); "Council Findings" (City Council Findings, LU 24-041109 (May 7, 2025), Ex. 145); "Easement" (1971 Easement, Ex. A.7); "Forest Park Plan" (Forest Park Natural Resources Management Plan (1995), by printed page; full copy at Ex. 176); "Franks Memo" (Ex. A.36); "Geotechnical Report" (Ex. A.8); "HEP Analysis" (Supplemental Habitat Evaluation Procedure Analysis, Ex. A.42); "Herlocker Letter" (Ex. 202); "Mediation Materials" (Ex. A.24); "Mitigation Plan" (2026 Habitat Mitigation Plan, Ex. A.3); "Narrative" (Applicant's Revised Narrative, Ex. A.41); "Needs Memo" (Summary of Reliability Needs Memo, Ex. A.5); "NERC TPL-001-5.1" (Ex. A.31); "Ord. 191314" (Ordinance No. 191314 (2023)); "Staff Report" (Oct. 2, 2026, Ex. 15); "Stinchfield Letter" (Ex. 198); "Toth Report" (Ex. 168, by internal page); "Tree Plan" (Revised Tree Plan, Ex. A.39); "WMSWCD" (West Multnomah Soil & Water Conservation District); "2024 Alternatives Analysis" (Ex. A.35); "2026 Alternatives Analysis" (Ex. A.4).

Issue and Opposition Argument	PGE Response	Supporting Materials
GENERAL ARGUMENTS – NOT DIRECTED AT APPROVAL CRITERION		
Council's 2025 denial controls The Application is the same project Council denied 12–0, with more money added. Council's findings and the 2024 staff report should control, and the Hearings Officer should deny the Application on the same grounds. E.g., Ex. 123 at 1–2; Ex. 31 at 15; Ex. 183 at 1; Ex. 205 at 2, 16–47.	• A prior denial does not bind the decision on a new application. Oregon's land use system anticipates successive applications, and the decision maker must independently apply the code to the record before it; a prior local decision has no preclusive effect. (Final Argument § A at 3 & nn.2–3.) • The record is different on every criterion Council found unmet: the Needs Memo and NERC TPL-001-5.1 (need and the 2028 date); the 2026 Alternatives Analysis and Franks Memo (alternatives); the Completeness Memo (design and construction-method alternatives); the Mitigation Plan, Herlocker Letter, and forestland data (mitigation); the HEP Analysis (wildlife); and the Stinchfield Letter (wildfire). (Final Argument § A at 3–6.) • The proposal also changed. Mitigation funding more than doubled to $5.5 million, PGE added $250,000 for an independent consultant, restoration monitoring increased from five to ten years, more trees will be topped or girdled to retain habitat, sensitive riparian habitat areas were removed from the impact area, and a tree protection system with arborist supervision was added. (Staff Report at 26–27; Completeness Memo at 2–3, 9–17.) The tree-removal footprint is essentially unchanged (393 trees vs. 397) because it was already limited to required clearances. (Completeness Memo at 2, 12.)	Final Argument § A at 3–6 & nn.2–5 (effect of prior decision at 3–4; table of new evidence and arguments at 5–6) Staff Report at 8–19, 26–27 Completeness Memo (Ex. A.37) at 2–3, 9–17 & Tables 2–4 Mitigation Plan (Ex. A.3) at 72–77 Council Findings (Ex. 145) at 42–43, 51, 53, 58 Narrative (Ex. A.41) at 11–19

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Issue and Opposition Argument	PGE Response	Supporting Materials
	• Council and the 2024 staff report evaluated a record that lacked this evidence, and Council faulted the absence of "specific, credible information" that the record now contains. The Application is also supported by legal arguments Council did not consider. (Council Findings at 51; Narrative at 11–19.)	
Staff report dictated by the Agreement Agreement ¶ 1(B) required staff to recommend approval in exchange for additional mitigation money, so the 2026 staff report is not an independent evaluation and should be disregarded. The City also finalized terms without the intervenor organizations. E.g., Ex. 197 at 2; Ex. 135 at 13–14; Ex. 123 at 1–3; Ex. 134 at 2; Ex. 204 at 1–2, 17–19.	• The Agreement resulted from a formal mediation under LUBA's rules in which every party to the appeal, including FPC, FPNA, and Bird Alliance of Oregon, participated over four months, even though not all of them ultimately joined the Agreement. It records the conclusion City leadership reached on the additional information, requires an evidence-based staff report, and identifies a path through which PGE can obtain a staff report recommending approval in light of compelling new evidence. (Agreement, Recitals F–J, ¶ 7(A).) • There is no legally recognizable procedural harm. The Hearings Officer decides independently on the record, and the Agreement says so. Nothing in the Agreement binds the Hearings Officer, and the decision "shall be made independently, based upon the record before the decision-maker and in accordance with applicable law." (Agreement ¶ 7(B); Staff Report at 3.) Each staff finding on a contested criterion rests on new evidence the Hearings Officer can evaluate directly. (Staff Report at 8–19.)	Final Argument § A at 3–6 Agreement (Ex. A.40), Recitals F–J, ¶¶ 1(B), 7(A)–(B) Staff Report at 3, 7, 8–19 Mitigation Plan (Ex. A.3) at 38 (Table 6) Ord. 191314
Segmentation of Phases 4 and 5 Phase 3 cannot be evaluated apart from Phases 4 and 5, which will clear about 15 more acres of the North Unit and affect the Miller Creek Subarea. The phases are "irrevocably tied," and Phase 4 appears with Phase 3 in PGE's corrective action plans. E.g., Ex. 123 at 2–5; Ex. 183 at 5–7; Ex. 205 at 4–7, 14; Ex. 32 at 7, 19–20.	• The criteria apply to "the proposal," and Phase 3 stands on its own. Phase 3 independently resolves each of the three 2028 overload scenarios. Phases 4 and 5 are "conceptually and functionally distinct," no route or design has been selected for Phase 5, and each future project will require its own justification and review. (Needs Memo at 4; Narrative at 7–8; Forest Park Plan at 217.) • Condition C requires a planning dialogue on future utility work in the Park and $250,000 for an independent consultant, and the Agreement provides that this consultation does not predetermine any future project. (Staff Report at 26; Agreement ¶ 6(A), (E).) • The "irrevocably tied" language is not a staff finding; in the 2024 staff report it appears in a block quotation of a public comment. (Ex. 142 at 38.) The "15 acres" figure describes no design. (Ex. 183 at 6.)	Final Argument § E.1 at 18 & n.94 (criteria apply to "the proposal") Narrative (Ex. A.41) at 7–8 Needs Memo (Ex. A.5) at 4–5 Staff Report at 15–16, 20, 26 (Condition C) Agreement (Ex. A.40) ¶ 6(A), (E) Ex. 158 at 18–21 (ODOE memorandum, Dec. 23, 2024) Ex. 142 at 38
PGE's evidence is unreliable PGE's need and alternatives evidence is self-serving and unreliable:	• PGE's technical evidence comes from qualified professionals, and no qualified expert rebuts it. A decision maker may not disregard expert analysis on technical matters in favor of lay assertions without countervailing expert testimony or another compelling reason. (Final Argument § B.2 at 7–8 & n.17.)	Final Argument § B.2 at 7–8 & n.17 (weight of expert evidence) Needs Memo (Ex. A.5)

Issue and Opposition Argument	PGE Response	Supporting Materials
residential load is flat, the 2028 date is "technically unsupportable," and PGE's forecasts are no longer accurate. E.g., Ex. 32 at 3; Ex. 31 at 16; Ex. 20 at 3.	• PGE's record includes its transmission planning manager (need); DEA, with input from a licensed transmission engineer (alternatives); DEA's senior biologist and PGE's principal environmental science specialist (habitat and mitigation); a qualified fire behavior analyst (wildfire); a board-certified master arborist; and GRI's licensed engineers and geologists. (Final Argument § B.2 at 7–8.) • Opponents offer no transmission planner or electrical engineer on need or alternatives. The only engineering study they reference is PGE's own preliminary Toth Report, which was a high-level, preliminary assessment of multiple routing options that identified the project as the preferred alternative, and their wildfire witness disclaims any site-specific assessment. (Ex. 168; Ex. 128 at 50.)	2024 Alternatives Analysis (Ex. A.35) at 7; 2026 Alternatives Analysis (Ex. A.4) HEP Analysis (Ex. A.42); Herlocker Letter (Ex. 202) Stinchfield Letter and CV (Ex. 198) Tree Plan (Ex. A.39); Geotechnical Report (Ex. A.8)
Standard of proof PGE must provide an "absolute guarantee," "exceptional proof of need," and proof that less damaging alternatives have been "exhausted." E.g., Ex. 121 at 23–24; Ex. 20 at 4; Ex. 31 at 5; Ex. 135 at 28.	• Land use applications are decided by a preponderance of the evidence. PGE must show only that it is more likely than not that each criterion is met. (Final Argument § B.1 at 7 & nn.15–16.) • The record exceeds that standard: federally required planning studies published every year since 2015, three successive alternatives studies covering more than 20 concepts, a detailed mitigation plan, and expert letters on habitat, mitigation, and wildfire. (Final Argument § B.1 at 7.)	Final Argument § B.1 at 7 & nn.14–16 (preponderance standard)
1971 Easement: scope and termination The 1971 Easement allows PGE only to "patrol over or improve" existing lines, not to expand them, and it terminated when the Trojan plant closed in 1993. E.g., Ex. 122 at 17–24; Ex. 31 at 21; Ex. 32 at 6–7.	• The Easement says neither thing. It grants the right to "erect, operate, maintain, repair, rebuild, and patrol one or more electric power transmission lines." The word "improve" does not appear, and "erect" and "one or more" contemplate new lines. (Easement § I.) • The Easement runs 100 years with a renewal option and terminates only after five continuous years of nonuse or PGE's insolvency, neither of which has occurred. Trojan appears in the ordinance recital, not the grant. (Easement § XV; *id.*, Ordinance No. 132226 § 1.) • Title disputes are not approval criteria in any event.	Final Argument § B.4 at 9–10 Easement (Ex. A.7) §§ I, XV; *id.*, Ordinance No. 132226 § 1 Narrative (Ex. A.41) at 5–6, 15–17
Easement covenants and constitutional arguments The Easement's Exhibit A clearing diagram and the City's 1970 resolution require PGE to preserve	• The Hearings Officer need not reach these easement questions, but they confirm that the criteria should be read to permit approval. • Staff found every criterion met under staff's own readings. If any criterion could be read to require denial, the avoidance doctrine requires the reading that avoids conflict with the Easement and with PGE's federal and state obligations. (Final Argument § B.3 at 8 & n.23, § B.4 at 10 & n.33; Narrative at 18–19.)	Final Argument § B.3 at 8 & n.23; § B.4 at 9–10 & nn.24–33 (avoidance doctrine, Contract Clause, takings, and compliance-with-laws covenant)

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vegetation and minimize ecological impact, and § XI requires compliance with all laws, so the Forest Park Plan controls and PGE's Contract Clause, takings, and avoidance-doctrine arguments fail. E.g., Ex. 180 at 11–14; Ex. 122 at 16–24; Ex. 20 at 6.	• Using the 1995 Forest Park Plan to prohibit the use the City sold in 1971, for $33,000 and PGE's covenants, would substantially impair the City's own contract. (US Const, Art I, § 10; Final Argument § B.4 at 9 & nn.24–26; Narrative at 15–18.) • Compliance with the Easement's covenants is a matter between the City as grantor and PGE, not an approval criterion. Exhibit A is a clearing specification, not a limit on the number or location of lines, and the Project's clearing follows its 18-foot conductor-clearance standard. (Easement, Ex. A; Tree Plan at 3–5.) • Section XI requires compliance with applicable federal and state law, so current safety and vegetation-management requirements govern clearances. (Easement § XI; OAR 860-024-0010.) • Nor does § XI allow the City to extinguish the grant through later-adopted land use regulations. The Ninth Circuit has rejected the same argument, and § XI is narrower still: it governs PGE's use of the Easement and reaches only laws "applicable to the use of" the Easement. (Final Argument § B.4 at 10 & n.32.)	Narrative (Ex. A.41) at 15–19 Easement (Ex. A.7) §§ I, XI, Ex. A (Clearing Diagram) Tree Plan (Ex. A.39) at 3–5
Precedent for future Park development Approval would set a precedent for more utility development in Forest Park. E.g., Ex. 183 at 7–8; Ex. 134 at 3, 8; Ex. 19 at 14.	• Approval sets no precedent. Every future proposal must satisfy the criteria on its own record, and the Agreement provides that the mitigation sets no precedent for future projects. (Agreement ¶ 3(G).) • Condition C establishes a planning dialogue and consultant funding so that future utility work in the Park is addressed earlier and with City and public input. (Staff Report at 15–16, 26.)	Agreement (Ex. A.40) ¶¶ 3(G), 6 Staff Report at 15–16, 26 (Condition C) Narrative (Ex. A.41) at 7–8
NEED FOR THE PROJECT **Minor Amendment Criterion A: "There is a demonstrated need for the proposal." (Forest Park Plan at 217)**		
Need and 2028 date not demonstrated PGE has not quantified the need or shown that the 2028 date is real, as Council found in 2025. PGE's postponement of Phases 4 and 5 shows there is no genuine urgency. E.g., Ex. 32 at 3; Ex. 31 at 17–18; Ex. 19 at 21; Ex. 137 at 34–35.	• Federally required planning studies now quantify the need. PGE's annual studies from 2022 through 2025 show that, at 2028 loads, any one of three single-contingency outages would overload facilities serving North and Northwest Portland, some above 110 percent of rated capacity. Relieving the worst overload would require shedding about 238 MW, roughly 87 percent of the peak load of an area serving about 55,000 customers. The Project resolves all three scenarios. (Needs Memo at 4–6; Staff Report at 8–9.) • Criterion A requires a demonstrated need, not proof that an outage is certain. These are modeled contingencies that federal standards obligate PGE to plan for, and the obligation arises before a failure occurs. (Forest Park Plan at 217; Final Argument § D at 17.)	Final Argument § D at 17 Narrative (Ex. A.41) at 21–29 Needs Memo (Ex. A.5) at 4–6 NERC TPL-001-5.1 (Ex. A.31) R2, R2.7, Table 1 n.12 Local Transmission Plans 2015–2025 (Exs. A.11–A.21) Staff Report at 8–9

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	• The 2028 date is a federal compliance date. NERC TPL-001-5.1 requires a corrective action plan when studies show a violation and caps planned non-consequential load loss at 75 MW. (NERC TPL-001-5.1, R2.7 & Table 1 n.12; Narrative at 22–29.) • PGE has identified the deficiency in every Local Transmission Plan since 2015. (Needs Memo at 4, 6; Exs. A.11–A.21.) • Phases 4 and 5 address different needs on different schedules; their timing says nothing about Phase 3, which alone resolves the 2028 overloads. (Narrative at 7–8; Needs Memo at 4.)	Council Findings (Ex. 145) at 27, 51
Demand is driven by data centers The demand behind the Project comes from data centers and industrial customers in Washington County, not North and Northwest Portland, where residential demand is essentially flat. E.g., Ex. 134 at 3–4; Ex. 20 at 6; Ex. 31 at 17–18; Ex. 205 at 8–15.	• The deficiency is a local contingency overload on facilities serving North and Northwest Portland, and those customers are the ones who would lose power. (Needs Memo at 4–6; Staff Report at 8.) • PGE does not dispute that high-tech and data-center load accounts for about 75 percent of system-wide load growth from 2025 to 2030, but PGE identified the Harborton deficiency in 2015, before that growth. (Needs Memo at 4, 6, 12.) • Residential growth rates and regional reserve margins measure different things. Transmission planning relies on indicators of peak loading of location-specific power infrastructure (e.g., poles/wires) under contingency conditions. (NERC TPL-001-5.1; Narrative at 24–26.) • The source of demand growth is irrelevant as public utilities have a state law obligation to serve all customers without discrimination; rates are within OPUC's jurisdiction and are not an approval criterion. Regardless of what is driving the demand, if the system is overburdened by demand, it is North and Northwest Portland that would suffer the consequences of an overload due to the location of the bottleneck and this project prevents such a situation.	Final Argument § D at 17 Needs Memo (Ex. A.5) at 4–6, 12 Staff Report at 8–9 NERC TPL-001-5.1 (Ex. A.31) Narrative (Ex. A.41) at 21–29
Need not independently verified No agency or regional planning body has confirmed the need; OPUC found PGE's analysis of transmission alternatives inadequate in Order No. 24-096; and BPA's regional projects add capacity. E.g., Ex. 205 at 8, 14–15; Ex. 32 at 2–3; Ex. 34 at 15–25.	• No criterion requires third-party confirmation of need, and PGE's studies are the ones federal law requires. NERC places the planning obligation on PGE as the transmission planner, and PGE publishes its Local Transmission Plans under FERC transparency requirements. PacifiCorp, BPA, and NorthernGrid include the Project in their modeling. (Staff Report at 8; Needs Memo at 6; Exs. A.11–A.21, A.34.) • OPUC Order No. 24-096 addressed PGE's resource-plan analysis generally, not whether this Project is needed, and states that it does not intend to imply that non-wires resources "will supplant transmission entirely." (Ex. 34 at 23–25.)	Needs Memo (Ex. A.5) at 4–6 Staff Report at 8 Local Transmission Plans (Exs. A.11–A.21); FERC OATT Attachment K (Ex. A.34) Ex. 34 at 23–25 (OPUC Order No. 24-096), 30–31 Narrative (Ex. A.41) at 11–14, 24–26

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	• BPA's projects address regional transfer paths, not the local Harborton contingencies; the commenter's own excerpt describes the South of Allston path as "fully subscribed." (Ex. 34 at 30–31.)	
Forecasts are outdated Data-center moratoria and declining per-capita energy use make PGE's load forecasts speculative. E.g., Ex. 20 at 3–4; Ex. 135 at 9–10; Ex. 31 at 23.	• The overloads appear at 2028 loads in each of four consecutive annual studies. (Needs Memo at 4.) The forecasts are the same vetted forecasts PGE uses in its Local Transmission Plans, integrated resource planning, and OPUC filings. (Needs Memo at 7.) • Statewide per-capita consumption does not measure peak loading on the specific facilities at issue, and the moratorium claims are unsourced.	Final Argument § D at 17 Needs Memo (Ex. A.5) at 4, 7 Staff Report at 8–9 Local Transmission Plans (Exs. A.11–A.21)
PROJECT ALTERNATIVES **Minor Amendment Criterion C; Exception Criteria B and C (Forest Park Plan at 217)**		
Marina Way is a feasible outside-Park route Toth Alternatives 4 and 8 along NW Marina Way would avoid Forest Park and remain feasible. PGE rejected them based on cost and a 2028 deadline of its own making; otherwise, any applicant could defeat alternatives by waiting. E.g., Ex. 25 at 24; Ex. 32 at 4–7, 11–13; Ex. 31 at 19–21; Ex. 205 at 33–41.	• Marina Way is infeasible for reasons unrelated to cost or timing. The 2026 Alternatives Analysis applies Council's own test, under which an alternative must be feasible, and does not rest on cost or inconvenience. (Council Findings at 50; 2026 Alternatives Analysis at 25.) • Property rights: a 7,000-foot corridor requiring expansion of the 60-foot right-of-way to 125 feet across 9 to 15 properties, including 1 to 5 homes and businesses. Condemnation would require a CPCN from OPUC. (2026 Alternatives Analysis at 9, 11, 17–18, 28; ORS 758.015.) • A Marina Way alternative would need a vegetation removal easement to cross through the Harborton restoration site, which is prohibited by a perpetual deed restriction, incorporated in a 2025 federal consent decree that prohibits new structures, grading, and vegetation removal, keeps utilities "within their existing right-of-way," and cannot be waived by PGE or the City. (Ex. A.10, App. J at 2–4; 2026 Alternatives Analysis at 19–20.) • Existing 115 kV line: new 230 kV poles could not carry the existing Harborton–St. Helens circuit, and no relocation route has been identified. (2026 Alternatives Analysis at 20–22.) • Physical and permitting constraints: railroad clearances, restricted ODOT right-of-way, two pipelines, landslide-prone slopes, floodplain, and County, City, state, and federal approvals. DEA found "no clearly constructible alignment." (2026 Alternatives Analysis at 9–13, 19–22.) • These constraints are interrelated: "[a] design change intended to avoid one constraint would often worsen another." A series of individually plausible map	Final Argument §§ E.2–E.3 at 19–22 Narrative (Ex. A.41) at 48–57 2026 Alternatives Analysis (Ex. A.4) at 9–13, 17–22, 25, 28 Harborton Habitat Development Plan (Ex. A.10), App. J at 2–4 Franks Memo (Ex. A.36) at 1, 3–5 Mediation Materials (Ex. A.24), Docs. 1–3, 7 2024 Alternatives Analysis (Ex. A.35) at 7, 10–11, 20 Council Findings (Ex. 145) at 50–51 Staff Report at 14–16 Ex. 39; Ex. 30 at 16–18 (residents along route)

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	segments is not a feasible end-to-end transmission line. (2026 Alternatives Analysis at 22.) • A Marina Way alternative would still affect 1.7 to 4 acres and 136 to 350 trees inside Forest Park, plus 1.5 to 3 acres of wetlands and six streams, two of them containing ESA-listed species. (2026 Alternatives Analysis at 28.) Residents along the route confirm the property and habitat impacts. (Ex. 39; Ex. 30 at 16–18.) • Timing independently confirms the result. Marina Way would take more than seven years, and the 2028 date is a federal compliance date identified since 2015, not a deadline of PGE's making. (Franks Memo at 1, 3; Needs Memo at 4–6.)	
Toth Report shows viable alternatives PGE's own 2022 Toth Report found Marina Way Alternatives 4 and 8 viable, with the remaining impediment lying "wholly within PGE's purview." PGE also withheld the report until 2024. E.g., Ex. 32 at 6, 12–13; Ex. 31 at 19; Ex. 183 at 4–5; Ex. 149 at 2–3.	• The Toth Report was a preliminary desktop screening study, and it did not find Marina Way feasible. It found that Alternatives 4 and 8 "remain feasible for further discussion" because their remaining severe impediment "may be surmountable with further study." Its mitigated summary still rates every route as facing a severe impediment, which under its own rule renders a route infeasible. (Toth Report at 6, 22, 27–28 & Table 2.) • The report was not prepared by experts in many of the subjects it evaluated. It identifies no wetland scientist, biologist, or land use or property attorney among its preparers, and it missed issues later studies confirmed. It found no endangered species, yet the corridor would affect two streams occupied by ESA-listed species and a sensitive frog breeding site; it did not address County overlays; and it did not examine the restoration-site deed restriction. (Toth Report at 12, 14; 2026 Alternatives Analysis at 19–21, 28 & n.13.) • The "further study" Toth called for has been done, in the 2024 Alternatives Analysis, the Mediation Materials, and the 2026 Alternatives Analysis. Opponents do not engage with these refined and more technically sound reports. (Final Argument § E.2 at 19–20.) • The Toth Report is in the record (Ex. 168), and the timing of its release does not bear on any criterion. The 2024 application was the first opportunity to share the Toth report. There's wasn't a process where PGE would share internal engineering reports with the public prior to the 2024 land use application. The Toth report was not included in the initial application because it was superseded by the more robust and thorough alternatives analysis. However, at the request of commenters, PGE shared the report during the land use completeness response for transparency.	Final Argument § E.2 at 19–20 Toth Report (Ex. 168) at 1, 3, 5–6, 12, 14, 22, 27–28 & Table 2 2024 Alternatives Analysis (Ex. A.35) at 7, 10–11, 20 Mediation Materials (Ex. A.24) 2026 Alternatives Analysis (Ex. A.4) at 7–8, 17–22, 28
1945 Marina Way easements avoid condemnation	• Even if those easements could widen, the route still runs beside the Harborton restoration site, whose deed restriction confines utilities to their existing right-of-way and cannot be waived. (Ex. A.10, App. J at 2–4; 2026 Alternatives Analysis at	Final Argument § E.3 at 21–22

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PGE's 1945 Marina Way easements run "of such width as may be reasonably necessary," so the route needs no new rights, condemnation, or CPCN, as a Bateman Seidel letter confirms. E.g., Ex. 143 at 1–2; Ex. 32 at 21–23; Ex. 31 at 20–21; Ex. 205 at 35–36.	19–20.) DEA found the 1945 easement along that site inadequate for a modern 230 kV corridor. (2026 Alternatives Analysis at 19 n.7.) • The Bateman Seidel letter analyzes only the width language in two easements, concedes that the prior-use rule PGE cited is "generally true," and does not address the deed restriction, the 115 kV relocation, the rail, pipeline, and highway constraints, or parcels the easements do not cover. At most, it identifies a property dispute landowners could litigate, which adds schedule risk. (Ex. 143 at 1–2.) • Nor does the letter show that those easements could be expanded to a "potentially doubled" corridor for a different voltage class across neighboring land. It relies on cases recognizing evolving uses "of the same character," and the case on which it relies for expansion turned on a grant to dig a millrace "as deep and wide as may be necessary." (Ex. 143; Final Argument § E.3 at 21–22.) • The property obstacle does not depend on what landowners told PGE. It is the need for new rights across 9 to 15 properties. (2026 Alternatives Analysis at 17–18, 28.)	2026 Alternatives Analysis (Ex. A.4) at 9, 17–20 & n.7, 28 Harborton Habitat Development Plan (Ex. A.10), App. J at 2–4 Franks Memo (Ex. A.36) at 4 Ex. 143 (Bateman Seidel letter)
Reconductoring and grid-enhancing technologies Reconductoring, advanced conductors, or grid-enhancing technologies could add capacity on existing lines without a new segment, as Council found in 2025. E.g., Ex. 163 at 41–45; Ex. 31 at 18; Ex. 205 at 39, 41–42.	• The deficiency is a system-configuration problem that higher-capacity wires cannot fix. Harborton Substation has a single 230 kV connection, and the area is served through a three-terminal line. The Project increases the substation's 230 kV connections from one to four and eliminates the three-terminal configuration, creating alternate pathways when a facility is out of service. (2026 Alternatives Analysis at 4–6.) • Concepts that do not deliver an additional 230 kV source into Harborton do not resolve the deficiency and are not true alternatives. (2026 Alternatives Analysis at 7.) As PGE's first-record evidence explained, the grid "requires more connections, not higher capacity versions of existing connections." (Council Findings at 52.) • PGE's federally filed transmission plan lists the Evergreen–Harborton reconductoring as a separate project with a 2032 completion date, alongside the Harborton Reliability Project rather than in place of it. (Needs Memo, App. C at PDF 48, 50.)	Final Argument §§ D, E.1 at 17–19 2026 Alternatives Analysis (Ex. A.4) at 4–7 Narrative (Ex. A.41) at 58–60 Needs Memo (Ex. A.5) at 4–5 & App. C at PDF 48, 50 Council Findings (Ex. 145) at 52
Batteries, solar, and other non-wires measures Battery storage, rooftop solar, demand response, or other distributed resources could meet the need or	• These are different projects, not alternative locations or design modifications for the proposal. The alternatives criteria address locations and designs for "the proposal" or "the use." (Forest Park Plan at 217; Narrative at 48–57.) • Even under staff's broader reading, distributed resources cannot close the gap. The area has about 12 MW of rooftop solar and 8 MW of distributed storage against a 238 MW deficit, and PGE's forecasts already embed expected distributed resources and demand response. (Needs Memo at 7; Staff Report at 12.)	Final Argument §§ D, E.1 at 17–19 Narrative (Ex. A.41) at 48–60 Needs Memo (Ex. A.5) at 6–7 & App. C at 38–39 Staff Report at 12

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bridge the gap until an outside route is built. E.g., Ex. 134 at 4; Ex. 183 at 4; Ex. 173 at 6; Ex. 205 at 33.	• Non-wires alternatives are evaluated in FERC-mandated local transmission planning and OPUC's integrated resource planning, and no stakeholder proposed an alternative solution in the 2024–2025 planning cycle. (Needs Memo, App. C at PDF 38–39; Ex. A.34.) • As one commenter acknowledges, PGE's existing batteries would be cut off in the contingencies studied. (Ex. 173 at 6.)	FERC OATT Attachment K (Ex. A.34)
Exception B is unqualified; staff misapplied it Exception B has no "practicable" qualifier, so any outside location must be used regardless of cost, and staff did not apply Council's reading of the criterion. E.g., Ex. 31 at 4; Ex. 123 at 4–5; Ex. 137 at 34–35.	• PGE agrees that cost is not the test, and the record does not rely on it. The 2026 Alternatives Analysis applies Council's feasibility test and states that the alternatives are not infeasible "because they would involve greater cost or inconvenience." (2026 Alternatives Analysis at 25; Council Findings at 50.) • Staff applied a broader reading than PGE's, asking whether the need could be met outside the Park, and found the criterion met on the feasibility evidence. (Staff Report at 14–16.) • PGE preserves its position that "alternative locations * * * for the proposal" refers to locations for this 1,400-foot connection. (Narrative at 52–57.) • FPNA's comparison of the cost increase to PGE's capital budget answers an argument PGE is not making. (Ex. 205 at 41.)	Final Argument § E.1 at 18–19 2026 Alternatives Analysis (Ex. A.4) at 25 Council Findings (Ex. 145) at 50 Staff Report at 14–16 Narrative (Ex. A.41) at 52–57
Compact monopoles with 115 kV underbuild Compact monopoles carrying the 115 kV circuit as an underbuild would avoid relocating the existing line along Marina Way. E.g., Ex. 32 at 6, 13, 18; Ex. 31 at 20.	• No commenter offers a design, clearance calculation, or schedule showing this would work. DEA found that 230 kV poles on Marina Way "would not be able to also accommodate the existing 115 kV" circuit, and the Toth Report did not evaluate co-locating three lines in one corridor. (2024 Alternatives Analysis at 11, 20; 2026 Alternatives Analysis at 20–22; Ex. 32 at 13.) • An underbuild would leave every other Marina Way obstacle in place, including the property rights and the restoration-site deed restriction. (See "Marina Way is a feasible outside-Park route," above.)	Final Argument § E.3 at 21–22 2024 Alternatives Analysis (Ex. A.35) at 11, 20 2026 Alternatives Analysis (Ex. A.4) at 20–22 Franks Memo (Ex. A.36) at 4–5 Toth Report (Ex. 168) at 22, 27
FPNA's new route variations PGE-owned lots north of the Wapato bridge could serve as a shorter north termination; Toth Route 2 could cross back and forth over Highway 30; County planners say utility projects are exempt from County	• None of these ideas removes the Marina Way obstacles. The north termination point was selected to avoid a transmission crossing of the Sauvie Island bridge. Moving it changes only the north connection and leaves the property, deed-restriction, 115 kV, rail, highway, and permitting obstacles in place. (2026 Alternatives Analysis at 17.) • Each Highway 30 crossing adds ODOT approvals in a right-of-way DEA describes as "highly restricted for new transmission poles," and the Toth Report rated Route	Final Argument § E.3 at 21–22 2026 Alternatives Analysis (Ex. A.4) at 10–13, 17, 20–21 Narrative (Ex. A.41) at 7–8 Ex. 205 at 37–40, 50

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environmental review; and PGE's Phase 2 work shows that Highway 30 permitting is manageable. E.g., Ex. 205 at 35, 37–40, 50.	2's Park-proximity and constructability impediments severe. (2026 Alternatives Analysis at 10–11, 21; Ex. 205 at 37, quoting the Toth Report.) • The report of unnamed County planners identifies no code provision and cannot displace the County provisions David Evans & Associates identifies. (2026 Alternatives Analysis at 10–13, 20–21.) • Phase 2 involves 115 kV lines along Highway 30 and required its own land use approval, so it does not show that a new 230 kV corridor across private land could be permitted quickly. (Narrative at 7–8.)	
Design and construction-method alternatives PGE evaluated alternative routes but not alternative construction methods, such as removing upper trees from the BPA Road or using narrower logging roads. E.g., Ex. 205 at 33–34; Ex. 20 at 6.	• The Completeness Memo documents the design and construction-method alternatives Council found missing. PGE compared three tree-clearing approaches, three landing configurations, and five landing construction methods, and it selected the least-disturbing feasible option at each step. (Completeness Memo, Tables 2–4; Staff Report at 12–13.) • The refined design eliminates four previously proposed structures and a permanent mid-slope access road, limits landings to about 1.2 acres, and tops or girdles 34 trees to retain habitat structure. (Completeness Memo, Tables 2–3; Staff Report at 12–13.) • Logging access uses temporary slash haul roads and removable log-stringer bridges at stream crossings. A tree protection system of root-zone boundary markers, active-edge fencing, trunk protection, and arborist supervision protects retained trees, and mechanized equipment is confined to the approved project limits. (Completeness Memo at 14–17; Staff Report at 13–14, 26 (Condition D.1).) • Landing dimensions are set by the equipment needed and by OSHA and NESC clearances from energized lines, and helicopter construction is not viable given the surrounding power lines and highway. (Completeness Memo § C.3.) • The tall-tower alternative would remain in the Park, require additional easement area, and lack room at the base of the hill. (2026 Alternatives Analysis at 15–17; Staff Report at 15.) • Opponents offer no design showing that their suggestions would reduce impacts while meeting clearance and safety requirements.	Final Argument §§ E.1, G at 18–19, 24 Completeness Memo (Ex. A.37) at 2–3, 7–17 & Tables 2–4 Staff Report at 12–13, 15 2026 Alternatives Analysis (Ex. A.4) at 15–17 Tree Plan (Ex. A.39) Narrative (Ex. A.41) at 50–52
Less harmful in-Park alternatives Practicable locations within the Park would have less impact, such as using	• The proposed alignment is the shortest feasible connection between Harborton Substation and the existing 230 kV lines, and it lies within PGE's existing easement beside existing corridors. (Staff Report at 16; Narrative at 57–58.) • PGE's studies reviewed in-Park concepts, including use of existing towers and four-circuit structures. Those concepts either would not deliver an additional 230 kV	Final Argument § E.1 at 18–19 Narrative (Ex. A.41) at 57–58 2026 Alternatives Analysis (Ex. A.4) at 7, 15–17

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existing towers and corridors rather than clearing forest. E.g., Ex. 169; Ex. 163 at 28–39; Ex. 20 at 6.	source into Harborton, would leave the existing vulnerabilities in place, or would not comply with federal reliability standards. (2026 Alternatives Analysis at 7.) The remaining in-Park option, taller ridge towers, is infeasible and would increase disturbance. (*Id.* at 15–17.) • Other in-Park locations would require a longer alignment, more access, and new easement area, contrary to the Forest Park Plan's direction to avoid expanding easement areas. (Staff Report at 16; Forest Park Plan at 159.)	2024 Alternatives Analysis (Ex. A.35) at 7 Staff Report at 16 Forest Park Plan at 159
Plan-prescribed corridor management The Forest Park Plan at pages 69, 101, and 159-63 directs utilities to keep corridors as narrow as possible, top conifers rather than remove them, and consolidate corridors. The Project instead widens the cleared corridor by about 100 feet for 1,400 feet and adds a new corridor rather than redeveloping an existing one. E.g., Ex. 27 at 1–3; Ex. 205 at 17, 27–28, 30; Ex. 204 at 14.	• The Project places the new lines in an existing corridor. The stand lies within PGE's existing 1971 easement and in the gap in a wider existing utility corridor between PGE and BPA transmission lines. The Project adds no easement area and creates no new corridor. (Staff Report at 7, 10; Mitigation Plan at 7; Forest Park Plan at 159–63.) • The management "recommendations" and "working hypotheses" referenced on these pages of the Forest Park Plan are not approval criteria. • The need for the Project requires the proposed tree removal. The Needs Memo shows that Phase 3 is the only proposal that resolves all three 2028 overloads, and it does so by adding a 230 kV connection to Harborton at this location. Trees are topped or girdled where conductor clearances allow, and the remaining trees cannot be retained consistent with those clearances. The Forest Park Plan's direction to top conifers is a "working hypothesis" for managing powerline corridors, and it asks utilities to adopt improved practices "on a voluntary basis" until easement agreements are modified. (Needs Memo at 4–6; Forest Park Plan at 159–62.) • The siting of the Project in this area is required by the need. The Project is the shortest feasible connection between Harborton Substation and the existing 230 kV lines, and the alternatives analyses found no feasible location that would avoid this stand. (See "Less harmful in-Park alternatives" and "Marina Way is a feasible outside-Park route," above.) • The Project does not expand the corridor in a way the Forest Park Plan addresses. Tree removal is within the existing PGE utility corridor and between the existing PGE and BPA lines, so it adds no new break in interior canopy or barrier to animal movement. Even if the clearing were considered an expansion of the corridor, the need for the Project requires it, and the Mitigation Plan offsets the remaining long-term impact, a change in habitat type on a few acres at the edge of a much larger forest, with taller shrub linkages on site and North Unit mitigation. (Mitigation Plan at 57; Herlocker Letter at 3–8.)	Herlocker Letter (Ex. 202) at 3–8 & Table 1 Mitigation Plan (Ex. A.3) at 7, 57 Needs Memo (Ex. A.5) at 4–6 Staff Report at 7, 10 Forest Park Plan at 69, 101, and 159-63

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ADEQUACY OF MITIGATION Exception Criterion D: "Any long-term adverse impacts of the proposed action on resource values are fully mitigated within the Management Unit." (Forest Park Plan at 217)		
Payment is not North Unit mitigation PGE's mitigation is only "a check for $5.5 million" that the City may spend anywhere in the Park at its discretion, so nothing assures that long-term impacts will be "fully mitigated within the Management Unit." Staff even states that the funds may be used elsewhere. E.g., Ex. 205 at 3; Ex. 134 at 5; Ex. 137 at 11–12; Ex. 25 at 23–24.	• The mitigation is defined, located in the North Unit, and tied to each long-term impact. The Mitigation Plan directs the fee-in-lieu funds first to North Unit priorities (invasive-species removal and native revegetation, red-legged frog breeding wetlands, and stream and riparian restoration), and the Herlocker Letter matches each long-term impact to a North Unit measure of the same type. (Mitigation Plan at 58–61; Herlocker Letter at 3–7 & Table 1.) • Ord. 191314 requires PP&R to use in-lieu fees "to implement restoration projects within the same management unit of the park where impacts occurred," directs them to the Forest Park Trust Fund's management-unit orders, generally calls for expenditure within five years, requires annual reporting, and is "binding City policy." Opponents rely on these same provisions. (Ord. 191314, Finding 7, Directive C, Impact Statement; Ex. 137 at 35, 38; Ex. 31 at 6.) • The Agreement separately prioritizes North Unit work for the remaining funds. (Agreement ¶ 3(C).) • PGE would accept a revision to Condition B that requires deposit of the $5.5 million in the Forest Park Trust Fund; deposit of not less than the fee-in-lieu amount in the Trust Fund's North Management Unit order, to be spent within the North Unit; use of the funds for projects that protect, enhance, and/or restore ecological resource values in the park, or for acquisition of land or conservation easements for addition to the North Unit; and a PP&R mitigation plan and annual reporting consistent with Ord. 191314. (Final Argument § C.3 at 16 & n.82.) • The Mitigation Plan separates on-site restoration from off-site North Unit mitigation, so it is not merely a site restoration plan. (Herlocker Letter at 3–7.)	Final Argument §§ C.2–C.3 at 12–16 & n.82 (proposed revision to Condition B) Narrative (Ex. A.41) at 60–64 Mitigation Plan (Ex. A.3) at 38, 58–71 Herlocker Letter (Ex. 202) at 1–8 & Table 1 Ord. 191314, Finding 7, Directive C, Impact Statement Agreement (Ex. A.40) ¶ 3(A), (C)–(D) Staff Report at 16–17, 26 (Condition B)
No room for mitigation in the North Unit The North Unit has no room for in-kind replacement of 4.7 acres of mature forest, as Council found and PP&R said in the first proceeding, so full mitigation within the Management Unit is impossible.	• The record now documents the North Unit capacity Council found lacking. PP&R's Restore Forest Park initiative identifies two North Unit priority weed-removal areas totaling 315 acres. Even PP&R's most conservative figure, "as many as 75 acres" of heavily infested North Unit forest, is 16 times the 4.7-acre conversion. (Herlocker Letter at 2, 4; Mitigation Plan at 59.) • PP&R has identified North Unit sites for new frog-breeding wetlands near the Newberry Trail entrance and along Firelane 12, and a stream crossing and riparian restoration on the Newton Road trail. (Mitigation Plan at 60–61.) • Private forestland zoned for Commercial Forest Use is connected to the North Unit. Four nearby forested properties totaling about 59 acres sold for $4.25 million since	Final Argument § C.2 at 12–15 Herlocker Letter (Ex. 202) at 2, 4–7 Mitigation Plan (Ex. A.3) at 59–61 Ex. 193 at 134–38 (forestland sales and parcel data)

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E.g., Ex. 183 at 5; Ex. 180 at 14; Ex. 129 at 1; Ex. 31 at 6.	July 2022, and eight private forested parcels nearby total about 213 acres, all zoned for commercial forest use. (Ex. 193 at 134–35; Herlocker Letter at 5–6.) Opponents themselves estimated in April 2026 that $5.1 million would conserve 80 to 100 acres near the north end of the Park. (Ex. 204 at 12–13.)	Forest Park Plan at 105–06, 136–37 Agreement (Ex. A.40) ¶ 3(C)(iii); Staff Report at 17
Invasive removal and acquisition are not in-kind Invasive-species removal is "weed management," not replacement of mature forest; buying existing forest protects habitat without replacing what is lost; and invasive-removal gains will not last once funding lapses. E.g., Ex. 134 at 5–6; Ex. 137 at 36, 40; Ex. 197 at 5; Ex. 205 at 44.	• The Forest Park Plan treats invasive removal as the Park's top natural resource priority, especially in the North Unit. It calls ivy removal "probably the park's highest natural resource management priority," directs that "[e]radication from this unit should be a priority," and explains that ivy excludes native vegetation, prevents Douglas fir regeneration, and harms wildlife. (Forest Park Plan at 43, 105, 148–49.) Removing it restores the native understory and conifer regeneration that lead to the Forest Park Plan's self-sustaining ancient forest. (Forest Park Plan at 98; Herlocker Letter at 4.) • Council's fee-in-lieu ordinance states that "comprehensive restoration over large areas, including the removal of invasive species and revegetation with shrubs and forbs, is mitigation more readily needed in the park." (Ord. 191314, Impact Statement.) • The Forest Park Plan directs that land under threat of impact (e.g., logging) that is critical for wildlife passage "should be acquired or protected with conservation easements." (Forest Park Plan at 105–06.) Protecting forest that could otherwise be logged preserves and expands the canopy functions, directly compensating for the Project effects. (Herlocker Letter at 5–6.) • Durability is a reason to fund follow-up treatment, which the funds and PP&R's established contractor program provide. (Mitigation Plan at 59; Herlocker Letter at 4.)	Final Argument § C.2 at 12–15 Forest Park Plan at ix, 43, 98, 101, 105–06, 148–49 Ord. 191314, Impact Statement Ex. 189 at 1, 8 (Renew and Restore Forest Park) Herlocker Letter (Ex. 202) at 4–6 Mitigation Plan (Ex. A.3) at 59 Ex. 193 at 102, 113, 138
No equivalency or temporal-loss analysis The mitigation lacks a function-based equivalency analysis, compensation for the decades before replacement habitat matures, and enforceable long-term benchmarks. PGE should apply mitigation ratios proposed by non-City of Portland organizations that some jurisdictions apply for other species of trees.	• The mitigation answers temporal loss through scale and timing. It begins within a year of clearing, produces early benefits from invasive removal and riparian repair, and covers an area many times larger than the impact while the restored corridor matures. (Herlocker Letter at 6–8; Mitigation Plan at 76.) • PGE's principal environmental science specialist concludes that the North Unit measures "will fully mitigate the Project's long-term adverse impacts," and no qualified witness says otherwise. (Herlocker Letter at 8.) • The Forest Park Plan prescribes no equivalency method or ratio. (See Council Findings at 57.) WMSWCD's ratios come from Washington oak-woodland guidance it concedes is not binding, and the affected stand is not oak woodland. (Ex. 137 at 33.) WMSWCD's call for identification of specific parcels, an	Final Argument § C.3 at 15–16 Herlocker Letter (Ex. 202) at 6–8 & Table 1 Mitigation Plan (Ex. A.3) at 59, 72–77 Staff Report at 26–27 (Condition F) Council Findings (Ex. 145) at 57–58 Ord. 191314, Finding 7

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E.g., Ex. 137 at 33, 36, 38–41; Ex. 134 at 6–7.	independent financial steward, a joint oversight board, closing before clearing, surety, and benchmarks for land acquisition are not required by code. • Even though PGE provides temporal loss analysis for the North Unit, it is not required by the code which only requires that long-term impacts be mitigated as opposed to temporal impacts. • Accountability is enforceable. Condition F requires ten years of monitoring against the Mitigation Plan's performance standards, and Ord. 191314 generally calls for in-lieu fees to be spent within five years and requires annual reporting. (Staff Report at 26–27; Ord. 191314, Finding 7.)	
$5.5 million is not enough PP&R's mediation list totaled about $8 million; the $5.5 million was negotiated rather than calculated; project cost should not cap mitigation; and any approval should require at least $6 million more for land protection, managed by a public-private partnership. E.g., Ex. 134 at 7; Ex. 137 at 12, 14; Ex. 197 at 3; Ex. 204 at 17–20; Ex. 128 at 36–39.	• Exception D asks whether the measures fully mitigate long-term impacts, not how the dollar amount was reached, whether more money could have been negotiated, or who should control the funds. The measures are matched to the impacts in type and scale, and PGE agrees that project cost does not cap mitigation. (Herlocker Letter at 3–8.) • PP&R's list describes itself as "conceptual ideas for discussion purposes only," not vetted for "practicality, feasibility, legality, cost and other necessary considerations." Most of its dollars are for Park-wide invasive and wildfire work, infrastructure, and a staff position; its North Unit amphibian and acquisition items fit within the fee-in-lieu amount. (Ex. 145 at 117; Ex. 137 at 14.) • The $6 million request applies an unexplained tenfold multiplier to about 10 acres of total disturbance, counting temporary construction areas that will be restored, and shows no basis for the dollar figure. (Ex. 204 at 19 n.2, 20.) • The chronology recounts PGE's mediation offer letters despite the confidentiality the formal mediation terms required. PGE notes that the chronology omits the organizations' own April 2026 offer to join a remand agreement if PGE paid $7.5 million, with $5.1 million to be transferred to a trust "managed by a partnership led by the Forest Park Conservancy." (Ex. 204 at 12–13, 17–19.)	Final Argument § C.3 at 15–16 Ex. 145 at 117; Ex. 137 at 14 (PP&R list) Ex. 204 at 9–10, 17–20 Herlocker Letter (Ex. 202) at 3–8 Mitigation Plan (Ex. A.3) at 38, 59, 65
Ordinance 191314 does not establish adequacy Ord. 191314 contemplates a PP&R mitigation plan reviewed by the City and included in the land use approval, which the record lacks. The fee is a tree-replacement formula that does not prove adequacy, and the	• Council has already decided legislatively how tree removal in Forest Park is mitigated. Ord. 191314 adopts a per-tree fee schedule, directs the fees to PP&R restoration in the affected management unit, and provides that PP&R "will demonstrate how the mitigation in-lieu fee satisfies the required mitigation." PGE will pay that amount and more than double it. (Ord. 191314, Findings 7–8, Directive A, Ex. A; Final Argument § C.3 at 15–16.) • The ordinance expressly applies to PGE development in its easement. Ordinance Recital D states, "There are a number of existing utility easements that run through Forest Park, held by Portland General Electric (PGE), Bonneville Power	Final Argument § C.3 at 15–16 Ord. 191314, Findings 7–8, Directive A, Ex. A Mitigation Plan (Ex. A.3) at 38 (Table 6), 58–71 Herlocker Letter (Ex. 202) at 2–8

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Mitigation Plan gives two different fee figures. E.g., Ex. 180 at 14; Ex. 137 at 35, 38; Ex. 134 at 5.	Administration (BPA), Kinder Morgan, and NW Natural Gas. The infrastructure associated with these easements requires ongoing maintenance or additional development which can result in natural resource impacts." • The ordinance is thus a City-approved method for using PP&R-administered restoration in place of applicant-implemented mitigation, and the Mitigation Plan and Herlocker Letter supply the project-specific showing. (Final Argument § C.3 at 15–16.) • The North Unit projects are already identified in the record, based on PP&R's priorities, in the Mitigation Plan and the Herlocker Letter. (Mitigation Plan at 58–71; Herlocker Letter at 2–7.) • Ord. 191314 does not require PP&R to select specific mitigation projects in order for PGE to access the fee-in-lieu mitigation option as part of its Application. Mitigation project selection and timing issues can be addressed through a condition of approval as proposed in the Staff Report. • The Mitigation Plan calculates the fee-in-lieu amount at $2,574,675, and PGE would accept a revision to Condition B that ties the amount calculated under the ordinance to North Unit mitigation. (Mitigation Plan at 38, Table 6; Final Argument § C.3 at 16 & n.82.)	Narrative (Ex. A.41) at 60–64
Newton Wetland is now grant-funded The Newton Wetland project, one of the few defined North Unit projects, is now funded by an Oregon Watershed Enhancement Board grant and can no longer count as PGE mitigation. E.g., Ex. 197 at 4; Ex. 205 at 29; Ex. 208.	• The grant covers part of one wetland project, and PGE's mitigation does not depend on it. The Herlocker Letter's North Unit analysis does not rely on the Newton Wetland. (Herlocker Letter at 5–7.) • OWEB approved $247,262 in partial funding for the Newton Wetland project. PGE will not count the grant-funded work as its own mitigation, and the mitigation funds can cover the portions of the project OWEB did not fund. (Ex. 208.) • The Forest Park Plan calls for roughly doubling the size of the Newton Wetland, and the Mitigation Plan identifies other wetland sites, so the funds can expand or complement the grant-funded work. (Forest Park Plan at 171–72; Mitigation Plan at 60–61, 65.) • The October 12 email is not rebuttal evidence: it predates the hearing, and FPNA had already relied on it in its October 21 letter. (Ex. 208; Ex. 197 at 4 & n.9; Ex. 130.)	Final Argument § C.2 at 15 & nn.70–72 Ex. 208 Forest Park Plan at 171–72 (Project RE-11N) Mitigation Plan (Ex. A.3) at 60–61, 65 Herlocker Letter (Ex. 202) at 5–7
No "Restore Forest Park Fund" The City has no "Restore Forest Park Fund," so Condition B sends the	• This is a dispute over a label. Ord. 191314 directs in-lieu fees into the Forest Park Trust Fund, which "has three internal orders for each management unit of the park," and the revision to Condition B that PGE would accept names that fund. (Ord. 191314, Impact Statement; Final Argument § C.3 at 16 & n.82.)	Final Argument § C.3 at 16 & n.82 (proposed revision to Condition B)

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payment to a fund with no spending rules. E.g., Ex. 197 at 4.		Ord. 191314, Finding 7, Impact Statement Staff Report at 26 (Condition B)
PROJECT IMPACTS AND RESTORATION MEASURES Minor Amendment Criterion D: "A construction management plan and a mitigation plan will minimize impacts on resources and restore adjacent disturbed areas." (Forest Park Plan at 217)		
Increased wildfire risk Removing mature canopy will dry soils and fuels and open a wind-exposed edge, increasing wildfire risk near neighborhoods and the Critical Energy Infrastructure Hub; new lines also add ignition risk. Some commenters tie this to Forest Park Plan Strategy 7 (park safety). E.g., Ex. 128 at 45–50; Ex. 134 at 8; Ex. 205 at 31–32; Ex. 128 at 4–6.	• PGE's fire behavior expert explains that the claim "is not supported." Selective canopy removal "does not automatically create a uniformly drier or more fire-prone forest," and fire behavior "depends on the completed fuel complex, not on canopy cover alone." With ladder-fuel reduction and restoration maintained, the treatment "can reduce the pathways by which vegetation contacts conductors and causes ignition" and the connectivity that lets surface fire reach the crown. (Stinchfield Letter at 1–2.) • Opponents' academic witness concedes that a warmer exposed surface need not produce a more hazardous fire environment "if combustible fuels are removed or effectively managed," and that his letter "does not constitute a site-specific wildfire hazard assessment." (Ex. 128 at 47, 50.) • The City treats invasive removal as a principal wildfire-risk measure in Forest Park because invasive plants "increase risk of fire frequency, size, and intensity" and act as ladder fuels. The mitigation funds that work and fire-lane access improvements. (Ex. 190 at 4, 7–8; Ex. 193 at 131; Mitigation Plan at 42, 70.) • Council's 2025 finding rested on the absence of contrary evidence, which the record now supplies. (Council Findings at 41–42.) Strategy 7 addresses safety around unwanted and illegal activities, not wildfire. (Staff Report at 11.)	Final Argument § C.2 at 12–15 Stinchfield Letter (Ex. 198), with enclosures (Exs. 199–201) Ex. 128 at 45–50 Ex. 190 at 4, 7–8; Ex. 192 at 78–85; Ex. 193 at 83–133 (City wildfire materials; Ord. 190514) Mitigation Plan (Ex. A.3) at 42, 51–58, 70 Tree Plan (Ex. A.39) at 3–5 Staff Report at 11
Red-legged frog habitat and migration The site is important non-breeding and migration habitat for the northern red-legged frog, a state sensitive species that moves between the Park and wetlands across Highway 30, and PGE's tracking data are too limited.	• The Project avoids known breeding habitat and adds breeding habitat inside the Park. Radio telemetry found that "none of the tracked frogs accessed the project site," and the frogs breed at PGE's Harborton Natural Area, where egg-mass counts have generally increased since its 2019 restoration. (Mitigation Plan at 23.) • The mitigation creates stillwater breeding wetlands in the North Unit, habitat the Forest Park Plan describes as "rare or absent," which could reduce frogs' reliance on crossing Highway 30. (Mitigation Plan at 60–61; Forest Park Plan at 58; Herlocker Letter at 5.)	Final Argument § C.2 at 12–15 Mitigation Plan (Ex. A.3) at 22–24, 60–61 Forest Park Plan at 58 Herlocker Letter (Ex. 202) at 5 HEP Analysis (Ex. A.42) at 9–15 Ex. 121 at 20 (ODFW email)

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E.g., Ex. 121 at 20–22; Ex. 205 at 20–24; Ex. 128 at 36–39; Ex. 191 at 3–4.	• ODFW's 2026 email states that ODFW "was pleased to see the increased funding for wildlife habitat mitigation and restoration" and asks to be consulted on new frog habitat. (Ex. 121 at 20.) • PGE does not claim that frogs never use the site. The Canadian management plan FPNA cites addresses the species generally, not this site. (Ex. 207.)	Ex. 188 (Temple 2020 telemetry study)
Wetland and stream impacts The Project permanently fills two wetlands and disrupts two streams, including a stream PGE under-mapped; it crosses a "No Work Area"; and it lacks amphibian timing restrictions and confirmed state and federal permits. E.g., Ex. 20 at 6; Ex. 197 at 3, 7; Ex. 205 at 3, 24; Ex. 121 at 22.	• The wetland and stream impacts are small and are replaced with higher-value habitat. The Project affects up to 0.068 acre of low-functioning reed canarygrass wetland formed by seepage from an access-road cut, which is periodically mowed and driven through. Those functions are replaced by new frog-breeding wetlands in the North Unit. (Herlocker Letter at 3, 5; Mitigation Plan at 60.) • Stream 1 receives large wood, riparian planting, and replacement of a failed culvert that is eroding the channel. (Herlocker Letter at 3–4; Mitigation Plan at 51–58.) • The Mitigation Plan describes Stream 2 as an ephemeral drainage whose lower end infiltrates into the hillside where no defined channel remains. The City's inventory map is a planning-level map, and FPNA concedes it estimated the lower reach. (Mitigation Plan at 28; Ex. 197 at 3, 7.) • Construction best management practices, seasonal restrictions, erosion controls, work-zone delineation, and arborist supervision are required. (Mitigation Plan at 46–51; Staff Report at 13–14, 26 (Condition D).) • PGE does not object to conditions requiring amphibian timing restrictions set by a qualified biologist, pre-construction surveys with exclusion fencing, and state and federal wetland authorizations before ground disturbance. • Before state permitting can begin PGE needs a land use compatibility determination from the City.	Final Argument §§ C.1, G at 11–12, 24 Mitigation Plan (Ex. A.3) at 28, 46–61 Herlocker Letter (Ex. 202) at 3–5 Staff Report at 13–14, 26 (Condition D) Construction Management Plan (Exs. C.32–C.45) Restoration Plans (Exs. C.46–C.60)
PCC 33.430.150 bars construction in identified wetlands PCC 33.430.150 prohibits utility construction "within a stream channel, identified wetland, or water body," so the permanent fill of two wetlands violates the City Code and is inconsistent with the Forest Park Plan. E.g., Ex. 31 at 5.	• PCC 33.430.150 does not apply. It is a standard in Chapter 33.430, and Chapter 33.430 does not govern City-owned land within the Forest Park Plan. PCC 33.430.060 provides that the regulations of Chapter 33.430 apply to all environmental zones except specified areas, including City-owned land within the Forest Park Plan, and staff concluded that this "mak[es] it clear that the NRMP supersedes 33.430." (PCC 33.430.060; Staff Report at 18–19.) • Section 33.430.150 is also not designed for this kind of proposal. As excerpted, it sets disturbance-width and replanting standards for private connections to existing utility lines and upgrades of existing public utility lines in resource areas. It is a development standard, not an approval criterion for a new transmission segment reviewed through discretionary review.	PCC 33.430.060; PCC 33.910 ("Identified Wetlands, Identified Streams, Identified Water Bodies") Staff Report at 4, 18–19, 26 (Condition D) Mitigation Plan (Ex. A.3) at 28, 60–61 Herlocker Letter (Ex. 202) at 3–5

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	• No construction is proposed within a stream channel, identified wetland, or waterbody. The wetlands at issue are not "identified wetlands." PCC 33.910 defines "identified wetlands" as "those streams, wetlands, and waterbodies that are identified in the resource inventory or maps as being significant and in need of protection." Wetlands A and B were found by PGE's site delineation, not by the City's inventory. They are isolated, degraded, and small (up to 0.068 acre). (Staff Report at 4; Mitigation Plan at 28; Herlocker Letter at 3, 5.) No commenter identifies any inventory or map that lists either wetland as significant and in need of protection.	
Nesting birds, snags, and predator perches Clearing will disrupt nesting bald eagles and northern pygmy-owls, remove large snags that pileated woodpeckers need, and give avian predators new perches. E.g., Ex. 137 at 27; Ex. 134 at 6–7; Ex. 121 at 21–22; Ex. 205 at 46.	• No eagle nest is documented in the project site, and PGE will survey for nests before any clearing. The nearest known eagle nest is more than 660 feet away, with no occupancy observed in 2025 or May 2026. PGE will conduct nest surveys before tree or vegetation removal under the City's best management practices, coordinate with ODFW and the City, and obtain USFWS authorization if nesting-season work cannot be avoided. (Mitigation Plan at 21, 39, 49.) • Habitat structure is retained. Twenty-six dead trees stay, 31 trees will be topped and 3 girdled to create snags, and about 10 percent of cut trees will remain as downed wood. (Completeness Memo, Table 2; Herlocker Letter at 4.) • The new poles will stand among PGE and BPA transmission facilities that already border the site, not in a previously unaffected area. (Staff Report at 19, 26.)	Mitigation Plan (Ex. A.3) at 19–21, 39, 49 Completeness Memo (Ex. A.37), Table 2 Herlocker Letter (Ex. 202) at 4 HEP Analysis (Ex. A.42) at 9–15 Staff Report at 19, 26
On-site restoration is inadequate Replacing conifers with Oregon white oak woodland is out-of-kind, will take decades to mature, and is monitored for only five years. E.g., Ex. 31 at 2–4; Ex. 137 at 36; Ex. 129 at 1–3.	• On-site restoration minimizes impacts; it is not the mitigation for the long-term loss of conifer forest. Tall trees cannot return beneath energized lines, so the restoration establishes native woodland, shrub, riparian, and pollinator habitat compatible with clearances, and the long-term loss is mitigated in the North Unit. (Mitigation Plan at 51–58; Herlocker Letter at 3–4; Staff Report at 14.) • The restoration includes 3.5 acres of native woodland with 386 Oregon white oaks, 1.2 acres of native shrub habitat, snags, downed wood, and taller shrub linkages for wildlife. (Mitigation Plan at 38–39, 51–58.) • Condition F requires ten years of monitoring, with reports at Years 1, 3, 5, 7, and 10, replanting to required densities, and responsibility for survival beyond Year 10. (Staff Report at 26–27; Mitigation Plan at 76.)	Final Argument §§ C.1, G at 11–12, 24 Mitigation Plan (Ex. A.3) at 38–39, 51–58, 72–77 Staff Report at 13–14, 26–27 (Conditions E–F) Herlocker Letter (Ex. 202) at 3–4 Restoration Plans (Exs. C.46–C.60)
Slopes, windthrow, and invasive spread	• The design follows the geotechnical report, and construction controls are conditions of approval. GRI's licensed engineers and geologists prepared the geotechnical report; earthwork follows its recommendations, and Condition D requires erosion	Final Argument § G at 24 Geotechnical Report (Ex. A.8) at 28

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Clearing and grading on steep slopes above Highway 30 will cause landslides, erosion, blowdown of remaining trees, and the spread of invasive species seen under existing corridors. E.g., Ex. 183 at 2–4; Ex. 134 at 6–7; Ex. 20 at 4.	and sediment controls, work-zone delineation, and tree protection. (Geotechnical Report; Mitigation Plan at 48; Staff Report at 13–14, 26.) • The arborist's removal criteria include trees that would become windthrow concerns after clearing. (Mitigation Plan at 36; Tree Plan.) • Invasive control is required around all plantings and through ten years of monitoring and intesive maintenance, with ongoing vegetation management afterward. (Staff Report at 26–27 (Conditions E–F); Mitigation Plan at 72–77.)	Mitigation Plan (Ex. A.3) at 36, 46–51, 72–77 Tree Plan (Ex. A.39) Staff Report at 13–14, 26–27
"Old growth" and "clear-cut" claims The Project will clear-cut "old growth," "untouched" forest in "the most highly protected area of Forest Park." E.g., Ex. 131 at 14–15; Ex. 134 at 1; Ex. 181 at 10.	• The stand is second-growth, edge-influenced forest inside a utility easement and surrounded by cleared transmission corridors. Council itself found it "surrounded to the north, south, and west by existing cleared and maintained transmission corridors and to the east by Highway 30." (Council Findings at 60; Staff Report at 7.) The stand is roughly 250 feet wide, so no tree proposed for removal is more than about 125 feet from a cleared edge. The entire stand is therefore edge habitat under the Forest Park Plan, which defines edge habitat as canopy within 200 feet of its edge, and it is not interior or irreplaceable forest under the Forest Park Plan's own terms. (HEP Analysis at 11; Ex. 148 at 14; Forest Park Plan at 45.) • It is not a clear-cut. Nearly half of the inventoried trees (363 of 756) will be retained, a central block remains a no-work area, and 34 trees will be topped or girdled rather than felled. (Completeness Memo at 2, 12–13; Mitigation Plan at 30, 46; Tree Plan at 6.) • PGE does not discount the loss of mature canopy. The remaining long-term impact is a change in habitat type on a few acres at the edge of a much larger forest.	Final Argument § C.1 at 11–12 Council Findings (Ex. 145) at 60 Staff Report at 7 HEP Analysis (Ex. A.42) at 11, 13; Ex. 148 at 14 Completeness Memo (Ex. A.37) at 2, 12–13 Mitigation Plan (Ex. A.3) at 7, 30, 46 Tree Plan (Ex. A.39) at 6
CONSISTENCY WITH FOREST PARK PLAN & ENVIRONMENTAL ZONE PURPOSES Minor Amendment Criterion B; Exception Criterion E (Forest Park Plan at 217); PCC 33.430.010–.017		
Inconsistent with conservation goals and North Unit vision Clearing 4.7 acres of maturing North Unit forest cannot be consistent with Conservation Goal 1 (grow a self-sustaining ancient forest), Conservation Goal 2, or the Forest Park Plan's vision of an intact North Unit approaching old growth.	• "Consistent" means compatible when the Forest Park Plan is read as a whole, and staff correctly found the Project consistent. Consistency review allows the weighing of competing goals and does not require that a proposal independently advance every goal. (Final Argument § F at 23 & n.124; Narrative at 29–30; Staff Report at 9–11.) • Locating the Project in an area "already impacted by established transmission corridors," rather than creating a new corridor, "avoids additional fragmentation, and protects more sensitive interior forest areas." (Staff Report at 10.) • The restoration and mitigation advance Goals 1 and 2 and Strategies 1 and 3 by removing the invasive species the Forest Park Plan treats as its highest natural resource priority, creating amphibian breeding habitat, repairing streams, and	Final Argument § F at 23–24 & n.124 (meaning of "consistent") Narrative (Ex. A.41) at 29–48 Staff Report at 9–11 Forest Park Plan at ii, 98, 101, 105–06, 148–49

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Issue and Opposition Argument	PGE Response	Supporting Materials
E.g., Ex. 27 at 1–4; Ex. 134 at 6–7; Ex. 205 at 16–30; Ex. 183 at 3–4.	protecting land critical to wildlife passage. (Forest Park Plan at 98, 101, 105–06, 148–49; Staff Report at 10–11.) • PGE acknowledges the localized loss of mature canopy. Council and the 2024 staff report weighed that loss without the current restoration and mitigation record. (Staff Report at 9–11.)	
Not an "established utility corridor" Staff found the site is an undisturbed stand, not an "established utility corridor," and that the Forest Park Plan's recognition of easements does not authorize new infrastructure. The Forest Park Plan uses "utility corridor" for the cleared area, Project RE-8C/N concerns restoring corridors rather than adding lines, and utilities requested no expansion when the Forest Park Plan was adopted. E.g., Ex. 27 at 1–3; Ex. 205 at 2–3, 26; Ex. 197 at 2–3; Ex. 164 at 12–13.	• PGE's position does not depend on the "corridor" label. It rests on undisputed facts: the stand lies within PGE's existing 1971 easement and is surrounded and bisected by long-established cleared PGE and BPA corridors. Those are the facts staff relied on in finding consistency. (Staff Report at 7, 10; Mitigation Plan at 7.) • Staff did not contradict itself. It distinguished the cleared corridors from the wooded part of the easement, then found the Project consistent because of its location among those corridors and its restoration and mitigation. (Staff Report at 7, 9–10.) • The Forest Park Plan anticipates continued utility use within existing easements. It records PGE's easements and their unused widths, recognizes that service roads are necessary and "can provide critical access for fire crews," expects that powerline facilities will be redeveloped, and asks utilities to adopt improved practices "on a voluntary basis" until easement agreements are modified. Its objective to "[a]void expansion or addition of utility easement areas" is met because the Project adds none. (Forest Park Plan at 159, 161–63.) • PGE does not rely on RE-8C/N as authorization; the restoration plan advances that project's aim of restoring utility corridors. That utilities sought no expansion in 1995 confirms only that the Project must proceed as an exception, which it has. (Forest Park Plan at 159; Ex. 164 at 13.)	Final Argument § F at 23–24 Narrative (Ex. A.41) at 31–36 Staff Report at 7, 9–10 Forest Park Plan at 159–63 Mitigation Plan (Ex. A.3) at 7
Fragmentation and wildlife corridor The clearing would punch a hole in the narrow forest corridor connecting the Park to the Coast Range, compound fragmentation and edge effects in a priority wildlife connectivity area, and remove part of stands recommended for old growth that host many sensitive-bird observations.	• The Project widens an existing edge; it does not cut a new corridor through interior forest. The stand is already edge-influenced, and no interior forest is affected. (HEP Analysis at 11–15; Forest Park Plan at 45; Staff Report at 10.) • Across the surrounding 119-acre resource area, forest cover shifts only from 69 to 65 percent, and that cover will become woodland and shrub habitat that does also supports wildlife corridor connectivity. It will introduce no new barrier to wildlife movement. Taller shrub linkages will support movement through the restored corridor. (HEP Analysis at 9–15; Mitigation Plan at 57.) • The mitigation can protect forestland in the Coast Range linkage that the Forest Park Plan identifies as critical to wildlife movement. (Forest Park Plan at 52, 65, 105–06, 136–37; Ex. 193 at 134–35.)	Final Argument §§ C.2, F, H at 12–15, 23–26 HEP Analysis (Ex. A.42) at 9–15 Mitigation Plan (Ex. A.3) at 7, 15–17, 57 Forest Park Plan at 45, 52, 65, 105–06, 136–37 Ex. 193 at 134–38 Staff Report at 10, 19

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Issue and Opposition Argument	PGE Response	Supporting Materials
E.g., Ex. 183 at 3–4; Ex. 121 at 21–22; Ex. 128 at 27–31; Ex. 204 at 11–16.	• PGE acknowledges the stand's habitat value. The 46 percent sensitive-bird figure describes observations across three large stand areas, not this 4.7-acre site, and the underlying study is not in the record. (Ex. 128 at 27–28.)	
EP zone allows only "rare and unusual" development Clearing intact forest is not the "rare and unusual circumstance" in which the Environmental Protection zone allows development, so the Project is inconsistent with the purpose of the environmental zones (Exception E). E.g., Ex. 25 at 24; Ex. 183 at 2–3, 7; Ex. 31 at 5.	• "Rare and unusual circumstances" is a purpose statement, not a stand-alone criterion, and the circumstances here are unusual. (PCC 33.430.015; Staff Report at 18.) The Project corrects a federally identified reliability deficiency, lies within the easement the City granted for transmission use and among existing corridors, has no feasible location outside the Park, and incorporates minimized design and extensive restoration and mitigation. (Staff Report at 17–18; Narrative at 65–73.) • The environmental zones also aim to "help meet other City goals, along with other regional, state, and federal goals and regulations," including reliable electric service. (PCC 33.430.010; Narrative at 66–71.)	Narrative (Ex. A.41) at 65–73 Staff Report at 17–18 PCC 33.430.010, .015
Legislative Forest Park Plan amendment required Changing the Forest Park Plan requires a legislative amendment under PCC 33.740, not an exception. E.g., Ex. 27 at 3.	• The Forest Park Plan itself provides the exception process for projects it does not list. Chapter 8 allows exceptions, processed as a Type III environmental review, and an exception does not amend the Forest Park Plan's vision, goals, or strategies. (Forest Park Plan at 217; Staff Report at 7.)	Forest Park Plan at 215–18 Staff Report at 7 Narrative (Ex. A.41) at 19–21
NW HILLS PLAN - FOREST PARK SUBDISTRICT CRITERIA PCC 33.563.210(A)–(C)		
No Habitat Evaluation Procedure study PCC 33.563.210(A) names the USFWS Habitat Evaluation Procedure as the method of proof, and PGE did not run one. Without it, nothing shows that habitat will remain sufficient for the five indicator species, including pileated woodpeckers that need large snags.	• The criterion requires sufficient habitat, not a study that cannot be performed. It asks whether forest vegetation "will be sufficient to provide habitat and maintain travel corridors," and it refers to the "applicable" HEP "standards," not a study. A numerical HEP is not possible here: USFWS has habitat models for only one of the five species, HEP is a comparative accounting method with no sufficiency threshold, and the one available model assigns zero suitability below 320 acres of habitat. (HEP Analysis at 2–4; Narrative at 74–82 & n.192.) • WMSWCD acknowledges the missing models, and the City has never required a numerical HEP under this criterion, including in five Forest Park utility reviews from 2020 to 2025 and PP&R's own 2018 application. (Ex. 137 at 35; HEP Analysis at 2 n.1; Narrative at 80 & nn.186–90.)	Final Argument § H at 24–26 HEP Analysis (Ex. A.42) at 2–4, 7–15 Narrative (Ex. A.41) at 74–83 Staff Report at 18–19 Mitigation Plan (Ex. A.3) at 57, 61 Completeness Memo (Ex. A.37), Table 2

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Issue and Opposition Argument	PGE Response	Supporting Materials
E.g., Ex. 25 at 23; Ex. 137 at 35; Ex. 205 at 46.	• DEA's species-by-species analysis concludes that the Project "will not materially affect the suitability of Forest Park or the approximately 119-acre surrounding evaluation area as habitat or travel corridors for any of the five indicator species." Snags and downed wood are retained and created for pileated woodpeckers, the corridor provides elk browse, and the mitigation adds frog breeding habitat. Staff agreed. (HEP Analysis at 7–15; Mitigation Plan at 57, 61; Staff Report at 19.) • PGE preserves its position that PCC 33.563.210 does not apply. (Narrative at 74–75.)	
Staff's "established utility setting" finding Staff relied on an "established utility setting" for the wildlife finding even though it found elsewhere that the site is not an established utility corridor. E.g., Ex. 137 at 35; Ex. 27 at 1–3.	• Staff described undisputed context, consistent with its other findings. The site is "within and adjacent to existing utility corridors that have been present in Forest Park for decades and is already bordered by existing PGE and BPA transmission facilities." That description is consistent with staff's observation that the wooded patch is not itself a cleared corridor. (Staff Report at 7, 19.)	Final Argument § H at 24–26 Staff Report at 7, 19
Scenic and recreational values Clearing will diminish the Park's scenic, recreational, and open space values, including views from Highway 30 and the trail experience. E.g., Ex. 183 at 2–3, 7; Ex. 122 at 48; Ex. 25 at 24.	• PCC 33.563.210(B) addresses the overall values of Forest Park, not localized change at a project site. The Project is confined to an area already affected by utility corridors and will not affect most of the Park's natural areas, trails, or recreational and educational resources. (Staff Report at 19–20; Narrative at 83–84.) • The Wildwood Trail crosses the utility corridor at one location where no construction is proposed, and trail impacts are limited to temporary closures or detours. (Staff Report at 25.) • The restoration and mitigation will improve conditions elsewhere in the Park. (Staff Report at 19–20.)	Staff Report at 19–20, 25 Narrative (Ex. A.41) at 83–84
Miller Creek Subarea Without information on Phases 4 and 5, PGE cannot show that Miller Creek water quality, temperature, and fish passage will not be degraded. E.g., Ex. 123 at 4–5; Ex. 121 at 24.	• The Project is outside the Miller Creek Subarea, so the criterion does not apply. (PCC 33.563.210(C) & Map 563-1; Staff Report at 20; Narrative at 84.) The argument depends on future projects that are not before the Hearings Officer. (See "Segmentation of Phases 4 and 5," above.)	Staff Report at 20 Narrative (Ex. A.41) at 84 PCC 33.563.210(C), Map 563-1

Issue and Opposition Argument	PGE Response	Supporting Materials
CONDITIONAL USE AND GREENWAY REVIEW PCC 33.815.230; PCC 33.440.350		
Conditional use requires the least damaging alternative Conditional use review permits a utility corridor in the Open Space zone only if no viable alternative exists, PCC 33.430 requires the least damaging option, and PGE's payment bypasses the avoid-minimize-mitigate sequence. E.g., Ex. 37 at 7–8.	• The conditional use criteria contain no alternatives test. PCC 33.815.230 asks only whether the corridor is sufficiently separated from nearby uses and whether it will substantially affect the street system. Staff found both met, and Council approved the conditional use in 2025. (PCC 33.815.230; Staff Report at 24–25; Council Findings at 1.) • In Forest Park, the Forest Park Plan's criteria supersede PCC 33.430.250, and Minor Amendment Criterion C and Exception Criteria B and C supply the alternatives tests, which are met. (PCC 33.430.060; Staff Report at 12–16, 18–19.) • The record shows avoidance and minimization before mitigation. The Project uses the existing easement, eliminates four structures and a permanent access road, minimizes landing disturbance, and tops or girdles trees where feasible. (Completeness Memo, Tables 2–4; Staff Report at 12–13.)	Staff Report at 12–16, 18–19, 24–25 Council Findings (Ex. 145) at 1 Narrative (Ex. A.41) at 84–86 Completeness Memo (Ex. A.37), Tables 2–4
Greenway mitigation of wetland and stream impacts Under PCC 33.440.350(H), the Project's wetland and stream impacts must be adequately mitigated. E.g., Ex. 20 at 6.	• The greenway criteria govern only the work at Harborton Substation, where impacts are temporary. The wetland fill and stream impacts are in Forest Park and are addressed under the Forest Park Plan criteria. Greenway work is limited to temporary matted access for wire adjustments at existing Tower 3000, with no permanent water-body crossing. (Staff Report at 20–24.) • Although mitigation is not required there, PGE will enhance 11,717 square feet of the River Water Quality overlay setback by removing invasive blackberry and planting 468 shrubs, with two years of monitoring. Staff found the criterion met. (Staff Report at 23–24, 27 (Condition G).) • Council approved the greenway reviews in 2025. (Council Findings at 1.)	Staff Report at 20–24, 27 (Condition G) Narrative (Ex. A.41) at 86–89 Restoration Plan (Ex. C.57) Council Findings (Ex. 145) at 1

SUMMARY OF COMPLIANCE WITH APPROVAL CRITERIA

Summary guide to the analysis and evidence[1] supporting Application LU 26-051203 CU EN GW

Hearings Office Case No. 4260012

I. PROJECT OVERVIEW AND LEGAL FRAMEWORK

A. The Project is a limited 1,400-foot extension of existing transmission lines that makes Harborton Substation a hub of the 230 kV system.

1. The reconfiguration increases Harborton's 230 kV connections from one to four and eliminates a three-terminal line.	*Narrative at 1–2; 2026 Alternatives Analysis at 4–6*
2. Physical work is limited to shifting one pole, installing two steel monopoles, and rewiring.	*Narrative at 2–3; Proposed Development Plan (Exs. C.19–C.31)*
3. Tree removal is limited to safety clearances in a ~4.7-acre, 250-foot-wide stand of edge habitat already surrounded by transmission infrastructure.	*Narrative at 3–4; Mitigation Plan at 7; Tree Plan*
4. Nearly half of the inventoried trees in the Forest Park survey area will remain: 363 trees totaling 6,462 inches DBH will be retained, while 393 trees totaling 7,630 inches DBH will be removed, topped, or girdled, including 34 trees that will be topped or girdled to retain standing habitat.	*Completeness Memo at 13–14 & Tables 5–6; Tree Plan*
5. The disturbed area will be restored as native woodland and shrub habitat compatible with the lines.	*Narrative at 4; Mitigation Plan at 8, 51–58*
6. PGE will pay the $2,574,675 fee-in-lieu, and proposes and will accept a condition raising total mitigation to $5.5 million and funding a $250,000 independent consultant.	*Narrative at 4–5, 10–11; Mitigation Plan at 58–71, 38 (Table 6); Agreement ¶¶ 3–4, 6; Staff Report at 26 (Conditions B–C)*
7. Phases 4 and 5 are conceptually and functionally distinct, and any future phase requires its own justification and review.	*Narrative at 8; Local Transmission Plan 2025 (Ex. A.21) at 21, 23, 25, 33; Staff Report at 26 (Condition C); Ex. 158 at 18–21; Final Memo at 18 n.94*

[1] Citation conventions and short forms: Narrative (Applicant's Revised Narrative, rev. Sept. 23, 2026, Ex. A.41, by printed page); "Ex." numbers refer to the Hearings Office exhibit list (application exhibits A.__ and plans C.__ are listed in the Staff Report at 29–31); Agreement (Ex. A.40); Completeness Memo (Ex. A.37); Construction Management Plan (Exs. C.32–C.45); Easement (1971 Easement, Ex. A.7); Final Memo (Applicant's Final Written Argument, Nov. 4, 2026); Forest Park Plan (FPNRMP, by printed page; Ex. 176); Franks Memo (Ex. A.36); Geotechnical Report (Ex. A.8); HEP Analysis (Ex. A.42); Herlocker Letter (Ex. 202); Mediation Materials (Ex. A.24); Mitigation Plan (2026 Habitat Mitigation Plan, Ex. A.3); Needs Memo (Summary of Reliability Needs Memo, Ex. A.5, by PDF page); NERC TPL-001-5.1 (Ex. A.31); Ord. 191314 (2023); Proposed Development Plan (Exs. C.19–C.31); Restoration Plans (Exs. C.46–C.60); Staff Report (Oct. 2, 2026, Ex. 15); Stinchfield Letter (Ex. 198); Toth Report (Ex. 168); Tree Plan (Exs. A.6, A.39); 2024 Alternatives Analysis (Ex. A.35); 2026 Alternatives Analysis (Ex. A.4).

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B. The Application incorporates substantial new information, Project refinements, and enhanced mitigation developed after the first decision.

1. After Council's 2025 decision, PGE, the City, and the parties to the LUBA appeal engaged in a months-long mediation in which PGE supplied additional technical, environmental, and regulatory information and made its experts available; this Application incorporates that information, the resulting Project refinements, and enhanced mitigation.

Narrative at 9–10; Mediation Materials (Ex. A.24); Agreement, Recitals; Final Memo at 3–6

2. PGE more than doubled its mitigation commitment from the $2,574,675 fee-in-lieu to a $5.5 million condition, added $250,000 for an independent consultant, extended restoration monitoring from five to ten years, increased the number of trees topped or girdled to retain habitat, added a tree protection system with arborist supervision, and reduced the permanent landings from six to three (about 2.4 to 1.2 acres of permanent disturbance), eliminating a permanent mid-slope access road.

Narrative at 4–5, 10, 61; Mitigation Plan at 38 (Table 6), 72–77; Completeness Memo at 2–3, 7–17 & Tables 2–4; Staff Report at 12–14, 26–27; Final Memo at 4

3. The additional information and evidence includes a reliability needs memo by PGE's transmission planning manager presenting the 2022–2025 study results; PGE's Local Transmission Plans from 2015 through 2025; a 2026 feasibility-based alternatives analysis and project-timing memo; tree-clearing, landing-configuration, and construction-method alternatives; an enhanced Habitat Mitigation Plan identifying North Unit projects; and a supplemental HEP-framework wildlife analysis. Submissions during the open-record period added a fire behavior expert's letter, City wildfire and restoration planning documents, forestland sales data near the North Unit, and an expert letter tying each long-term impact to North Unit mitigation.

Needs Memo; Local Transmission Plans (Exs. A.11–A.21); 2026 Alternatives Analysis; Franks Memo; Completeness Memo, Tables 2–4; Mitigation Plan at 58–71; HEP Analysis; Exs. 189–194; Stinchfield Letter; Herlocker Letter; Final Memo at 5–6

4. The Application adds refined interpretations of the Plan and code and additional legal analysis.

Narrative at 10; Staff Report at 3, 8–19; Final Memo at 3–7

C. Federal and state utility law governs transmission planning and informs how the City applies its criteria.

1. FERC, NERC, and WECC administer mandatory reliability standards; Oregon requires adequate, safe, and reliable service under OPUC oversight.

Narrative at 12–14; NERC TPL-001-5.1; Attachment K (Ex. A.34)

2. Local standards must be applied consistently with that regulatory framework.

Narrative at 14–15; Final Memo at 8–9

D. The 1971 Easement authorizes PGE to erect one or more transmission lines in the easement area, and the criteria should be applied consistently with it.

1. The Easement runs 100 years (renewable) and grants rights to erect lines and clear vegetation, with its own mitigation terms.

Narrative at 5–6; Easement §§ I, III–V

2. Applying the later-adopted Plan to prohibit the expressly authorized transmission infrastructure would likely violate the Contract Clause and prohibition on takings.

Narrative at 15–18; Final Memo at 9–10

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3. The avoidance doctrine calls for reading the Plan and code consistently with superior law and the Easement. *Narrative at 18–19; Final Memo at 10*

E. The Forest Park Plan's own criteria govern, and PGE is proceeding under the exception process at staff's direction.

1. The Plan supersedes the standard environmental review criteria; PGE preserves its position that the Project is an allowed use or minor amendment. *Narrative at 19–20; Forest Park Plan at 215–17; Staff Report at 7*

2. The exception criteria are Minor Amendment Criteria A–D and Exception Criteria B–E. *Narrative at 20; Forest Park Plan at 217*

II. DEMONSTRATED NEED

Minor Amendment Criterion A (Forest Park Plan at 217)

A. "Need" carries its ordinary meaning and does not require an absolute need or proof that no alternative exists. *Narrative at 21–22*

B. PGE's federally required planning studies show that, beginning in 2028, the system serving North and Northwest Portland will lack sufficient capacity and redundancy.

1. Losing any one of three key facilities during high demand would overload the remaining facilities beyond allowable limits. *Narrative at 23, 28; Needs Memo at 4–5; Staff Report at 8–9; Final Memo at 17*

2. PGE would have to shed load affecting up to 87 percent of about 55,000 customers (about 238 MW), during peak heat and cold. *Narrative at 23–24; Needs Memo at 5–6; Final Memo at 8, 17*

3. Electrification, changing generation sources and patterns, and extreme weather are driving need for new infrastructure. *Narrative at 22–23; Local Transmission Plans (Exs. A.11–A.21); 2023 CEP-IRP (Exs. A.22–A.23); PNUCC Regional Forecast (Ex. A.25); NERC 2025 LTRA (Ex. A.26)*

C. Mandatory federal reliability standards, not PGE discretion, determine when transmission improvements are needed.

1. NERC TPL-001-5.1 requires contingency analysis and corrective action plans when studies show violations. *Narrative at 25; NERC TPL-001-5.1 R2, R4 & Table 1*

2. PGE's planning is coordinated regionally through NorthernGrid, WPP, and WECC and published under FERC transparency requirements. *Narrative at 25–26; Needs Memo at 6; WECC 2026 Data Manual (Ex. A.33); Attachment K (Ex. A.34); Staff Report at 8*

D. The deficiency must be corrected by 2028 to avoid noncompliance with federal standards.

1. PGE has identified the deficiency in every Local Transmission Plan since 2015, and the projected compliance date has advanced as peak forecasts rise. *Narrative at 26–27 & n.79; Local Transmission Plans (Exs. A.11–A.21); Needs Memo at 6; Final Memo at 22*

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2. Projected overloads grow with demand, and Oregon law likewise requires an infrastructure solution. *Narrative at 28–29; NERC 2025 LTRA (Ex. A.26) at 154–58*

3. The Project can be completed by 2028. *Narrative at 57; 2026 Alternatives Analysis at 14; Franks Memo at 1*

E. Employers, housing providers, labor, and healthcare systems confirm the need for reliable service.

1. Greater Portland Inc., Columbia Corridor Ass'n, Portland Metro Chamber, IBEW Local 48, Multifamily NW, and Kaiser Permanente / Legacy Health. *Ex. 28; Ex. 37 at 1–3; Ex. 31 at 33–35, 44–45; Ex. 195*

III. CONSISTENCY WITH FOREST PARK PLAN GOALS AND STRATEGIES

Minor Amendment Criterion B (Forest Park Plan at 217)

A. "Consistent" means compatible with the Plan's goals and strategies viewed as a whole, balancing competing objectives.

1. The criterion does not require avoiding all impacts; other criteria address minimization and mitigation. *Narrative at 30; Forest Park Plan at 97; Staff Report at 9–11*

B. The Plan expressly contemplates continued use and expansion of infrastructure within utility easements that existed when it was adopted.

1. The Utility Corridor Management project seeks to avoid new or expanded easement areas, not to restrict work within existing easements. *Narrative at 31–32; Forest Park Plan at 159–62*

2. The Plan recognizes that existing easement agreements control and asks utilities to adopt improved practices voluntarily. *Narrative at 32; Forest Park Plan at 162*

3. The Plan anticipates redevelopment of powerline facilities, service roads, and use of unused easement area. *Narrative at 32; Forest Park Plan at 161–64*

4. The Project uses the existing 1971 Easement and adds no easement area. *Narrative at 32–33; Staff Report at 17–18; Final Memo at 23–24*

C. The Project's location, design, and restoration are consistent with the Plan's focus on protecting the highest-value resources.

1. Locating within the easement and an existing corridor, in edge habitat already bisected by lines, minimizes fragmentation and protects interior forest. *Narrative at 33–34; Forest Park Plan at 98–101; HEP Analysis at 11–15; Staff Report at 10*

2. Design and construction methods minimize disturbance and limit tree removal to required clearances. *Narrative at 34–35; Tree Plan at 1–5; Mitigation Plan at 49*

3. Restoration with native woodland and shrub habitat, including Oregon white oak, repairs damaged and fragmented systems. *Narrative at 35; Mitigation Plan at i, 7, 11–14, 30–32, 46–52*

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D. The enhanced mitigation materially advances the Plan's goals and strategies.

1. Conservation Goal 1: invasive-species removal and revegetation across ~1,000 acres, the Plan's highest natural resource priority. *Narrative at 36–38; Forest Park Plan at 148; Mitigation Plan at 59; Ex. 189 at 1, 8*
2. Conservation Goal 2: biodiversity, wildlife habitat and migration, water quality and aquatic habitat, and repair of damaged systems. *Narrative at 38–41; HEP Analysis at 14*
3. Recreational and Educational Goals 1 and 2. *Narrative at 41–42*
4. Strategies 1–3: Sustainable Resources Program, the North Unit vision, and land acquisition. *Narrative at 42–44; Forest Park Plan at 100, 105–06; Staff Report at 10–11*
5. Strategies 4–10: recreation, education, access, park safety, other sites, funding, and public involvement. *Narrative at 45–48*

E. The removal of invasive species and improvement of fire lanes and access proposed in the mitigation plan reduces wildfire risk (Strategies 1 and 7).

1. Mitigation funds invasive and ladder-fuel removal and fire-lane improvements. *Narrative at 38, 43, 46; Mitigation Plan at 42, 70*
2. City planning documents repeatedly identify invasive-species removal as a principal means of reducing wildfire risk in Forest Park. PP&R explains that invasive plants such as ivy, holly, blackberry, and clematis "increase risk of fire frequency, size, and intensity" and serve as ladder fuels; Restore Forest Park seeks to "reduce wildfire risk by removing invasive species"; the City's 2011 Ecological Prescriptions make reduction of catastrophic fire risk an ecological goal and identify utility easements as priority fuel-reduction areas; and the City's FEMA grant application and Ordinance 190514 attribute growing wildfire risk to invasive species and hazardous fuels. *Ex. 189 at 1–2, 8; Ex. 190 at 4, 7–8; Ex. 192 at 13, 62–69, 78–85; Ex. 193 at 99–102, 131; Final Memo at 13*
3. City documents confirm that fire lanes and access roads need repair. The 2011 Ecological Prescriptions report that Forest Park's firelanes "were not designed in a sustainable manner and are a source of erosion each year," and PP&R reports ongoing work "to remedy safety concerns along Leif Erikson Drive and other critical access corridors like firelanes." The mitigation will help repair rutted and washed-out gravel roads used for fire access. *Narrative at 46; Mitigation Plan at 42, 70; Ex. 189 at 4; Ex. 192 at 16*

IV. ALTERNATIVES

Minor Amendment Criterion C; Exception Criteria B and C (Forest Park Plan at 217)

A. The three alternatives criteria differ in scope, and each reaches only alternatives capable of meeting the demonstrated need.

1. The criteria differ by type of alternative, "proposal" versus "use," geographic area, and practicability. *Narrative at 49 (table); Final Memo at 18*

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B. No practicable design modification or alternative location for the proposal would have less detrimental impact.

1. The design is already refined: a single ~1,400-foot segment, steel monopoles, existing access, and compatible restoration. *Narrative at 51; Mitigation Plan at i, 7, 11–14, 30–32, 46–52*

2. PGE evaluated tree-clearing approaches, landing configurations, and construction methods and selected the least-disturbing options. *Completeness Memo at 2–3, 7–17 & Tables 2–4; Staff Report at 12–13; Final Memo at 19, 24*

3. The 2024 alternatives analyses found no practicable alternative location and the 2026 alternatives report found no other options were even feasible. *Narrative at 51–52; 2024 Alternatives Analysis at 24; 2026 Alternatives Analysis at 23*

C. The Project is park-related development, and no alternative location exists outside Forest Park for the proposal.

1. The Project is park-related because it modifies infrastructure in the Park's long-established utility corridor within the City-granted easement. *Narrative at 53–54*

2. The criterion asks whether alternative locations exist "for the proposal." The proposal is a 1,400-foot segment connecting Harborton Substation to the existing 230 kV lines in the Forest Park corridor; a route outside the Park would require a much longer line, new property rights across many parcels, different permits and engineering, and a different system configuration, making it a different proposal rather than a different location for this one. *Narrative at 51, 54; 2026 Alternatives Analysis at 17–18; Final Memo at 18*

3. The 2026 Alternatives Analysis applied a strict feasibility test and found every other concept infeasible. *Narrative at 54–55; 2026 Alternatives Analysis at 1, 8–18, 25; Staff Report at 14–16; Final Memo at 18*

    a. Most concepts would not resolve the Harborton deficiency even if built. *Narrative at 54–55; 2026 Alternatives Analysis at 1, 7, 10*

    b. Tall towers would need new easement rights, unresolved engineering, and space that does not exist at the base of the hill. *Narrative at 55–56; 2026 Alternatives Analysis at 15–16*

    c. Marina Way would need a new corridor and condemnation, conflict with the consent-decree deed restriction, face extensive permitting, and has no constructible alignment. *Narrative at 56; 2026 Alternatives Analysis at 9–13, 17–22, 28; Harborton Habitat Development Plan (Ex. A.10), App. J at 2–4; Ex. 39; Ex. 30 at 16–18; Final Memo at 21–22*

    d. The 2024 analysis and mediation materials carried the preliminary Toth routes forward in greater depth. *2024 Alternatives Analysis at 7, 10–11, 20; Mediation Materials (Ex. A.24); Toth Report; Final Memo at 19–20*

4. Timing is independently dispositive: the Project can be completed by 2028, while a Marina Way route would take more than seven years. *Narrative at 57; 2026 Alternatives Analysis at 17, 22; Franks Memo at 1, 3; Final Memo at 22*

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D. No practicable location within Forest Park would accommodate the use with less adverse impact.

1. The 1,400-foot route is the nearest practical connection, within the existing easement and an established corridor; any other in-Park route would be longer and need new easement area.

Narrative at 58; Forest Park Plan at 159; 2026 Alternatives Analysis at 15–17; Staff Report at 15–16; Final Memo at 19

E. No other potential solution can address the reliability and capacity deficiency.

1. Distributed resources and demand response are already in PGE's forecasts and depend on voluntary customer participation.

Narrative at 59; Local Transmission Plans (Exs. A.11–A.21); 2023 CEP-IRP (Ex. A.22); Needs Memo at 6–7; Staff Report at 12

2. The area has about 12 MW of rooftop solar and 8 MW of storage against a 238 MW need.

Narrative at 59–60; Needs Memo at 6–7; Final Memo at 17

3. Only additional 230 kV connections into Harborton resolve the configuration problem; higher-capacity wires do not.

Narrative at 1–2; 2026 Alternatives Analysis at 4–7; Final Memo at 19 n.96

V. CONSTRUCTION MANAGEMENT AND RESTORATION

Minor Amendment Criterion D (Forest Park Plan at 217)

A. The Project's location and refined design minimize impacts.

1. Four poles and a permanent access road were eliminated, a spur shortened, grading reduced, and smaller-footprint monopoles used.

Narrative at 61; Mitigation Plan at 10–14, 46–53; Completeness Memo at 2–3, 7–12 & Tables 2–4; Staff Report at 12–13

2. Tree removal is limited to clearances: 363 of 756 inventoried trees retained, a central no-work block, and 34 trees topped or girdled.

Completeness Memo at 2, 12–13 & Table 2; Tree Plan at 6; Mitigation Plan at 30, 46; Final Memo at 11

B. The construction management plan minimizes temporary impacts through comprehensive best management practices.

1. Resource protection before construction, confined work areas, erosion and sediment controls, nesting-bird protections, and herbicide limits.

Narrative at 61–62; Mitigation Plan at 21, 39, 46–51; Construction Management Plan (Exs. C.32–C.45); Geotechnical Report at 28; Staff Report at 13–14, 26 (Condition D)

2. Temporary slash haul roads, removable log-stringer bridges, root-zone markers, fencing, and arborist supervision.

Completeness Memo at 14–17; Final Memo at 24

C. Disturbed areas will be restored with a stable native plant community compatible with the lines.

1. 3.5 acres of native woodland (386 Oregon white oaks), 1.2 acres of shrub habitat, riparian and pollinator plantings, snags, and downed wood.

Narrative at 62; Mitigation Plan at 38–39, 51–58; Restoration Plans (Exs. C.46–C.60); Final Memo at 11–12

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D. Ten years of monitoring, maintenance, and adaptive management ensure successful establishment.

Narrative at 62; Mitigation Plan at 72–77; Staff Report at 26–27 (Conditions E–F)

VI. LONG-TERM IMPACTS FULLY MITIGATED IN THE NORTH UNIT

Exception Criterion D (Forest Park Plan at 217)

A. The Project's long-term impacts are limited and context-specific.

1. About 4.7 acres of edge habitat within an existing corridor; no new corridor or easement expansion.

Narrative at 63; Mitigation Plan at 7, 14; HEP Analysis at 11

2. Because the area is restored, mitigation addresses the change in resource values and the time to maturity, not a total loss.

Narrative at 62

3. This criterion, however, focuses only on long-term impacts: mature canopy loss and conversion to lower vegetation, up to 0.068 acre of degraded wetland, and riparian canopy on part of one stream.

Narrative at 63; Mitigation Plan at 27–28, 36–45; Herlocker Letter at 2–3; Final Memo at 11 & n.40

B. Mitigation projects within the North Unit address the same resource values at a larger scale.

1. Invasive-species and ladder-fuel removal with native revegetation across dozens of North Unit acres, the Plan's highest priority.

Narrative at 63; Forest Park Plan at 105, 148–49; Mitigation Plan at 59; Ord. 191314, Impact Statement; Herlocker Letter at 2, 4; Final Memo at 12–13

2. Wetland enhancement for red-legged frog breeding, and stream and riparian enhancement.

Narrative at 63; Mitigation Plan at 22, 60–61; Forest Park Plan at 58, 171–72; Herlocker Letter at 5; Final Memo at 15

3. The ratio of restored to affected habitat far exceeds ratios used for other City-approved projects, including Forest Park utility projects.

Narrative at 63

C. Remaining funds can acquire higher-value habitat to add to the North Unit.

1. The Plan directs acquisition and conservation easements, and the Agreement identifies acquisition as a use of the funds.

Narrative at 10, 44, 63; Forest Park Plan at 105–06, 136–38; Agreement ¶ 3(C)(iii); Staff Report at 17

2. Forestland near the North Unit is available at prices the funds can support.

Ex. 193 at 134–38; Herlocker Letter at 5–6; Ex. 204 at 12–13; Final Memo at 14

D. Mitigation elsewhere in the Park also benefits the North Unit.

1. Invasive removal, wildfire-risk reduction, and fire-lane work reduce reinvasion pressure and wildfire risk Park-wide.

Narrative at 64; Mitigation Plan at 65–66

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E. PGE's principal environmental science specialist confirms that the North Unit measures fully mitigate the long-term impacts.

1. The mitigation proposed addresses the same type of natural resource values impacted, within the North Unit, at many times the scale, beginning within a year of clearing. *Mitigation Plan at 76; Herlocker Letter at 6–8; Final Memo at 15–16*

2. Ord. 191314 directs fees to restoration in the same management unit, and PGE accepts a condition confirming North Unit expenditure. *Ord. 191314, Findings 7–8, Directives A–C; Staff Report at 26 (Condition B); Final Memo at 16 & n.82*

F. The mitigation provides a substantial net benefit to Forest Park.

1. The fee-in-lieu alone funds compensatory projects; the $5.5 million condition could restore or enhance ~1,000 acres, a ratio over 200:1. *Narrative at 64–65; Mitigation Plan at 38, 59, 65–66*

VII. CONSISTENCY WITH THE PURPOSE OF THE ENVIRONMENTAL ZONES

Exception Criterion E (Forest Park Plan at 217)

A. Consistency considers all environmental-zone purposes together, including the Comprehensive Plan policies they implement.

1. The zones protect resources while providing for carefully designed development and helping meet other City, regional, state, and federal goals. *Narrative at 65–67; PCC 33.430.010–.017*

2. The Comprehensive Plan treats energy infrastructure as critical infrastructure (Goal 8.M; Policies 8.25, 8.126). *Narrative at 67–69*

B. The Project is critically important development carefully designed to avoid, minimize, restore, and mitigate impacts. *Narrative at 69–70*

C. The Project advances the climate and air-quality goals the environmental zones serve. *Narrative at 70–72; Oregon Energy Strategy (Ex. A.29)*

D. The Project presents the rare and unusual circumstances in which development in the Environmental Protection zone is contemplated.

1. A decades-old corridor within the City-granted easement, a Plan framework specific to utility easements, and a federally mandated reliability need. *Narrative at 72–73; Staff Report at 17–18*

E. The restoration and mitigation advance the resource-protection purposes of the zones. *Narrative at 73–74; Mitigation Plan at 58–71*

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VIII. NORTHWEST HILLS PLAN DISTRICT, FOREST PARK SUBDISTRICT

PCC 33.563.210(A)–(C)

A. PGE preserves its position that PCC 33.563.210 does not apply, and addresses it at staff's direction. — *Narrative at 21, 74–75; PCC 33.430.060*

B. Forest vegetation will remain sufficient to provide habitat and maintain travel corridors for the five indicator species.

1. The Project is confined to an existing corridor and affects about 0.1 percent of the Park. — *Narrative at 75*
2. Restoration and mitigation maintain and enhance habitat, including projects proposed for red-legged frog breeding habitat. — *Narrative at 75–76; Mitigation Plan at 51–71*
3. The reference to HEP "standards" supplies an analytical framework; a formal HEP study is not required. — *Narrative at 76–80; HEP Analysis at 2–4*
    a. HEP sets no sufficiency standard, USFWS published a model for only one of the five species, and the criterion concerns forest vegetation only. — *Narrative at 77–79; HEP Analysis at 2–4*
    b. The City has applied the criterion through qualitative habitat analysis in five Forest Park utility reviews and PP&R's trailhead application. — *Narrative at 79–80; HEP Analysis at 2 n.1; Final Memo at 25*
    c. A formal HEP study cannot meaningfully be applied to a single project site or its immediate surroundings because minimum habitat area is itself a suitability variable. The USFWS pileated woodpecker model assigns a suitability of zero unless at least 320 acres of contiguous habitat exist, so applying it to the 4.68-acre Project area or the 119-acre surrounding resource site would rate each as wholly unsuitable regardless of its vegetation. — *Narrative at 81 n.192; HEP Analysis at 2; Final Memo at 25*
4. DEA's HEP-framework analysis shows no material effect on habitat suitability for any indicator species. — *Narrative at 80–82; HEP Analysis at 7–15; Staff Report at 18–19; Final Memo at 25–26*
5. The Project will not impair wildlife travel corridors, and restoration and mitigation improve connectivity. — *Narrative at 82–83; HEP Analysis at 6, 14–15; Mitigation Plan at 51–71*

C. The overall scenic, recreational, educational, and open-space values of Forest Park will not be diminished. — *Narrative at 83–84; Staff Report at 19–20, 25*

D. The Project is outside the Miller Creek Subarea. — *Narrative at 84; Staff Report at 20*

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IX. CONDITIONAL USE REVIEW

PCC 33.815.230

A. The corridor is sufficiently separated from nearby uses, as Council previously found.

Narrative at 85; Staff Report at 24–25

B. The Project will not substantially affect the street system or traffic, transit, pedestrian, or bicycle movement.

Narrative at 85–86; Mitigation Plan at 49–51; Construction Management Plan (Exs. C.32–C.45); Staff Report at 24–25

X. GREENWAY REVIEW

PCC 33.440.350

A. The Project does not conflict with the Willamette Greenway Design Guidelines.

Narrative at 87; Mitigation Plan at 11–13; Staff Report at 20–23

B. Work in the River Water Quality overlay setback is limited and temporary.

Narrative at 87–88; Mitigation Plan at 25, 46; Staff Report at 20–24

C. PGE proposes enhancement plantings even though mitigation is not required.

Narrative at 88; Mitigation Plan at 46–58; Restoration Plan (Ex. C.57); Staff Report at 23–24, 27 (Condition G)

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