

**PLANNING DEPARTMENT**  
 6101 SE Johnson Creek Blvd  
 Milwaukie OR 97206  
 503-786-7630  
 planning@milwaukieoregon.gov

# Application for Land Use Action

Master File #: NR-2019-002

Review type\*: ☐ I ☒ II ☐ III ☐ IV ☐ V

## CHECK ALL APPLICATION TYPES THAT APPLY:

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Amendment to Maps and/or Ordinances:<br><input type="checkbox"/> Comprehensive Plan Text Amendment<br><input type="checkbox"/> Comprehensive Plan Map Amendment<br><input type="checkbox"/> Zoning Text Amendment<br><input type="checkbox"/> Zoning Map Amendment<br><input type="checkbox"/> Code Interpretation<br><input type="checkbox"/> Community Service Use<br><input type="checkbox"/> Conditional Use<br><input type="checkbox"/> Development Review<br><input type="checkbox"/> Director Determination<br><input type="checkbox"/> Downtown Design Review<br><input type="checkbox"/> Extension to Expiring Approval<br><input type="checkbox"/> Historic Resource:<br><input type="checkbox"/> Alteration<br><input type="checkbox"/> Demolition<br><input type="checkbox"/> Status Designation<br><input type="checkbox"/> Status Deletion | <input type="checkbox"/> Land Division:<br><input type="checkbox"/> Final Plat<br><input type="checkbox"/> Lot Consolidation<br><br><input type="checkbox"/> Partition<br><input type="checkbox"/> Property Line Adjustment<br><br><input type="checkbox"/> Replat<br><input type="checkbox"/> Subdivision<br><input type="checkbox"/> Miscellaneous:<br><input type="checkbox"/> Barbed Wire Fencing<br><input type="checkbox"/> Bee Colony<br><input type="checkbox"/> Mixed Use Overlay Review<br><input type="checkbox"/> Modification to Existing Approval<br><input checked="" type="checkbox"/> Natural Resource Review<br><input type="checkbox"/> Nonconforming Use Alteration<br><input type="checkbox"/> Parking:<br><input type="checkbox"/> Quantity Determination<br><input type="checkbox"/> Quantity Modification<br><input type="checkbox"/> Shared Parking<br><input type="checkbox"/> Structured Parking | <input type="checkbox"/> Planned Development<br><input type="checkbox"/> Residential Dwelling:<br><input type="checkbox"/> Accessory Dwelling Unit<br><br><input type="checkbox"/> Duplex<br><input type="checkbox"/> Manufactured Dwelling Park<br><br><input type="checkbox"/> Temporary Dwelling Unit<br><input type="checkbox"/> Sign Review<br><input type="checkbox"/> Transportation Facilities Review<br><input type="checkbox"/> Variance:<br><input type="checkbox"/> Use Exception<br><input type="checkbox"/> Variance<br><input type="checkbox"/> Willamette Greenway Review<br><input type="checkbox"/> Other: _____<br><b>Use separate application forms for:</b><br><input type="checkbox"/> Annexation and/or Boundary Change<br><input type="checkbox"/> Compensation for Reduction in Property Value (Measure 37)<br><input type="checkbox"/> Daily Display Sign<br><input type="checkbox"/> Appeal |
|---|---|--|

## RESPONSIBLE PARTIES:

**APPLICANT** (owner or other eligible applicant—see reverse):

Mailing address: 4241 SIE 136TH AVE Zip: 97236

Phone(s): 503-761-2038 Email: bobo@iinet.com

**APPLICANT'S REPRESENTATIVE** (if different than above): BOBO UMEMOTO

Mailing address: SAME AS ABOVE Zip: \_\_\_\_\_

Phone(s): 503-761-2038 Email: bobo@iinet.com

## SITE INFORMATION:

Address: 4646 & 4684 SIE JOHNSON CREEK BLVD Map & Tax Lot(s): 152E30BB00400

Comprehensive Plan Designation: \_\_\_\_\_ Zoning: \_\_\_\_\_ Size of property: \_\_\_\_\_

## PROPOSAL (describe briefly):

LAND USE & TYPE II BOUNDARY HCA CHANGE

## SIGNATURE:

**ATTEST:** I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code (MMC) Subsection 19.1001.6.A. If required, I have attached written authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: \_\_\_\_\_

Date: \_\_\_\_\_

## IMPORTANT INFORMATION ON REVERSE SIDE

\*For multiple applications, this is based on the highest required review type. See MMC Subsection 19.1001.6.B.1.

**WHO IS ELIGIBLE TO SUBMIT A LAND USE APPLICATION** (excerpted from MMC Subsection 19.1001.6.A):

**Type I, II, III, and IV** applications may be initiated by the property owner or contract purchaser of the subject property, any person authorized in writing to represent the property owner or contract purchaser, and any agency that has statutory rights of eminent domain for projects they have the authority to construct.

**Type V** applications may be initiated by any individual.

**PREAPPLICATION CONFERENCE:**

A preapplication conference may be required or desirable prior to submitting this application. Please discuss with Planning staff.

**REVIEW TYPES:**

This application will be processed per the assigned review type, as described in the following sections of the Milwaukie Municipal Code:

- Type I: Section 19.1004
- Type II: Section 19.1005
- Type III: Section 19.1006
- Type IV: Section 19.1007
- Type V: Section 19.1008

**THIS SECTION FOR OFFICE USE ONLY:**

FILE TYPE	FILE NUMBER	FEE AMOUNT*	PERCENT DISCOUNT	DISCOUNT TYPE	DEPOSIT AMOUNT	DATE STAMP
Master file	NR-2019-002	\$ 1,000	—		\$	RECEIVED JUL 08 2019 CITY OF MILWAUKIE PLANNING DEPARTMENT
Concurrent application files		\$			\$	
		\$			\$	
		\$			\$	
		\$			\$	
SUBTOTALS		\$ 1,000			\$	
TOTAL AMOUNT RECEIVED: \$ 1,000			RECEIPT #:			RCD BY:
Associated application file #s (appeals, modifications, previous approvals, etc.):						
Neighborhood District Association(s): <i>Lewelling</i>						
Notes: <i>Type II map verification &amp; Natural Resource map.</i>						

\*After discount (if any)

**Habitat Conservation Verification**  
**4684 SE Johnson Creek Boulevard**  
**Milwaukie, Oregon**

(Township 1 South, Range 2 East, Section 30BB,  
Clackamas County, Tax Lot 400)

**Prepared for**

**Max Kenworthy**

5836 SE 111th Ave #2  
Portland, OR 97266

**Prepared by**

Craig Tumer

**Pacific Habitat Services, Inc.**

9450 SW Commerce Circle, Suite 180  
Wilsonville, Oregon 97070  
(503) 570-0800  
(503) 570-0855 FAX

PHS Project Number: 6594

**February 5, 2019**



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## ATTACHMENT 1: Figures

Figure 1:	Tax Lot Map
Figure 2:	Water Quality Resource and City-Mapped Habitat Conservation Areas
Figure 3:	July 2018 Aerial Photo
Figure 4:	City-Mapped Natural Resources
Figure 5:	Vegetated Cover and Riparian Habitat Classification Map
Figure 6:	Habitat Conservation Area Verification Map

## 1.0 INTRODUCTION

The City of Milwaukie (the “City”) has mapped Water Quality Resource (WQR) and Habitat Conservation Area (HCA) on the parcel located at 4684 SE Johnson Creek Boulevard. The City-mapped HCA boundary follows the borders of the tax lot and does not correspond to the mapped HCA boundaries on adjacent tax lots to the east and west. City planning staff has acknowledged that the HCA mapping on this tax lot appears to be in error, and the Applicant seeks to correct the HCA mapping using the detailed HCA verification procedures outlined at MMC 19.402.15.A.2.b. The information necessary to process the application is provided in the following sections. Supporting information is included in Attachment 1 (Figures).

## 2.0 EXISTING CONDITIONS

The project site is located at 4684 SE Johnson Creek Boulevard in the City of Milwaukie, Oregon. The site consists of one parcel (State ID 12E30BB00400); a tax lot map showing the location of the site is included as Figure 1. The total area of the parcel is approximately 25,247 square feet (0.58 acre).

Johnson Creek flows generally westward along the southern boundary of the site. Although much of the stream is located off site, a small portion of the stream is located within the site boundary (Figure 2). A man-made berm rises above the north bank of Johnson Creek, and north of the berm, the site’s topography is relatively flat. The berm and portions of the site immediately adjacent to the berm is forested with a tree canopy dominated by black cottonwood (*Populus balsamifera* ssp. *trichocarpa*); several Oregon white oaks (*Quercus garryana*) are present as well. The forest understory on the berm is dominated by red-osier dogwood (*Cornus sericea*), Indian plum (*Oemlaria cerasiformis*), California dewberry (*Rubus ursinus*), and Himalayan blackberry (*Rubus armeniacus*). Vegetation on the remainder and majority of the site is dominated by grasses and weedy forbs. An unoccupied residence is located on the northeast corner of the site (shown on Figure 3).

## 3.0 WATER QUALITY RESOURCE (WQR)

Table 19.402.15, Determination of WQR Location, in MMC Subsection 19.402.15 describes the location and extent of the WQR. As described in the table, primary protected water features have an associated vegetated corridor of 50 to 200 feet wide depending on the slopes adjacent to the resource. The slopes adjacent to the north side of Johnson Creek within the site are less than 25 percent, and therefore, the associated vegetated corridor in this area is 50 feet wide. The extent of the vegetated corridor on the project site, based on the approximated top of bank, is depicted on Figure 2. The total area of WQR on the site (not including the stream and wetland) is approximately 4,845 sf (0.11 acres).

## 4.0 HABITAT CONSERVATION AREA (HCA) VERIFICATION

The Milwaukie Interactive Zoning Map shows HCA covering the entire site. The City's mapped HCA is depicted on Figure 2. As shown in Figure 2, the City-mapped HCA generally follows the property boundaries, in contrast to adjacent properties, where the City-mapped HCA appears to more closely align with Metro's mapped vegetation categories, as described below. Because the City-mapped HCA is not mapped correctly, the Applicant proposes to verify HCA on the site using the detailed HCA verification procedures outlined at MMC 19.402.15.A.2.b. The requirements of Subsection 19.402.15.A.2.b are addressed below.

### *MMC 19.402.15.A.2.b, Detailed Verification of HCAs*

*An applicant who believes that an HCA shown on the NR Administrative Map should be corrected for a reason other than those described in Subsections 19.402.15.A.1.a or b may propose a detailed verification.*

#### *(1) Submittal Requirements*

*The applicant shall submit a report prepared and signed by either a knowledgeable and qualified natural resource professional; such as a wildlife biologist, botanist, or hydrologist; or a civil or environmental engineer registered in Oregon to design public sanitary or storm systems, stormwater facilities, or other similar facilities. The report shall include:*

- (a) A description of the qualifications and experience of all persons that contributed to the report and, for each person that contributed, a description of the elements of the analysis to which the person contributed.*

The applicant is submitting this report, which was prepared and signed by Craig Tumer from Pacific Habitat Services, Inc. (PHS). Craig Tumer is a Senior Biologist and Professional Wetland Scientist, who has more than 28 years of experience working in the environmental field. PHS is renowned for its expertise and experience involving environmental and natural resource analyses and projects throughout the Portland Metro Area and the Pacific Northwest. Utilizing on-site observations and ground-truthing, PHS staff members participated in the analysis and comparison of site information pertinent to the City of Milwaukie's Development Code requirements.

#### *(b) The information described in Subsection 19.402.15.A.1.a.*

The following information is required, as described in Subsection 19.402.15.A.1.a:

- (1) A detailed property description and site plan of the property that includes all existing conditions plans listed on the City's Site Plan Requirements.*

The project site is located at 4684 SE Johnson Creek Boulevard in Milwaukie, Oregon. The site consists of one tax lot: Tax Lot 12E30BB00400. The total site size is 25,247 square feet (0.58 acre).

Existing conditions on the project site are depicted on Figures 2 and 3. These figures show tax lot boundaries, as available from Metro's published RLIS data (note: the RLIS tax lot boundaries and the most recent Google Earth aerial photo appear to be slightly misaligned). The study area boundary corresponds to the tax lot boundary. Existing site improvements, including the unoccupied house in the northeastern corner of the property, and tree cover on the property are shown in the aerial photo in Figure 3. Individual trees have not been identified, as no trees are proposed to be removed with this application. Figure 2 shows the limits of ordinary high water (OHW) of Johnson Creek (which generally corresponds to the bankfull stage, as defined by Milwaukie City Code), as determined in the field by PHS. Figure 2 also shows the limits of the WQR, City-mapped HCA, and site topography. As noted on Figure 2, the entire site is within mapped floodplain.

**(2) A copy of the applicable NR Administrative Map section.**

A copy of City mapping showing City-mapped HCA, vegetated corridor, and floodplain, as provided by the online Milwaukie Interactive Zoning Map, is provided as Figure 4. No City-mapped wetlands are present on the site.

**(3) The latest available aerial photograph of the property, with lot lines shown, at a scale of at least 1 map inch equal to 50 ft for lots of 20,000 or fewer square feet, and a scale of 1 map inch equal to 100 ft for larger lots.**

A July 2018 aerial photograph of the project site from Google Earth is provided as Figure 3.

**(4) A documented demonstration of the misalignment between the NR Administrative Map and the property's tax lot boundary lines and/or the location of existing legally established development.**

Not applicable. There is no apparent misalignment between the City's mapping and the tax lot boundaries or the location of existing legally established development.

**(5) Any other factual information that the applicant wishes to provide to support boundary verification.**

Not applicable

**(c) The information described in Subsection 19.402.15.A.1.b, if the applicant believes such information is relevant to the verification of habitat location on the subject lot or parcel.**

The information described in Subsection 19.402.15.A.1.b is not relevant to the verification of the HCA on the project site.

**(d) Additional aerial photographs, if the applicant believes they provide better information regarding the property, including documentation of the date and process used to take the photos and an expert's interpretation of the additional information they provide.**

Not applicable.

**(e) A map showing the topography of the property shown by 2-ft vertical contours in areas of slopes less than 15%, and at 5-ft vertical contours of slopes 15% or greater.**

The site topography shown by 1-foot contour intervals is depicted on Figures 2, 5, and 6.

**(f) Any additional information necessary to address each of the detailed verification criteria provided in Subsection 19.402.15.A.2.b(2); a description of where any HCAs are located on the property, based on the application of the detailed verification criteria; and factual documentation to support the analysis.**

No additional information is provided.

**(2) Approval Criteria**

**A boundary verification request submitted under Subsection 19.402.15.A.2.b shall be evaluated according to the following three-step process:**

**(a) Verify Boundaries of Inventoried Riparian Habitat**

**Locating habitat and determining the riparian habitat class of the designated natural resource is a four-step process:**

**(i) Locate the water feature that is the basis for identifying riparian habitat.**

- **Locate the top of bank of all streams, rivers, and open water within 200 ft of the property.**

- *Locate all flood areas within 100 ft of the property.*
- *Locate all wetlands within 150 ft of the property, based on the NR Administrative Map. Identified wetlands shall be further delineated consistent with methods currently accepted by DSL and the Corps.*

Johnson Creek, which flows westward along the southern site boundary, is the water feature that is the basis for identifying riparian habitat on the subject site. PHS located the limits of OHW, which roughly corresponds to the “bankful stage” or “top of bank”, as defined on the City code, of Johnson Creek in the field based on physical indicators such as lines of debris on the shoreline, sediment deposits on the shoreline, changes in vegetation and changes in topography. The limits of OHW of Johnson Creek, based on measurements made in the field, are depicted on Figures 2, 5, and 6. The entire site is within the mapped floodplain, as shown on City mapping. No wetlands are present on the project site.

*(ii) Identify the vegetative cover status of all areas on the property that are within 200 ft of the top of bank of streams, rivers, and open water; are wetlands or are within 150 ft of wetlands; and are flood areas and within 100 ft of flood areas.*

- *Vegetative cover status shall be as identified on the latest Metro Vegetative Cover Map (available from the City and/or the Metro Data Resource Center).*
- *The vegetative cover status of a property may be adjusted only if: (1) the property was legally developed prior to September 15, 2011, the effective date of Ordinance #2036 (see Subsection 19.402.15.A.1.b); or (2) an error was made at the time the vegetative cover status was determined. To assert the latter type of error, applicants shall submit an analysis of the vegetative cover on their property, using the aerial photographs on which the latest Metro Vegetative Cover Map is based and the definitions of the different vegetative cover types identified in Table 19.402.15.A.2.b(2)(a)(iv).*

The vegetative cover status, as identified on the latest Metro Vegetative Cover Map, is provided on Figure 5. The vegetative cover status was provided by the City of Milwaukie GIS. As shown on Figure 5, “forest canopy”, defined as “areas that are part of a contiguous grove of trees of 1 acre or larger in area with approximately 60% or greater crown closure, irrespective of whether the entire grove is within 200 ft of the relevant water feature”, is present along Johnson Creek, in the southern portion of the site. No other vegetation cover types are mapped on the site. The vegetation on the remainder of the site is dominated by herbaceous vegetation, as depicted in the aerial photograph provided in Figure 3; this vegetated area is bordered on the north by paved road, on the east by paved parking lot, and on the west by trees and a developed lot. Because this area of open herbaceous-dominated vegetation is less than one acre in size (the entire site is only 0.58 acre), the area does not meet the City’s definition of “low structure vegetation or open soils”, which is defined as “areas that are part of a contiguous area 1 acre or larger of grass, meadow, croplands, or areas of open soils located within 300 ft of a surface stream.”

*(iii) Determine whether the degree that the land slopes upward from all streams, rivers, and open water within 200 ft of the property is greater than or less than 25%, using the methodology outlined in Table 19.402.15.*

The degree that the land slopes upward from Johnson Creek is depicted on Figure 2. Slopes adjacent to the north side of Johnson Creek are consistent along the entire length of the creek as it flows along the site boundary. Slopes throughout are less than 25%.



- (iv) Identify the riparian habitat classes applicable to all areas on the property using Table 19.402.15.A.2.b(2)(a)(iv) and the data identified in Subsections 19.402.15.A.2.b(2)(a)(i) through (iii).*

Riparian habitat classes, as defined in Table 19.402.15.A.2.b(2)(a)(iv), are depicted on Figure 5. Figure 5 also shows 50-foot, 100-foot, and 150-foot buffers from the Johnson Creek. In accordance with this table, Johnson Creek is Class I riparian habitat, as are all areas of mapped “Forest Canopy” within 100 feet of Johnson Creek.

***(b) Determine the Property’s Urban Development Value***

*The urban development value of property designated as regionally significant habitat is depicted on the Metro Habitat Urban Development Value Map (available from the Metro Data Resource Center).*

- (i) A property’s urban development value designation shall be adjusted upward if the Metro 2040 Design Type designation for the property lot or parcel has changed from one with a lower urban development value to one with a higher urban development value. 2040 Design Type designations are identified on the Metro 2040 Applied Concept Map (available from the Metro Data Resource Center).*
- (ii) Properties in areas designated on the 2040 Applied Concept Map as Central City, Regional Centers, Town Centers, and Regionally Significant Industrial Areas are considered to be of high urban development value; properties in areas designated as Main Streets, Station Communities, Other Industrial Areas, and Employment Centers are of medium urban development value; and properties in areas designated as Inner and Outer Neighborhoods and Corridors are of low urban development value.*
- (iii) As designated in Title 13 of the UGMFP, properties owned by a regionally significant educational or medical facility are designated as high urban development value.*

The project site is within area of low and medium urban development value, as depicted on the Metro Habitat Urban Development Value Map ([ftp://ftp.metro-region.org/dist/gm/fish+wildlife/maps/develop\\_value\\_1097A.pdf](ftp://ftp.metro-region.org/dist/gm/fish+wildlife/maps/develop_value_1097A.pdf)).

***(c) Cross-Reference Habitat Class with Urban Development Value***

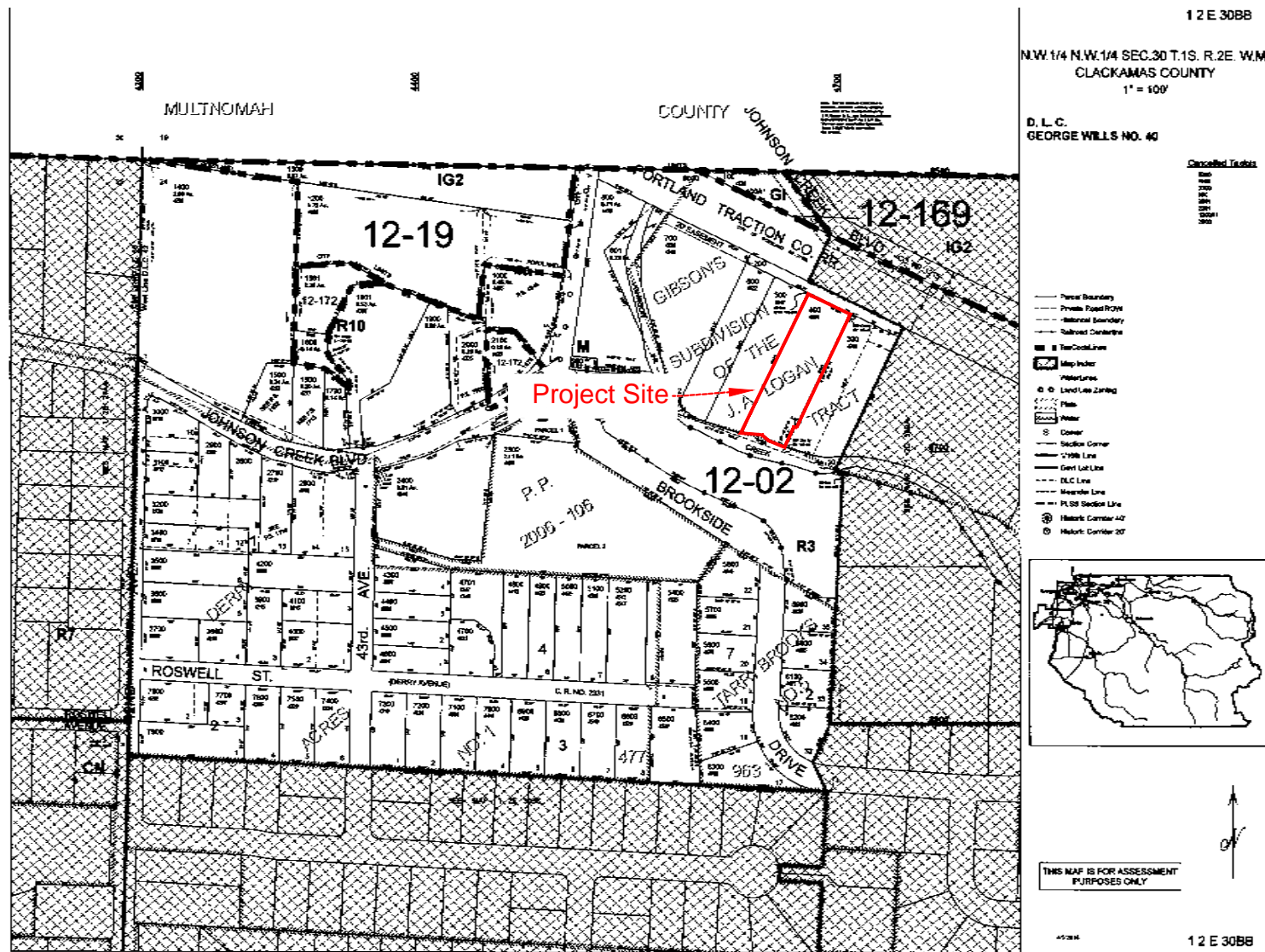
*City verification of the locations of HCAs shall be consistent with Table 19.402.15.A.2.b(2)(c).*

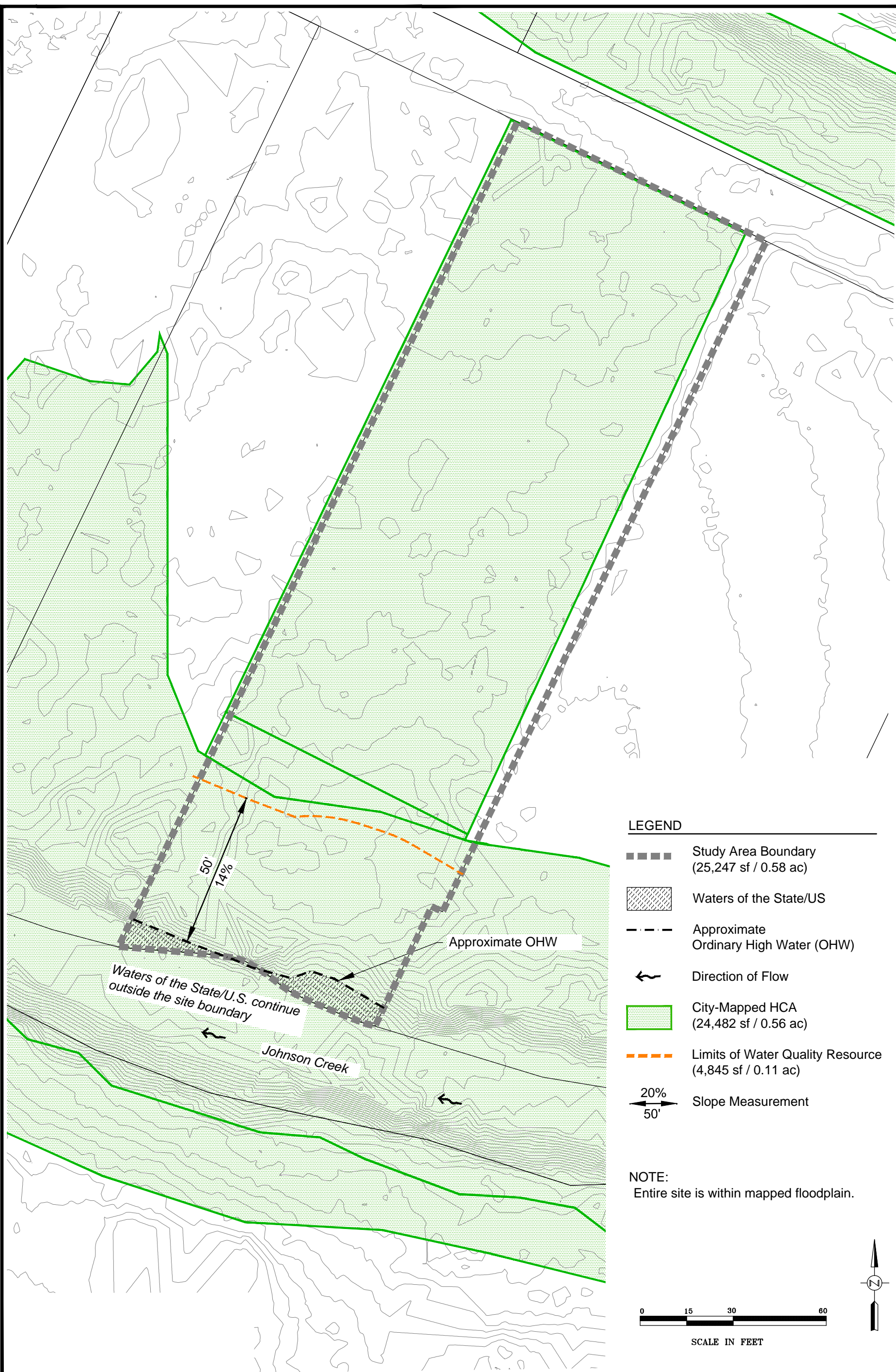
Because the site is designated low and medium urban development value, all Class I riparian habitats depicted on Figure 5 are HCA as described in Table 19.402.15.A.2.b(2)(c). The limits of the verified HCA on the site are depicted on Figure 6, and the limits of the field-verified HCA correspond to the City-mapped Natural Resources (Figure 4) on the parcels to the east and west of the project site.

# Attachment 1

## Figures



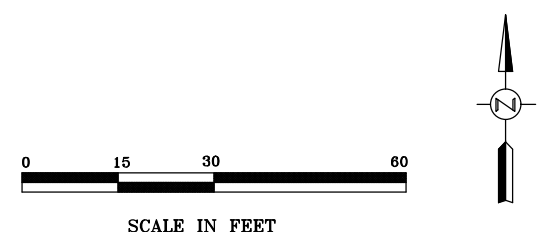




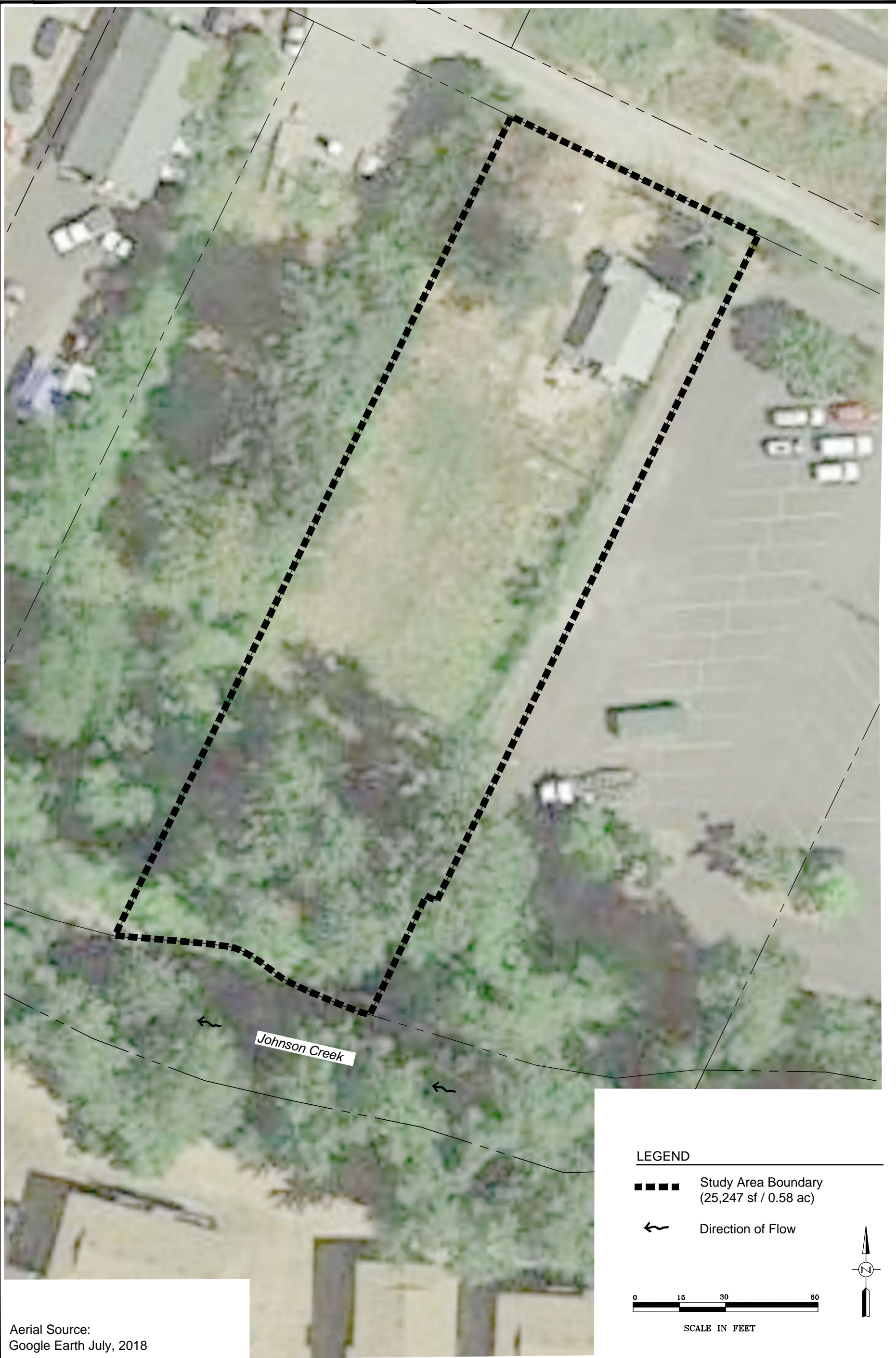
LEGEND

- Study Area Boundary (25,247 sf / 0.58 ac)
- Waters of the State/US
- Approximate Ordinary High Water (OHW)
- Direction of Flow
- City-Mapped HCA (24,482 sf / 0.56 ac)
- Limits of Water Quality Resource (4,845 sf / 0.11 ac)
- Slope Measurement (20% 50')

NOTE:  
Entire site is within mapped floodplain.

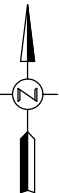
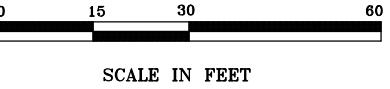






LEGEND

- Study Area Boundary  
(25,247 sf / 0.58 ac)
- Direction of Flow



Aerial Source:  
Google Earth July, 2018

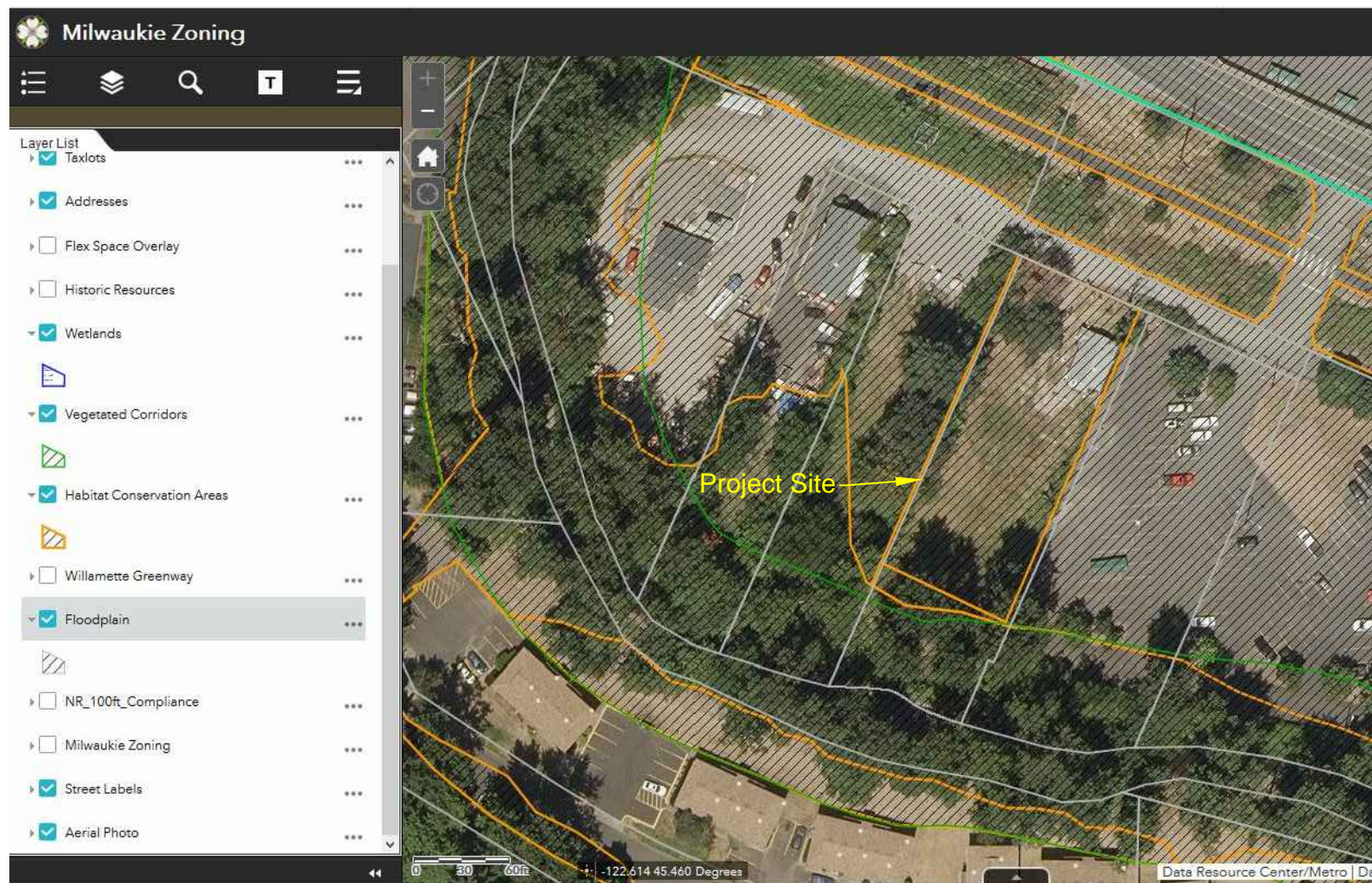


July 2018 Aerial Photo  
4684 SE Johnson Creek Boulevard - Milwaukie, Oregon

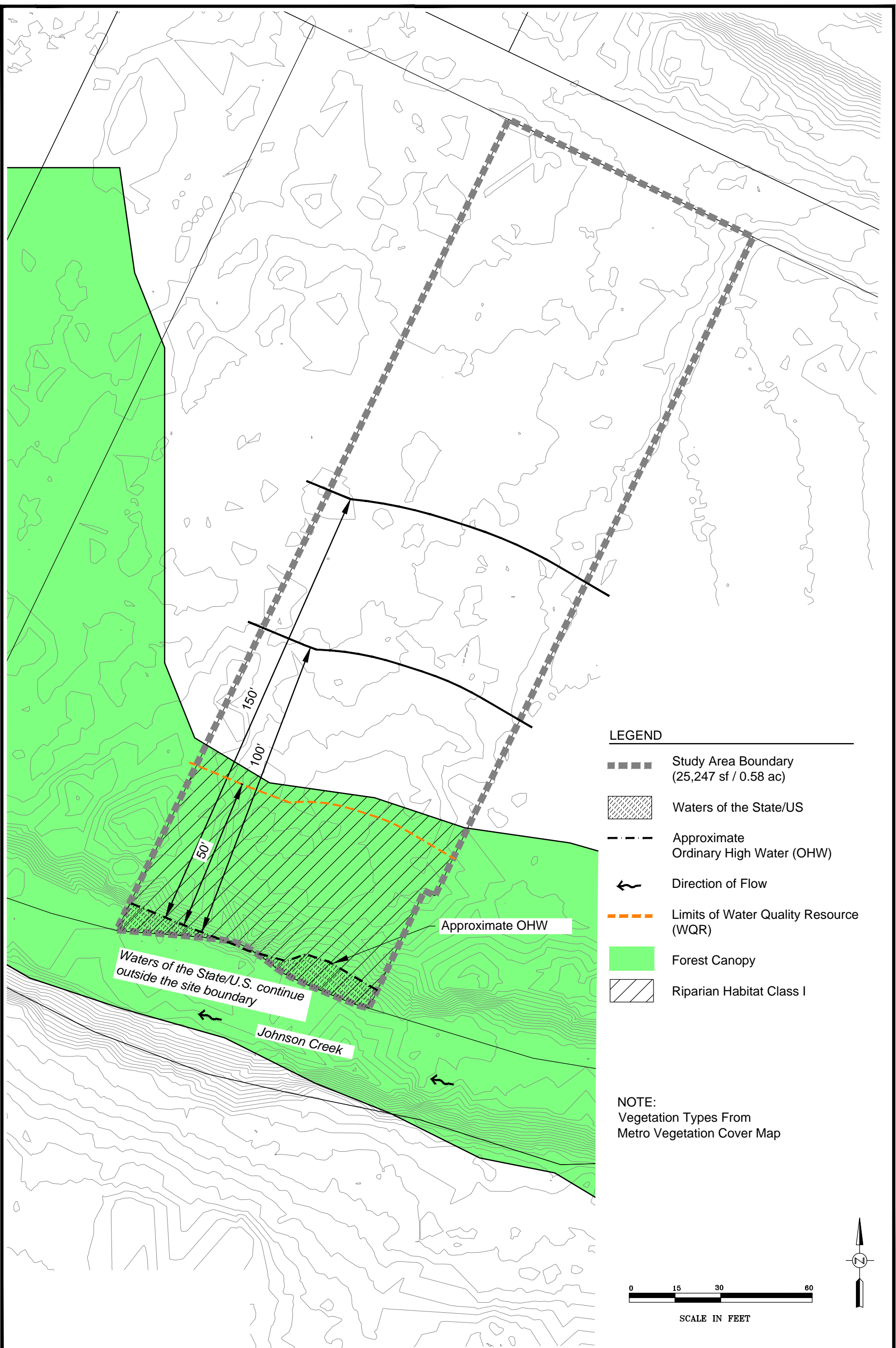
FIGURE  
3

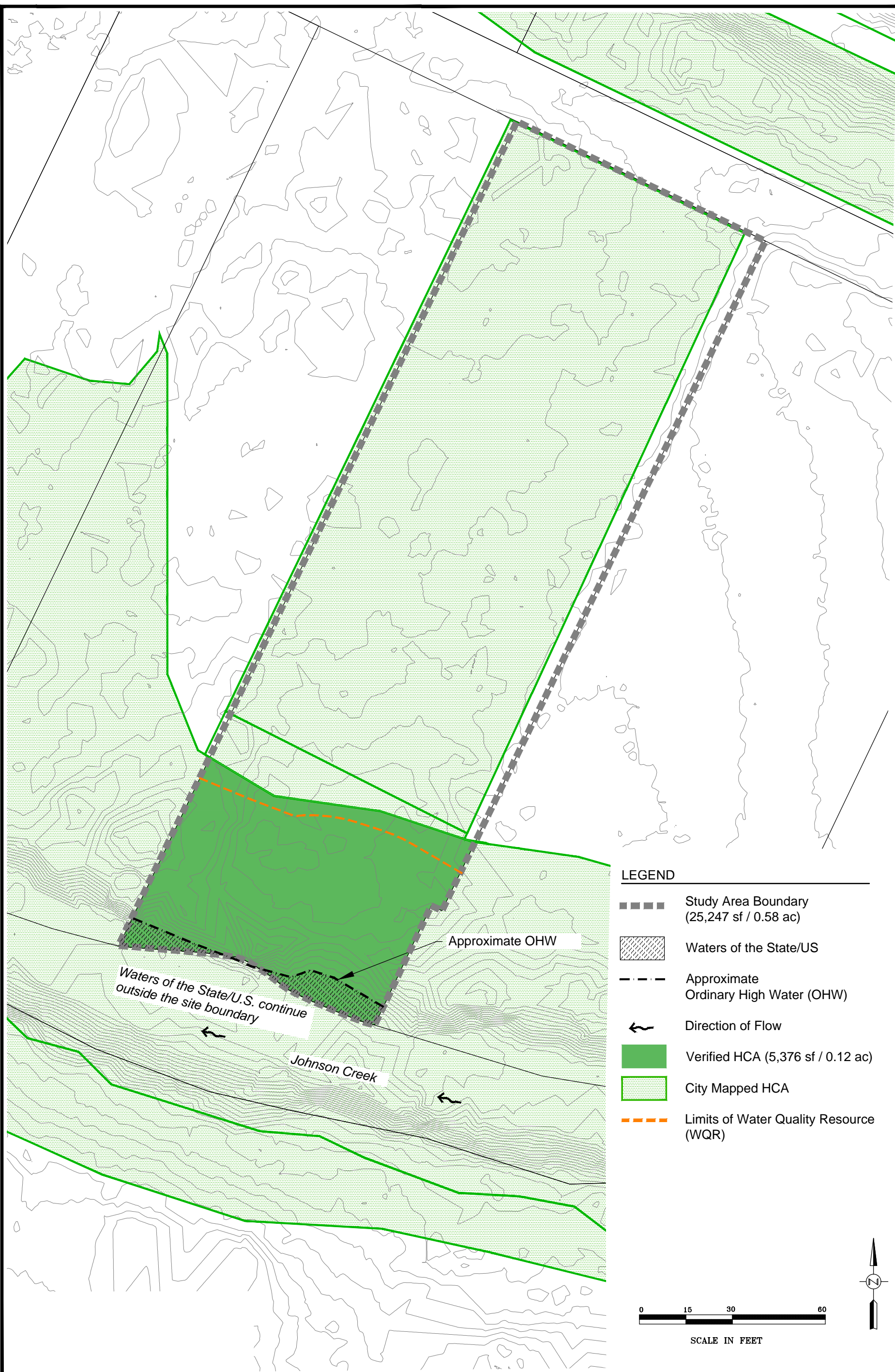
11-8-2018



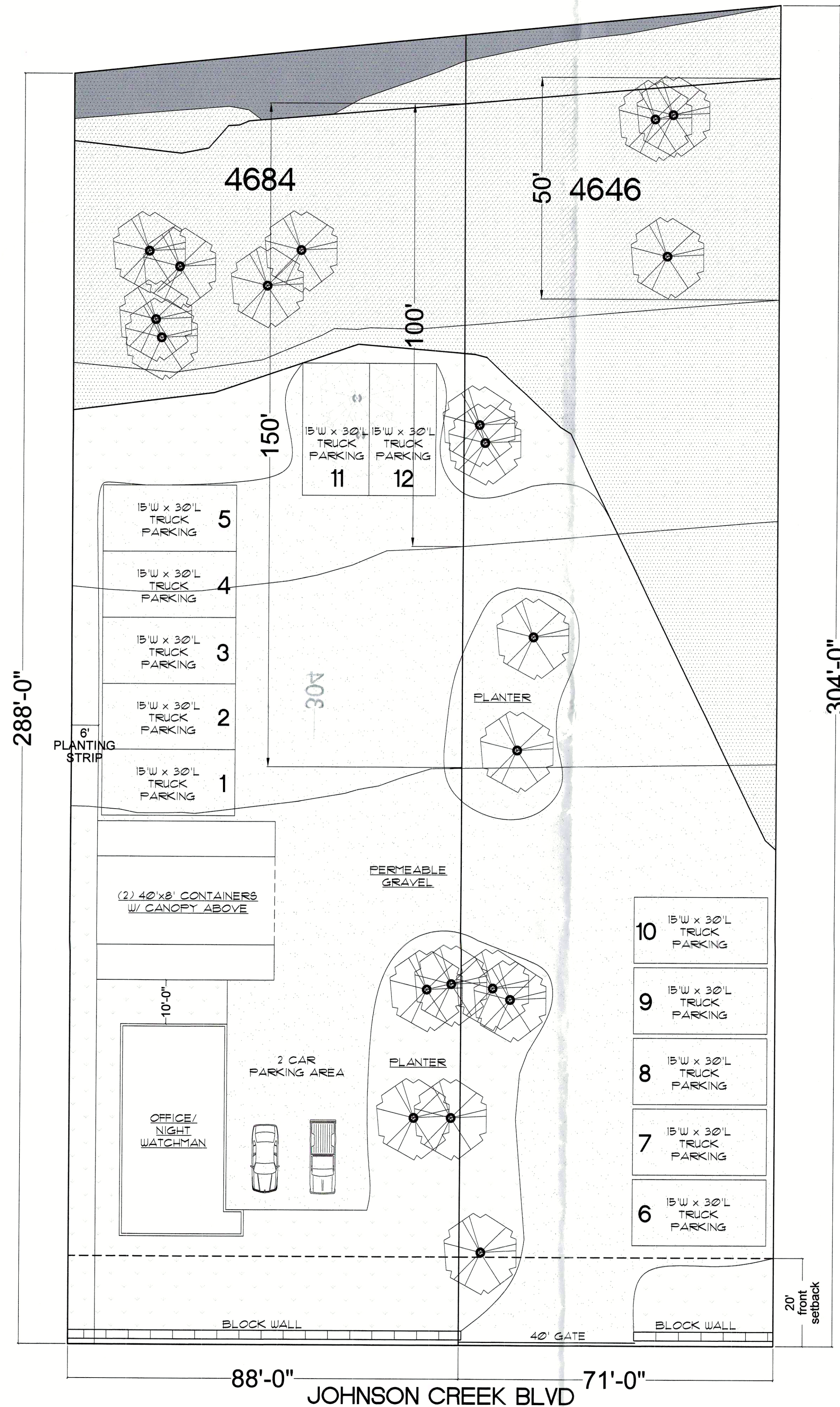












① SITE PLAN: 4646 & 4684 SE JOHNSON CREEK BLVD  
SCALE: 1/16" = 1'-0"

148 B AVENUE  
LAKE OSWEGO,  
OREGON 97034  
503.224.4500 phone  
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**Phil Chek**  
AND ASSOCIATES Inc.

DATE:  
06/19/2019  
DRAWN BY:  
NS  
JOB NAME:  
B&G TRUCK STOP  
REVISIONS:  
  
APPROVED BY:  
PC

PROJECT:  
B&G TRUCK PARKING  
4646 & 4684 SE JOHNSON CREEK BLVD  
MILWAUKIE, OR 97222

S1