



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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Portland, Oregon 97201
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RECOMMENDATION OF THE HEARINGS OFFICER

File No.: LU 05-138386 CP ZC (HO 4070077)

Applicant's Representative: Trina Buitron Whitman
WRG Design, Inc.
5415 SW Westgate Drive, Suite 100
Portland, OR 97221

Applicant: Roland Haertl
Haertl Development Company
632 NW View Ridge Lane
Camas, WA 98607

Owners: Colwood Partnership
2155 Kalakaua Ave Suite 602
Honolulu, HI 96815-2354

Hearings Officer: Gregory J. Frank

Bureau of Development Services (BDS) Staff Representative: Sheila Frugoli

Site Address: 7313 NE Columbia Blvd.

Legal Description: TL 100 47.56 ACRES, SECTION 17 1 N 2E; TL 100 0.45 ACRES, SECTION 17B 1N 2E; TL 800 2.33 ACRES, SECTION 17 1N 2E; TL 400 48.15 ACRES, SECTION 17 1N 2E; TL 300 32.17 ACRES, SECTION 17 1N 2E

Tax Account No.: R942170040, R942170320, R942171040, R942171960, R942171970

State ID No.: 1N2E17 00100, 1N2E17B 00100, 1N2E17AD 00800, 1N2E17 00400, 1N2E17 00300

Also Owns: TL 2000 .32 ACRES, SECTION 17 1N 2E, R942171980, 1N2E17AA 2000

Quarter Section: 2338, 2337, 2438

Neighborhood: Cully

Business District: Columbia Corridor Association
District Neighborhood Coalition: Central Northeast Neighbors

Plan District: None

Existing Zoning: OS, Open Space zone
c, Environmental Conservation overlay zone
h, Aircraft Landing overlay zone
x, Portland International Airport Noise overlay zone

Land Use Review: Type III, Comprehensive Plan Map Amendment (CP)
Zoning Map Amendment (ZC)

BDS Staff Recommendation to Hearings Officer: Approval with conditions

Public Hearing: The hearing was opened at 1:31 p.m. on March 24, 2008, in the 3rd floor hearing room, 1900 SW 4th Avenue, Portland, OR, and was closed at 4:31 p.m. The record was held open until 4:30 p.m. on April 14, 2008 for new written evidence, and until 4:30 p.m. on April 28, 2008 for the applicant's rebuttal. The record was closed at that time.

Testified at the Hearing:

Trina Whitman, WRG Design, 5415 SW Westgate Dr #100, Portland, OR 97221

Sheila Frugoli, BDS Staff Representative

Jack Orchard, 1100 One Main Pl., 101 SW Main St., Portland, OR 97204

Dave Leland, Leland Consulting, 610 SW Alder St., Portland, OR 97205

Sue Donaldson, Portland Parks and Recreation, 1120 SW 5th, Rm. 1302, Portland, OR 97204

Sean Loughran, Port of Portland, 7000 NE Airport Way, Portland, OR 97218

Corky Collier, Executive Director, Columbia Corridor Assoc., 6015 NE 80th, Portland, OR 97218

Kathy Fuerstenau, Cully Association of Neighbors, 4930 NE 73rd, Portland, OR 97218

Erwin Bergman, 5330 NE Holman, Portland, OR 97218

Mark Conley, PO Box 55121, Portland, OR 97238

Linda Robinson, 1115 NE 135th Ave., Portland, OR 97230

Troy Clark, 2821 NE Klickitat, Portland, OR 97212

Robin Denburg, NE Coalition of Neighborhoods, 4721 NE 31st Ave., Portland, OR 97211

Bill Barber, Neighborhood Planner, Central Northeast Neighbors, 4415 NE 87th Ave., Portland, OR 97220

Patrick Metzger, Concordia NA, 5620 NE 25th, Portland, OR 97211

Darcy Hood, 5734 NE Simpson, Portland, OR 97218

Barbara Fritz, 4705 NE Ainsworth St., Portland, OR 97218

Martin Jensvold, ODOT, 123 NW Flanders, Portland, OR 97209

Tamara DeRidder, 1707 NE 52nd Ave., Portland, OR 97213

Robert Thompson, Lt. Col., Air National Guard, 5316 NE 53rd Ave., Portland, OR 97218

Jamie Jeffrey, Portland Office of Transportation, Bldg. 106, Rm. 800

SUMMARY OF PROPOSAL SUBJECT TO THIS RECOMMENDATION

Applicant is requesting a Comprehensive Plan map amendment (Open Space to Industrial Sanctuary) and zone change (OS to IG2) for the Colwood National Golf Course in Northeast Portland. The application excepts approximately 22.5 acres from its industrial map designation request which would be retained as open space; applicant also offered to donate \$100,000 to Portland Parks to assist in maintenance and physical improvements to the open space.

Bureau of Development Services (“BDS”) staff, in Exhibit H.8 (attached), recommended to the Hearings Officer that the application be approved with modifications and also suggested limiting conditions. A public hearing was held before the Hearings Officer with testimony and written evidence presented by supporters and opponents of the application.

OVERVIEW OF HEARINGS OFFICER APPROACH TO THIS RECOMMENDATION

This is a tough case! The applicant, its supporters, as well as opponents to the application all offered extensive evidence and argument. The approval criteria for this case, although relatively short in duration, mandates City Council delicately balance highly disparate goals and policies.

The Hearings Officer, per 33.730.040 (see also 33.810.040 A.), does not make a decision in this case but simply offers a recommendation to City Council. The Hearings Officer has determined that for the most part the evidence presented by all parties/persons in this case should be considered credible and when there are evidentiary conflicts they are identified and discussed. The Hearings Officer feels that this recommendation will be most useful to City Council by outlining interpretive options and constraints related to the relevant approval criteria.

The approval criteria for the Comprehensive Plan Map Amendment in this case is set forth below:

“33.810.050 A. Quasi-Judicial. Amendments to the Comprehensive Plan Map that are quasi-judicial will be approved if the review body finds that the applicant has shown that all of the following criteria are met: 1. The requested designation for the site has been evaluated against relevant Comprehensive Plan policies and on balance has been found to be equally or more supportive of the Comprehensive Plan as a whole than the old designation.”

Burden of Proof. It is clear to the Hearings Officer that the applicant, in a request for a comprehensive plan amendment, has the burden of persuasion. It is applicant’s responsibility to provide evidence, in the record, that the above-quoted approval criteria is satisfied.

Comparison. The above-stated approval criteria requires, for each Comprehensive Plan policy considered relevant, a **comparison**; does the “new” map designation (Industrial) equally or better meet each relevant Comprehensive Plan policy than the “old” designation (Open Space)? It is important for Council to keep in mind that the approval criteria is not satisfied by simply demonstrating that the “new” Comprehensive Plan map designation (Industrial) **meets** or is **consistent** with each Comprehensive Plan policy.

On Balance. The “balance” language, in the above-stated approval criteria, creates the biggest challenge in this case. The Hearings Officer believes that the approval criteria language gives Council latitude, within certain boundaries, to exercise its political discretion. To that end the

Hearings Officer has reviewed past City cases, as interpreted by the Oregon Land Use Board of Appeals (LUBA) and Oregon appellate courts, to provide Council with direction related to the extent of permitted flexibility and/or limitations. In addition, the Hearings Officer outlines various “approaches” to apply the balancing portion of the approval criteria.

Past Case Review. Although not a Portland land use case *Waker v. Clackamas County*, 111 Or App 189, 826 P 2nd 20 (1992) provides insight into the “balancing” process. The court in *Waker* started off by expressly authorizing a local jurisdiction to balance its goals and/or policies. The court stated “we think some balancing or weighing is both permissible and necessary...” *Waker* @ 193 The *Waker* court went on to say that the “weight to be given a goal and the magnitude of the effects that particular proposed uses will have on the values that the different goals protect will inevitably vary from case to case” and that “some of the goals may be totally irrelevant.” *Waker* @ 194 The *Waker* court concluded by stating that “the way in which the factors are balanced is a question for the local government to answer initially, subject to LUBA’s and our review.” *Waker* @ 195

A Portland case, *Welch v. City of Portland*, 28 LUBA 439 (1994) elicited the following from the Oregon Land Use Board of Appeals: “under *Waker*, so long as the record reflects that plan policies were considered and balanced, this is all that is required.” *Welch* @ 447 Another Portland case decided by LUBA, *McGinnis v. City of Portland*, 25 Or LUBA 376 (1993), held that the “choice between conflicting believable evidence belongs to the city.” Finally, in *St. Johns Neighborhood Assn. v. City of Portland*, 34 Or LUBA 46 (1998) LUBA stated that the City of Portland was permitted to balance competing plan policies.

The Hearings Officer notes that Council may disregard Comprehensive Plan policies that it finds irrelevant to this application (i.e. Goal 1, Title 5 Neighbor Cities and Rural Reserves). However, the Hearings Officer suggests that for each policy that Council believes is not relevant Council notes why such policy is not relevant.

The Hearings Officer believes that the above referenced court decisions give Council relatively broad discretion in establishing how to balance the relevant goals. The Hearings Officer believes that Council has the authority to give some relevant Comprehensive Plan policies more weight and other relevant policies less weight in reaching its final decision as to whether the “new” (Industrial) proposed designation, equally or better, satisfies the policies than the “old” (Open Space) designation. The Hearings Officer finds what is important in this case is to explain the rationale underlying any “weighting” process why each policy is given more or less weight than other policies.

Possible Alternative “balancing tests.”

1st Step – Determine the Policies that are not Not Relevant. The first step is to determine what, if any, Comprehensive Plan policies are not relevant. A brief discussion of why each policy is not relevant is recommended.

“Scorecard” Approach. BDS staff identified a large number of policies (including subparts of each policy) that were relevant and therefore part of the balancing process. The “scorecard” approach involves adding up all of the policies that the “new” designation is equal or better met as compared to the “old” designation. All policies that are not better met should also be tallied. The “winner” would be which side (“better or equal” or “not better met”) has the highest total number.

This approach has the advantage of simplicity. However, the Hearings Officer believes that all policies should not be equally weighted because some policies are more important, as related to the specific application (geography, subject matter applicability, etc.), than others. The Hearings Officer discourages Council from selecting the simple “scorecard” approach and weighting all Comprehensive Plan policies the same.

“Nexus/Link” Approach. This approach gives more weight, in the balancing process, to Comprehensive Plan policies that are *topically* or *geographically* more closely connected to the subject site. This approach requires Council to review each policy and determine the nexus/link between the policy and the property/use in this case. For example, Goal 1, Title 2 (Regional Parking Policy) has very little topical connection with the application in this case; present use designation industrial and proposed use designation open space. However, Goal 8, section 8.9 (Open Space) has a close topical nexus/link to the present application. Finally, some Comprehensive Plan policies are simply not relevant/applicable to the application. An example of a policy not relevant would be Goal 2, Policy 2.3 (Annexation).

This approach would, initially, look to those policies that are determined to have a close nexus/link to the application. In this case the Hearings Officer suggests that the following policies fall in the “close nexus/link” category and should be given the most weight in the balancing process (organized by subject matter – Note: Open Space and Environment could be considered one “subject”):

General Topic Addressed by Policies	Comprehensive Plan Policy Reference
Economic Development	Goal 1 Policy 1.5 Metro Titles 1 and 4, Goal 2 Policies 2.12, 2.14, 2.19, 2.2, Goal 5 Policies 5.1, 5.2, 5.4, 5.8, 5.9.
Open Space	Goal 2 Policy 2.6, Goal 3 Cully Plan Policy 3.6D, Goal 8 Policies 8.9, 8.10, 8.14, 8.15, 8.16, 8.17, Goal 11 Policy 11F.
Environment	Goal 1, Metro Title 3 and Metro Title 13, Goal 8, Policies 8.4, 8.8, 8.9, 8.10, 8.12, 8.13, 8.14, 8.15, 8.16, 8.17 and 8.18.

Transportation	Goal 2 Policy 2.12, Goal 5 Policy 5.4, Goal 6 Policies 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, 6.11, 6.12, 6.14, 6.15, 6.16, 6.18, 6.19, 6.20, 6.22, 6.23, 6.24, 6.25, 6.26, 6.27, 6.28, 6.30, 6.31, 6.35, Goal 8 Policy 8.4 and Goal 11, Policy 11.10, as well as Policy 3 Cully Plan 3.6A 1, A.2, A.3, Cully Plan 3.6B 1, B.3, Cully Plan 6.C.1 and C.2.
Neighborhoods	Goal 1 Policy 1.5, Metro Title 12, Goal 3, Policy 3.6, Cully Neighborhood Plan Policies 1A, 2B, 4B, 4D, 4E, 6A and 7A.

When considering the above-listed closely linked Comprehensive Plan policies the Hearings Officer suggests Council give additional weight to two of the policy subject matters: Economic Development and Open Space. The present proposal is to convert open space to industrial.

It is clear to the Hearings Officer that the economic development policies referenced above are equally or better met by a change to an industrial sanctuary Comprehensive Plan map designation. However, it is also equally clear that the open space policies are better met by retaining the existing open space designation.

The Hearings Officer believes that Council has the right to place the most weight upon these two subject matter areas. The Hearings Officer further believes that Council may find that either the Open Space or Economic Development policy is more important than the other. Council could, in its discretion, find (consistent with much of the opposition testimony – including the official position of the Bureau of Parks and Recreation) that because open space is a precious and limited quantity resource which would be extremely difficult to replace the open space policies should be given the most weight in the balancing process. If this is Council’s finding then the Hearings Officer believes that Council could find that the applicant has not carried its burden of proof that, on balance, conversion of open space to industrial land is not equally or more supportive of the Comprehensive plan. The Hearings Officer believes that Council could, in the alternative, find that economic development should be weighted most heavily and if that is the case then Council could find that applicant did carry its burden.

In the event Council finds that economic development is to be given equal or more weight than open space/environment then Council will need to carefully assess the transportation related policies. BDS staff and applicant generally agree that the transportation can accommodate industrial uses on the Colwood site but they disagree as to the appropriate trip generation level and resulting limits on square footage of industrial space to be allowed.

In summary, the “nexus/link” approach allows Council to ascribe more weight to particular Comprehensive Plan policies than other relevant Comprehensive Plan policies.

“Other” Weighting Approaches. The Hearings Officer acknowledges that the number of approaches available to Council to weigh/balance the applicable and relevant

Comprehensive Plan policies is limited only by Council's imagination and its ability to provide a reasonable and logical explanation for giving identified policies more weight than others.

Summary of Hearings Officer's Recommendation regarding "Balancing." The Hearings Officer finds that the two most important Comprehensive Plan policy subject areas are "open space/environmental" and "economic development." (See list of policies above) The Hearings Officer recommends Council give these two subject areas the greatest weight in the balancing process required by 33.810 A.1.

The Hearings Officer finds that open space/environmental policies, in this case, can and should be given priority over the economic development policies. The Hearings Officer is not ignoring that applicant's proposal does provide for retention of some open space and provides funds towards development/maintenance of the retained open space. The Hearings Officer acknowledges that testimony is in the record clearly establishing a serious need for additional parcels of industrial land within the City of Portland. The Hearings Officer is also cognizant of the potential negative impacts upon the Port of Portland if the entire Colwood site is retained as open space. The Hearings Officer, by this recommendation, does not preclude a different recommendation if only the portion of the Colwood site (parcel 1, Exhibit C.1 – approximately 47 acres) is requested for a designation other than open space. However, the Hearings Officer is persuaded that the Colwood site open space is unique, is a practically irreplaceable asset, and this therefore this application should not be approved.

ADDITIONS/MODIFICATIONS TO BDS STAFF REPORT (EXHIBIT H.8)

With the exception of the comments below the Hearings Officer incorporates the BDS staff report (Exhibit H.8) into this recommendation. The Hearings Officer recommends modifying the BDS staff report to be consistent with the following:

33.855.050 D. BDS staff corrected the Exhibit H.8 to provide findings for 33.855.050 D. The Hearings Officer incorporates proposed findings as set forth in Exhibit H.37.

Transportation Policies. A number of Comprehensive Plan policies are directly related to transportation. BDS staff, in Exhibit H.8, generally found that transportation polices were equally or better met by the proposed designation (Industrial) as compared to the existing designation (Open Space). BDS staff relied heavily upon Portland Transportation comments (Exhibits E.11, E.12, and E.13).

During the open record period BDS staff suggested revisions to proposed condition E which set development allowances as a result of concerns raised by the Oregon Department of Transportation (Transportation Planning Rule – OAR 660-12-060). ODOT, Portland Transportation and the applicant's representative all submitted additional evidence related to transportation issues (primarily trip generation rates and resulting square footage limitations to be included in a condition of approval). (See Exhibits H.97, H.99, H.101 and H.116)

The Hearings Officer found the analysis set forth in the Kittelson & Associates memorandum to be the most persuasive. The Hearings Officer finds that the Portland Transportation and Oregon Department of Transportation insistence on a .47/1,000 s.f. rate for warehousing uses (for Tier 1) is not reasonable given the evidence in the record. The Hearings Officer agrees with Kittelson that Portland Transportation's use of a .27 trip rate for warehousing uses.

In the event Council disagrees with the Hearings Officer recommendation of denial of the proposed Comprehensive Plan map amendment from an Open Space to Industrial designation and also approves the zone change from OS to IG2 then the Hearings Officer recommends the use of a .27 trip generation rate for warehousing uses.

SPECIFIC POLICY MODIFICATIONS

Goal 1, Metro Title 2. BDS staff included this provision of the Metro Functional Plan with comments in its report (Exhibit H.8). The Hearings Officer finds Metro Title 2 is not applicable to this case and therefore was not considered in the balancing test required under 33.810.050 A.1.

Goal 1, Metro Title 8. BDS staff included this provision of the Metro Functional Plan with comments in its report (Exhibit H.8). The Hearings Officer finds Metro Title 8 is not applicable to this case and therefore was not considered in the balancing test required under 33.810.050 A.1.

Goal 1, Metro Title 12. BDS staff, in its report (Exhibit H.8), commented on this provision of the Metro Functional Plan inferring that the proposed use (industrial) was equally or more supportive of the policy than the old designation (open space). The Hearings Officer disagrees, if the Hearings Officer interpreted BDS comments correctly, with the BDS staff conclusion. The Hearings Officer finds that replacing open space with industrial uses will add air and pollution and noise as compared to retaining the Open Space map designation.

Goal 1, Metro Title 13. BDS staff, in its report (Exhibit H.8), commented on this provision of the Metro Functional Plan. The Hearings Officer finds that replacing open space with industrial uses is not more supportive of Title 13 than retaining the open space designation. The purpose of Title 13 is to "conserve, protect and restore a continuous ecologically viable streamside corridor system that is integrated with upland wildlife habitat and the surrounding urban landscape." The Hearings Officer finds that the slough is an ecologically viable water system and the existing Open Space designation provides a better corridor than will result if the application is approved.

Goal 3, Cully Neighborhood Plan Policy 2B-5. BDS staff, in its report (Exhibit H.8), stated that changing from to the proposed map designation (Industrial) from the old designation (Open Space) is consistent with Cully Neighborhood Plan Policy 2B-5. The Hearings Officer disagrees. BDS staff suggests that retaining "25 percent of the site will mitigate air, noise and stormwater pollution that is generally associated with industrial

development.” The Hearings Officer finds this comment is not responsive to the approval criteria set forth in 33.810.050 A.1. This approval criteria requires the new designation (Industrial) be found to be equally or more supportive of the Comprehensive Plan than the old designation (Open Space). The Hearings Officer finds that substituting industrial uses for open space will, in most cases (including this one) create more air pollution, noise pollution, and energy usage. Therefore, the Hearings Officer finds that changing to the “new” designation (Industrial) from the “old” designation (Open Space) will not equally or better support this Comprehensive Plan policy.

Goal 3, Cully Neighborhood Plan Policy 4E-1. BDS staff, in its report (Exhibit H.8), stated that changing from to the proposed map designation (Industrial) from the old designation (Open Space) is consistent with Cully Neighborhood Plan Policy 4E-1. The Hearings Officer disagrees. The Hearings Officer finds that replacing Open Space designation with an Industrial designation will not improve the water quality of the slough. Therefore, the Hearings Officer finds that changing to the “new” designation (Industrial) from the “old” designation (Open Space) will not equally or better support this Comprehensive Plan policy.

Goal 8, Policy 8.10. BDS staff, in its report (Exhibit H.8), stated that the proposed use (Industrial) “supports this policy.” The Hearings Officer finds that the approval criteria of 33.810.050 A.1 does not ask a decision maker whether or not a policy is satisfied or supported by a proposed designation. Rather 33.810.050 A.1 requires the decision maker to consider whether or not the proposed designation (Industrial) equally or better supports the Comprehensive Plan than the old designation (Open Space). The Hearings Officer finds the retention of the entire Colwood site in Open Space map designation better meets Policy 8.10 than changing the map designation to the Industrial map designation. In particular, the Hearings Officer finds that retaining the entire site in the Open Space designation provides a better wildlife corridor than converting (even part) of the site to the Industrial map designation.

Recommendation. The Hearings Officer generally utilized the “nexus/link” balancing approach discussed above and determined that the open space/environmental Comprehensive Plan policies combined should be given the greatest weight. The Hearings Officer finds that the following policies should be given the greatest weight:

Open Space Policies: Policy 2.6, 8.9, 8.10, 8.14, 8.15, 8.16, 8.17, 11F,
and Policy 3 Cully Plan, 3.4D and:

Environmental Policies: Policies 8.4, 8.8, 8.9, 8.10, 8.12, 8.13, 8.14,
8.15, 8.16, 8.17, 8.18, 8.10, 1.5, Metro Title 3, 1.5, and Metro Title 13.

The Hearings Officer took note of applicant’s evidence and argument related to the need for parks in the area surrounding the Colwood site. The Hearings Officer finds that although such evidence and argument is relevant it is not, in and of itself, dispositive. The Hearings Officer finds that open space includes land dedicated public park use but also finds that open space also includes land not in public park use. Open space, in the context of many of the

relevant policies referenced above, includes public and private open space and park and non-park open space.

The Hearings Officer finds that the proposed Industrial map designation does not equally or better support the above referenced open space/environmental Comprehensive Plan policies as compared to the current Open Space designation. The Hearings Officer gave greater weight to the open space/environmental Comprehensive Plan policies than all other relevant Comprehensive Plan policies.

BDS staff, in Exhibit H.8, recommended approval of the Comprehensive Plan Map Amendment (with conditions). **The Hearings Officer finds that, on balance, the proposed designation (Industrial) is not equally or more supportive of the Comprehensive Plan as a whole than the existing designation (Open Space).**

The Hearings Officer finds that the requested zone change request cannot be approved unless the Comprehensive Plan Map amendment is approved. Because the Hearings Officer recommends that the application for a Comprehensive Plan Map Amendment from Open Space to Industrial Sanctuary be denied, the **Hearings Officer also recommends that the Zoning Map Amendment from OS to IG2 also be denied.**

Gregory J. Frank, Hearings Officer

Date

Application Determined Complete: August 2, 2005
Report to Hearings Officer: March 14, 2008
Recommendation Mailed: May 15, 2008

City Council Hearing. The City Code requires the City Council to hold a public hearing on this case and you will have the opportunity to testify. The hearing will be scheduled by the City Auditor upon receipt of the Hearings Officer's Recommendation. You will be notified of the time and date of the hearing before City Council. If you wish to speak at the Council hearing, you are encouraged to submit written materials upon which your testimony will be based, to the City Auditor.

EXHIBITS
NOT ATTACHED UNLESS INDICATED

A. Applicant's Submittal

1. Revised/Updated Land Use Review Submittal, Submitted December 2007
 - a. Cover Letter – Proposal Update
 - b. Land Use Request
 - c. Existing Conditions
 - d. Proposal Overview
 - e. Response to Approval Criteria
 - f. Response to Cully Neighborhood Plan Policies and Objectives
 - g. Land Use Application Form and Property Title Information
 - h. Pre-Application Meeting Summary
 - i. Economic Impact Analysis
 - j. Letter to Mr. Haertl from Mark Ellsworth, Office of the Governor, dated July 15, 2005
 - k. Neighborhood and Business Association Meeting Summary Notes
 - l. Transportation Executive Summary, from Kittelson, dated December 20, 2007
 - m. Kittelson Concept Design for Columbia Blvd/Cully Rd
 - n. Kittelson Concept Design for NE Alderwood & 82nd Ave
 - o. Kittelson Concept Design for Proposed Ramp Lane at I-205/Killingsworth
 - p. Kittelson Concept Design, Alternative at I-205/Killingsworth
 - q. Transportation Impact Analysis, Colwood Golf Course, prepared by Kittelson and Assoc., Submitted June 2005
 - r. Letter to Mr. Haertl from Robin Grimwald, Portland Parks, dated June 15, 2005
 - s. Preliminary Stormwater Drainage Analysis
 - t. Multnomah County Drainage District Service Provider Letter, dated May 16, 2005
 - u. Utility Service Availability Letters
2. Transportation Impact Analysis, Colwood Golf Course, prepared by Kittelson and Assoc., Submitted March 2008
3. Original Land Use Review Submittal, Submitted June 2005
 - a. Land Use Request
 - b. Existing Conditions
 - c. Proposal Overview
 - d. Response to Approval Criteria
 - e. Land Use Application Form and Property Title Information
 - f. Pre-Application Meeting Summary
 - g. Economic Impact Analysis
 - h. Letter to Mr. Haertl from Mark Ellsworth, Office of the Governor, dated July 15, 2005
 - i. Neighborhood and Business Association Meeting Summary Notes
 - j. Transportation Impact Analysis, Colwood Golf Course, prepared by Kittelson and Assoc., Submitted June 2005
 - k. Letter to Mr. Haertl from Robin Grimwald, Portland Parks, dated June 15, 2005
 - l. Preliminary Stormwater Drainage Analysis
 - m. Multnomah County Drainage District Service Provider Letter, dated May 16, 2005
 - n. Utility Service Availability Letters

- B. Zoning Map
 - 1. Existing
 - 2. Proposed, requested December 2007
 - 3. Proposed with original application, June 2005
- C. Plans & Drawings
 - 1. Zoning/Comprehensive Plan Map Proposal by Acreage
 - 2. Existing Conditions Site Plan/Aerial Photo – Identifying Floodplain and Streets
 - 3. Storm Plan
 - 4. Utility Plan
 - 5. Existing Conditions Aerial Photo
 - 6. Proposed Park Exhibit
 - 7. Original Zoning/Comprehensive Plan Map Proposal by Acreage, Submitted June 2005
 - 8. Original Proposed Park Exhibit, Submitted June 2005
- D. Notification information
 - 1. Second Request for response, dated December 28, 2007
 - 2. First Request for response, dated August 8, 2005
 - 3. Posting letter for Rescheduled Hearing sent to applicant, dated Feb. 13, 2008
 - 4. Posting letter sent to applicant, dated December 31, 2007
 - 5. Rescheduled Hearing Notice to be posted
 - 6. Original Notice to be posted,
 - 7. Applicant's statement certifying re-posting, dated February 21, 2008
 - 8. Aerial photo from applicant identifying location of posting boards
 - 9. Photos of each posting board
 - 10. Applicant's statement certifying posting, dated January 9, 2008
 - 11. Mailing List for Rescheduled Hearing
 - 12. Mailing List for Hearing
 - 13. Mailed Notice for Rescheduled Hearing dated February 29, 2008
 - 14. Mailed Notice for Hearing
 - 15. LCDC Notice of Proposed Amendment
 - 16. Original LCDC Notice of Proposed Amendment,
- E. Agency Responses:
 - 1. Police Bureau
 - 2. Fire Bureau/Fire Prevention Division – TRACS Response
 - 3. Bureau of Environmental Services Revised Response
 - 4. Bureau of Environmental Services Addendum to Land Use Response
 - 5. Bureau of Environmental Services Land Use Response
 - 6. Bureau of Development Services/Site Development Review Section
 - 7. Bureau of Development Services/Life Safety Plans Examiner
 - 8. Bureau of Water Works – Pre-Application Conference Response
 - 9. Bureau of Water Works – TRACS Response
 - 10. Portland Parks & Recreation
 - 11. Portland Bureau of Transportation Engineering and Development Review
 - 12. Oregon Department of Transportation, dated March 13, 2008
 - 13. Oregon Department of Transportation, received Jan. 28, 2008
 - 14. Bureau of Planning, dated March 5, 2008
 - 15. Bureau of Planning, dated Jan. 28, 2008

16. Multnomah Drainage District #1, dated May 16, 2005
17. Portland Parks memo to PDOT regarding Thomas Cully Park

F. Correspondence

1. Corky Collier, Columbia Corridor Association, P.O. Box 55651, Portland, OR 97238
2. Andy Kangas, CB Richard Ellis, 1300 SW Fifth Ave., Suite 200, Portland, OR 97201
3. Tony Reser, GVA Kidder Mathews, One SW Columbia St., Suite 950, Portland, OR 97258
4. John Bartell, Opus Northwest, LLC, 1500 SW First Ave., Suite 1100, Portland, OR 97201
5. Todd A. DeNeffe, Cascade Commercial Real Estate, LLC, 2323 N. Williams Ave., Portland, OR 97227
6. Todd Sheaffer, Specht Development, 15325 SW Beaverton Creek Court, Beaverton, OR 97006
7. Todd Sheaffer, National Association of Industrial and Office Properties, Portland, OR
8. Steven Wells, Trammell Crow Company, 4949 SW Meadows Rd., Suite 150, Lake Oswego, OR 97035
9. Mike Houck, Urban Greenspaces Institute, P.O. Box 6903, Portland, OR 97228
10. Richard Gunderson, Cully Association of Neighbors
11. Frank Jagodnik, Oregon Recreation and Park Association, 309 Lexington Ave., Astoria, OR 97103
12. Jane Van Dyke, Columbia Slough Watershed Council, 7040 NE 47th Ave., Portland, OR 97218
13. Troy Clark, Friends of Smith and Bybee Lakes, 2821 NE Klickitat, Portland, OR 97212
14. Bruce Seiler
15. Erika Read, Portland Habitat for Humanity, 1478 NE Killingsworth St., Portland, OR 97211
16. Shawn Busse, 5936 NE Mason St., Portland, OR
17. Jean and Robert Thompson, 5316 NE 53rd Ave., Portland, OR 97218
18. Greg Ames, Luther Memorial Lutheran Church, 4800 NE 72nd, Portland, OR 97218
19. Bonnie J. Gregg, Luther Memorial Lutheran Church, 4800 NE 72nd, Portland, OR 97218
20. Micki Carrier
21. Cascade Anderson Geller
22. Don Jacobson, 941 SE 55th Ave., Portland, OR 97215
23. Linda Rose, 4343 NE Ainsworth, Portland, OR 97218
24. Tony DeFalco, 4347 NE Sumner St., Portland, OR 97218
25. Ben Cannon, 1125 SE Madison, Suite 100B, Portland, OR 97214
26. Shirley Simmons, 216 SE 30th Ave., Portland, OR 97214
27. Rachel Felice, 703 NE Sumner St., Portland, OR 97211
28. Erwin Bergman, 5330 NE Holman St. Portland, OR 97218

G. Other

1. Site History Research
2. Application Incompleteness Letter to Applicant, dated July 11, 2005
3. Bureau Representatives Correspondence. Preparing and Responding to Pre-Application Conference
4. Copies of Previous CP/ZC Amendments from OS Zone to Applicant from BDS Staff, dated April 25, 2005
5. Memo from PDOT to Applicants Regarding Colwood Development Agreement, dated Sept. 21, 2005

6. Memo from ODOT to BDS Staff, dated Sept. 1, 2005
 7. Memo from ODOT to BDS Staff, dated August 31, 2005
 8. Memo Regarding Development Agreement Concept to BDS Staff from Kittelson and Assoc., dated Aug. 5, 2005
 9. Letter from Applicant, Trina Buitron Whitman to BDS Staff Regarding Updated Completeness Submittal, dated July 20, 2005
 10. Letter from Applicant, Trina Buitron Whitman to BDS Staff Regarding Proposed Zone Boundary Explanation, dated Aug. 26, 2005
 11. E-mail response to Applicant and City Staff from PDOT, dated Aug. 8, 2005
 12. E-mail from Kittelson to BDS Staff regarding incomplete letter, dated July 18, 2005
 13. Notes from Meeting Discussing Colwood Development Agreement, June 12, 2006
 14. Memo to Kittelson (Paul Ryus) from PDOT regarding Feasibility Analysis, dated Dec. 17, 2005
 15. Memo to Jack Orchard, Paul Ryus from PDOT, Colwood Follow-up, dated Jan. 20, 2006
 16. Draft Development Agreement, with Staff editorial comments, July 10, 2006
 17. E-mail updated from PDOT to City staff, dated Oct. 5, 2006
 18. Memo from Kittelson and Assoc. to PDOT staff regarding Killingsworth/I-205 ODOT TPR Issues, dated February 28, 2007
 19. Memo from Kittelson and Assoc. to PDOT and ODOT regarding Alternative Open Space Land Use Scenario
 20. Copy of Courtesy e-mail sent to Bureau Contacts and Others Regarding Hearing Reschedule, dated February 8, 2008
 21. Request to Postpone Original Hearing Date from Applicant to BDS, dated Aug. 16, 2005
 22. Request from Applicant to Reschedule Hearing
 23. Request from Applicant to Reschedule Hearing to March 24, 2008
- H. Received in the Hearings Office
1. Request to reschedule, Frugoli, Sheila
 2. Hearing notice, Frugoli, Sheila
 3. Request to reschedule, Poelwijk, Yvonne
 4. Rescheduled hearing notice, Frugoli, Sheila
 5. Letter dated 2/15/08, Ames, Pastor Greg
 6. Updated mailing list, Hearings Office
 7. Letter to Hearings Officer dated 3/13/08, McCaffrey, Robin
 8. Staff report, Frugoli, Sheila (**attached**)
 9. Duplicate copy of Exh. H-7 (original), McCaffrey, Robin
 10. Memo to Hearings Officer regarding 25 attached letters (exhibited separately), Frugoli, Sheila
 11. Letter from Rachel Felice dated 3/10/08, Frugoli, Sheila
 12. Email from JJ Sweeney dated 3/12/08, Frugoli, Sheila
 13. Email from George Bruender dated 3/12/08, Frugoli, Sheila
 14. Duplicate of email in Exh. H-13, Frugoli, Sheila
 15. Email from Jhan Hochman dated 3/13/08, Frugoli, Sheila
 16. Email from Kathleen Sheridan dated 3/13/08, Frugoli, Sheila
 17. Email from Walt Quade & Marcia Tate dated 3/13/08, Frugoli, Sheila
 18. Email from Greg & Shelley Peters dated 3/13/08, Frugoli, Sheila
 19. Email from Chris Browne dated 3/14/08, Frugoli, Sheila

20. Email from Kathy O'Neill dated 3/14/08, Frugoli, Sheila
21. Email from Jim Wentworth dated 3/14/08, Frugoli, Sheila
22. Email from Chrisandra Sarda dated 3/14/08, Frugoli, Sheila
23. Email from Jean Brown dated 3/15/08, Frugoli, Sheila
24. Email from Tamra Dickinson dated 3/16/08, Frugoli, Sheila
25. Email from Bhronwhyn Dean dated 3/17/08, Frugoli, Sheila
26. Email from Tom O'Neill dated 3/17/08, Frugoli, Sheila
27. Email from Janis Stange dated 3/17/08, Frugoli, Sheila
28. Email from Alan Locklear dated 3/17/08, Frugoli, Sheila
29. Email from Lawrence Jones dated 3/17/08, Frugoli, Sheila
30. Letter from James & Lorace Miller, Frugoli, Sheila
31. Email to Anna Curtin dated 3/18/08, Frugoli, Sheila
32. Letter from Helen Gradt, Frugoli, Sheila
33. Email from M'Lou Christ dated 3/19/08, Frugoli, Sheila
34. Email from Rachel Freifelder dated 3/19/08, Frugoli, Sheila
35. Email from Dove Hotz dated 3/19/08, Frugoli, Sheila
36. Letter, Brown, Kerry
37. 3/24/08 Memo, Frugoli, Sheila
38. 3/24/08 Letter Mike Houch to Frugoli, Frugoli, Sheila
39. 3/24/08 E-mail Dianne Ensign to Frugoli, Frugoli, Sheila
40. 3/24/08 Memo from Linda Robinson, Frugoli, Sheila
41. 3/24/08 E-mail from Margaret Hollyer, Frugoli, Sheila
42. 3/20/08 Letter Susan L. Nelson to Frugoli, Frugoli, Sheila
43. 3/23/08 Letter Bob Sallinger to Frugoli, Frugoli, Sheila
44. 3/24/08 E-mail Julie Morris to Frugoli, Frugoli, Sheila
45. 3/19/08 Letter Katie Ugolini/Concordia NA to Frugoli, Frugoli, Sheila
46. 3/21/08 E-mail Johanna Rayman to Frugoli, Frugoli, Sheila
47. 3/20/08 E-mail Greg Schramm to Frugoli, Frugoli, Sheila
48. Staff's PowerPoint presentation printout, Frugoli, Sheila
49. Applicant's PowerPoint presentation printout, Raus, Paul
50. Testimony form with letter attached, Loughran, Sean
 - a. 3/24/08 Letter Christopher Corich to Frank, Loughran, Sean
51. Testimony form, Conley, Mark
52. Testimony form, Robinson, Linda
53. Testimony form, Sallinger, Bob
54. Testimony form, Clark, Troy
55. Testimony form with attachments, Fuerstenau, Kathy
 - a. 3/24/08 Letter Fuerstenau to Hearings Officer, Fuerstenau, Kathy
 - b. Cully Neighborhood Fact Sheet, Fuerstenau, Kathy
 - c. Table, Fuerstenau, Kathy
56. Testimony form, Bergman, Erwin
57. Testimony form, Denburg, Robin
58. Testimony form with attachment, Barber, Bill
 - a. 3/20/08 Letter Barber/Central NE Neighbors to Hearings Officer, Barber, Bill
59. Testimony form, Collier, Corky
60. Testimony form, Metzger, Patrick

61. Testimony form, Quade, Walt
62. Testimony form, Hood, Darcy
63. Testimony form, Fritz, Barbara
64. Testimony form, Eckert, Richard A.
65. Testimony form, Jensvold, Martin
66. Agreement for Donation and Acceptance of Real Property, Orchard, Jack
67. Testimony form, LeDoux-Callan, Elizabeth
68. Testimony form, Stadelman, Kevin
69. Testimony form, Perlman, Lee
70. Testimony form, Bergemann, Rhonda
71. Testimony form, Brown, Kerry
72. Testimony form, DeRidder, Tamara
73. 3/24/08 Letter Fuerstenau to Hearings Officer with attachments, Fuerstenau, Kathy
 - a. Cully Neighborhood Fact Sheet, Fuerstenau, Kathy
 - b. Table, Fuerstenau, Kathy
74. 3/24/08 Memo Robinson to Hearings Officer, Robinson, Linda
75. 3/24/08 Letter, Conley, Mark
76. Testimony, Fritz, Barbara
77. Testimony form, Sherman Cohen, Helen
78. 3/24/08 Letter with attachments, DeRidder, Tamara
 - a. Cully Neighborhood Survey Results 2006 & 2000 Demographics, DeRidder, Tamara
 - b. Cully Neighborhood Zoning, DeRidder, Tamara
 - c. Cully Neighborhood Fact Sheet, DeRidder, Tamara
 - d. Cully Association of Neighbors Action Plan for 2007-2008, DeRidder, Tamara
79. Letter dated 3/26/08, Thompson, Jean and Robert
80. Letter, Browning, Rachel
81. Letter, De Andrade, John
82. 3/25/08 E-mail from Charles LeGrand, Frugoli, Sheila
83. 3/21/08 Letter from Dennis Stoecklin, Concordia University, Frugoli, Sheila
84. 3/31/08 Letter, Ames, Pastor Greg
85. 4/7/08 E-mail from Judy Henderson, Frugoli, Sheila
86. 4/7/08 E-mail from Larry Jones, Frugoli, Sheila
87. 4/7/08 E-mail from Karen Smith, Frugoli, Sheila
88. 4/7/08 E-mail from Cheyne Cumming, Frugoli, Sheila
89. 4/9/08 E-mail from Elizabeth, Frugoli, Sheila
90. 4/7/08 E-mail from Judy Todd, Frugoli, Sheila
91. Letter, Ritter, Erica
92. Letter dated 4/10/08, Horner, Brett
93. Fax letter to HO, Oliver, Kathy
94. Faxed letter to HO, Rebanal, Olivia
95. Letter to HO dated 4/14/08, Whitaker, David
96. Memo to HO dated 4/14/08 (5 pages), Frugoli, Sheila
97. Report to HO dated 4/10/08 on PDOT letterhead, Jeffrey, Jamie
98. Letter to HO dated 4/12/08, Fuerstenau, Kathy
99. Report to HO dated 4/14/08, Whitman, Trina Buitron

100. Letter to HO dated 4/11/08 w/2 11x17 color maps attached, Corich, Christopher
101. Fax cover w/multiple docs from various people attached (Exh. 101a-101d), Kevlin, Ross
 - a. Letter to HO dated 4/11/08 on ODOT letterhead, Kevlin, Ross
 - b. Copy of email from Kevlin to various parties dated 4/14/08, Kevlin, Ross
 - c. Copy of email from Robin McCaffrey to Garth Appanaitis dated 4/13/07, Kevlin, Ross
 - d. Attachment V document, Kevlin, Ross
102. Faxed copy of letter from Neighborhood Assns. to Frugoli dated 4/10/08, Hatfield, Teresa
103. Faxed memo to HO dated 4/14/08, Robinson, Linda
104. Letter to HO dated 4/10/08, Walker, Jaymes
105. Letter to HO dated 3/24/08 on Columbia Corridor letterhead, Collier, Corky
106. Letter to HO dated 4/9/08, Hamilton, Dr. Carol C.
107. Duplicate of Exh. H-102, Frugoli, Sheila
108. Copy of email from Frodo Okulam to Frugoli & others dated 4/10/08, Frugoli, Sheila
109. Letter to HO from Wilkes Community Group dated 3/26/08, Frugoli, Sheila
110. Copy of email from Elisabeth Minthorn to Frugoli & others dated 4/9/08, Frugoli, Sheila
111. Memo to HO entitled: Addendum #2 to Land Use Response, Tunnard, Sears, Thompson, & Hendrickson at BES, Submitted After Record Closed
112. Letter to HO, Knight, Ron, Submitted After Record Closed
113. Letter to HO, Luck, Susanna, Submitted After Record Closed
114. Letter to HO, Hyatt, Greg, Submitted After Record Closed
115. Letter to HO, Sterry, Kate, Submitted After Record Closed
116. Letter of rebuttal dated 4/24/08 w/attachments, Whitman, Trina Buitron, Received
 - a. Kittelson & Assoc. Memo dated 4/21/08 (5 pgs), Whitman, Trina Buitron, Received
 - b. Memo to City of Troutdale re: Fed-X, from Kevlin @ ODOT dated 8/29/07, Whitman, Trina Buitron, Received