



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

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Date: October 11, 2013
To: Interested Person
From: Susan van Staveren, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 13-200715 ZE
GENERAL INFORMATION

Applicant: City Of Portland BDS Land Use Services Division
 1900 SW 4th Ave Ste 5000 / Portland OR 97201

Property Owner: Port of Portland / Contact: Steve Bloomquist
 7000 NE Airport Way / Portland OR 97208

Site Address: 8338 NE ALDERWOOD RD

Legal Description: LOT A, PORTLAND INT'L CENTER; LOT G, PORTLAND INT'L CENTER; LOT 4 TL 1200, PORTLAND INT'L CENTER; LOT 4&5&7 TL 1103 SPLIT LEVY R247850 (R66930-0650) & R247856 (R66930-0930), PORTLAND INT'L CENTER; LOT 5 TL 1300 SPLIT LEVY R247851 (R669300700) & R247852 (R669300710), PORTLAND INT'L CENTER; LOT 5 TL 1301 SPLIT LEVY R247849 (R669300600), PORTLAND INT'L CENTER; LOT 7 TL 1101 SPLIT LEVY R247858 (R669301010) & R247859 (R669301020), PORTLAND INT'L CENTER; LOT 7 TL 1102 SPLIT LEVY R247848 (R669300550), PORTLAND INT'L CENTER; LOT 7 TL 1104 SPLIT LEVY R247855 (R669300900), PORTLAND INT'L CENTER; LOT 12 TL 1800, PORTLAND INT'L CENTER; TL 1700 LOT 12, PORTLAND INT'L CENTER; LOT 12 TL 1701 SPLIT LEVY R247870 (R669302000), PORTLAND INT'L CENTER; LOT 12 TL 1702 SPLIT LEVY R247869 (R669301910), PORTLAND INT'L CENTER; TL 2100 LOT 13, PORTLAND INT'L CENTER

Tax Account No.: R669300010, R669300080, R669300500, R669300550, R669300600, R669300710, R669300900, R669300930, R669301010, R669301700, R669301900, R669301910, R669302000, R669302120, R669301700, R669302120

State ID No.: 1N2E16B 01600, 1N2E16B 01900, 1N2E16B 01200, 1N2E16B 01103, 1N2E16B 01300, 1N2E16B 01301, 1N2E16B 01101, 1N2E16B 01102, 1N2E16B 01104, 1N2E16B 01800, 1N2E16B 01700, 1N2E16B 01701, 1N2E16B 01702, 1N2E16B 02100, 1N2E16B 01800, 1N2E16B 02100

Quarter Section: 2339, 2239

Neighborhood: None **District Coalition:** None

Business District: Columbia Corridor Association, contact Peter Livingston at 503-796-2892. Parkrose Business Association, contact David Ableidinger at 503-258-2607.

Plan District: Cascade Station/PIC - Subdistrict B
Zoning: IG2 and EG2 with c, h, x overlay zones
Case Type: ZE
Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal:

The Bureau of Development Services is initiating a Zoning Map Error Correction to modify the environmental overlay zoning on sites currently owned by the Port of Portland near the intersection of NE Alderwood Road and NE 82nd Avenue. This process is occurring because the environmental overlay zoning was incorrectly mapped on the sites when the City Council adopted the *Airport Futures* plan on May 13, 2011. There are two zoning map errors to be corrected. The first error relates to the misidentification of stream segments on these sites. A site visit confirmed that stream segments originally identified on these sites do not exist. The second error relates to the application of the environmental conservation overlay zone to wetlands on one of the sites. The ESEE for the Airport Futures plan recommended that the environmental protection overlay zone be applied to the wetlands in question; however, the environmental conservation zone was inadvertently applied in error. The attached maps show the existing and proposed environmental zoning for these sites.

RELEVANT APPROVAL CRITERIA:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in **Zoning Code Section 33.855.070**.

ANALYSIS

Site and Vicinity: For the purposes of this review, the Bureau of Planning and Sustainability identified two sites. **Site 1** consists of property tax ID numbers R247835, R247868, R247869, R247866, R247842 and R247872. **Site 2** consists of R247849, R247855, R247856, R247848, R247858, R247847 and R247852. These sites are in the vicinity of NE Alderwood Road and NE 82nd Avenue. The properties include industrial and office buildings with surface parking areas and vegetated areas. Historic air photos indicate that the vegetation pattern in the area has changed very little in the past 15 years.

Zoning: The sites are zoned IG2 and EG2 with areas of “c” (Environmental Conservation) “h” (Aircraft Landing) and “x” (Portland International Airport Noise Impact) overlay zoning. The new mapping includes a “p” (Environmental Protection) overlay zone on Site 2. These sites are also in the Cascade Station/Portland International Center Plan District – Subdistrict B.

- The IG2 zone is one of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zone provides areas where most industrial uses may locate, while other uses are restricted to prevent potential conflicts and to preserve land for industry. IG2 areas generally have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverages and buildings which are usually set back from the street.
- The EG2 zone allows a wide range of employment opportunities without potential conflicts from interspersed residential uses. The emphasis of the zone is on industrial or industrially-related uses. EG2 areas have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverages and buildings which are usually set back from the street. Retail Sales and Services uses are allowed by right up to 60,000 square feet.
- The “h” overlay limits the height of structures and vegetation in the vicinity of the Portland International Airport.
- The “x” overlay provides additional criteria to reduce the impact of aircraft noise on development within the noise impact area surrounding the Portland International Airport.

- Environmental overlay zones (“c” and “p”) 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 preserve the site’s protected resources. They protect the most important environmental features and resources while allowing environmentally sensitive urban development where resources are less significant.
- The Cascade Station/Portland International Center Plan District is intended to encourage the development of a commercially viable mix of transit supportive and pedestrian sensitive office, hotel, entertainment, retail and industrial employment centers. Uses within the plan district are limited by both transportation constraints and opportunities. The site is within Subdistrict B of this plan district.

Land Use History: City records indicate the following previous land use review for this site:

These sites were part of numerous Portland International Airport and Portland International Center Planned Unit Development, Conditional Use and Master Plan proposals that are not related to this Zone Map Error request. The most recent land use case was:

LUR 99-00962 - Approval of an adjustment for additions to the Plant List for Cascade Station/Portland International Center Plan District.

The environmental conservation overlay zone was applied to these sites on May 13, 2011 as a result of City Council adoption of the Airport Futures plan and the Middle Columbia Corridor/Airport natural resources inventory and Environment and Energy Analysis (ESEE). The natural resource inventory identifies and ranks natural resource features and functions, and the ESEE evaluates and recommends levels of protection for significant natural resource areas.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on September 13, 2013. No replies were received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

33.855.070. Corrections to the Official Zoning Maps.

The Director of BDS may initiate and approve a review following the Type II procedure for the types of discretionary corrections to the Official Zoning Maps listed below.

Nondiscretionary corrections to the Official Zoning Maps may be initiated by the Director of Planning as described in Section 1.01.037 of the Portland City Code.

Findings: Following a request by the property owner, the Bureau of Planning and Sustainability (BPS) staff investigated a possible zone map error and determined that a mapping error had occurred on the subject property. BPS provided a copy of its report (Exhibit A) to the Bureau of Development Services (BDS). Subsequently, the Director of BDS initiated this review to correct the error in the official zone map by more accurately portraying the location of environmental zone lines on the subject property.

33.855.070.A. Mapping errors. The correction may be made for mapping errors such as:

- 1. A map line that was intended to follow a topographical feature does not do so. Topographical features include the tops and bottoms of hillsides, the banks of water bodies, and center lines of creeks or drainage ditches.**

Findings: For Site 1 and Site 2 there is evidence of environmental zoning map errors. For both sites, the environmental conservation overlay zone was applied based on the presumed

presence of streams and wetlands. The BPS report (Exhibit A) provides a detailed account of this process and how staff confirmed via a site visit that stream segments shown on portions of Site 1 (R247869 and R247868) and Site 2 (R247855 and R247849) do not exist and should be removed. This mapping error meets this criterion.

2. There is a discrepancy between maps and on balance, there is sufficient evidence of legislative intent for where the line should be located.

Findings: The second environmental overlay zoning map error on Site 1 is related to the ESEE recommendation, which for this site is to strictly limit conflicting uses within 50 feet of the top of bank of high and medium ranked open streams, drainageways and wetlands on industrial and employment zoned property owned by the Port of Portland (Middle Columbia Corridor/Airport ESEE page 184 which can be found on the BPS website at the following link: <http://www.portlandoregon.gov/bps/article/300115>). The implementation tool to apply this limitation is the environmental protection overlay zone (ESEE page 186). The recommended environmental overlay zone map for this site in the Middle Columbia Corridor/Airport ESEE (p. 193) erroneously recommended environmental conservation overlay zoning for the high and medium ranked open streams, drainageways and wetlands on Port-owned property. The language in the ESEE recommendation provides sufficient evidence of legislative intent for where the environmental protection overlay zone line (and the 25 foot environmental conservation overlay zone transition area) should be located. This map error meets this criterion.

With approval of the proposed zoning map (Exhibit B.2) which removes a portion of the incorrectly mapped environmental conservation overlay zone and replaces an area of environmental conservation overlay zoning with environmental protection overlay zoning, these criteria are met.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

BPS recommends that a zoning map error correction be approved based on the facts that:

1. Stream segments were misidentified on the site. A site visit confirmed that stream segments originally identified on the site do not exist; and
2. The environmental conservation overlay zone was not accurately applied to some wetlands on the site. The ESEE for the Airport Futures plan recommended that the environmental protection overlay zone be applied to the wetlands in question however the environmental conservation zone was inadvertently applied in error.

BDS has reviewed the BPS recommendation and, based on the findings supplied by BPS that provide a detailed analysis of how these sites were mapped, agree with this Zoning Map Error correction.

Therefore, this proposal should be approved.

ADMINISTRATIVE DECISION

Approval of a zoning map error correction regarding the relocation of the environmental zone lines, in conformance with the Proposed Zoning Map designated as Exhibit B.2.

Staff Planner: Susan van Staveren

Decision rendered by:  **on October 8, 2013**

By authority of the Director of the Bureau of Development Services

Decision mailed: October 11, 2013

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

Procedural Information. The application for this land use review was submitted on September 4, 2013, and was determined to be complete on September 9, 2013.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on September 4, 2013.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case the applicant did not waive or extend the 120-day review period.

Some of the information contained in this report was provided by the applicant.

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

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on October 25, 2013** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, OR 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, the final decision may be recorded on or after **October 28, 2013**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

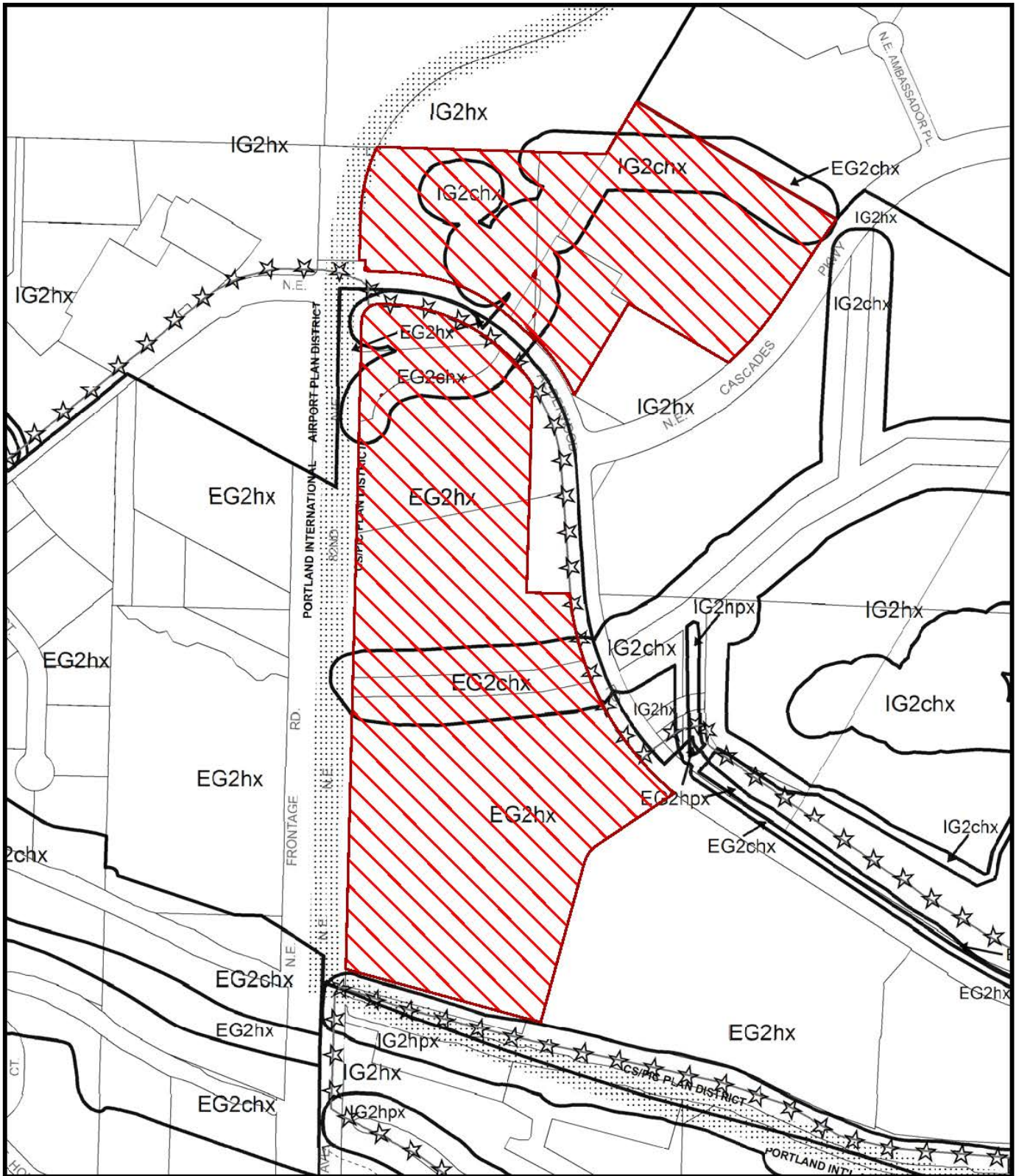
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement: Memo from Shannon Buono, Senior Planner, BPS
- B.
 - 1. Existing Zoning Map (attached)
 - 2. Proposed Zoning Map (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice

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



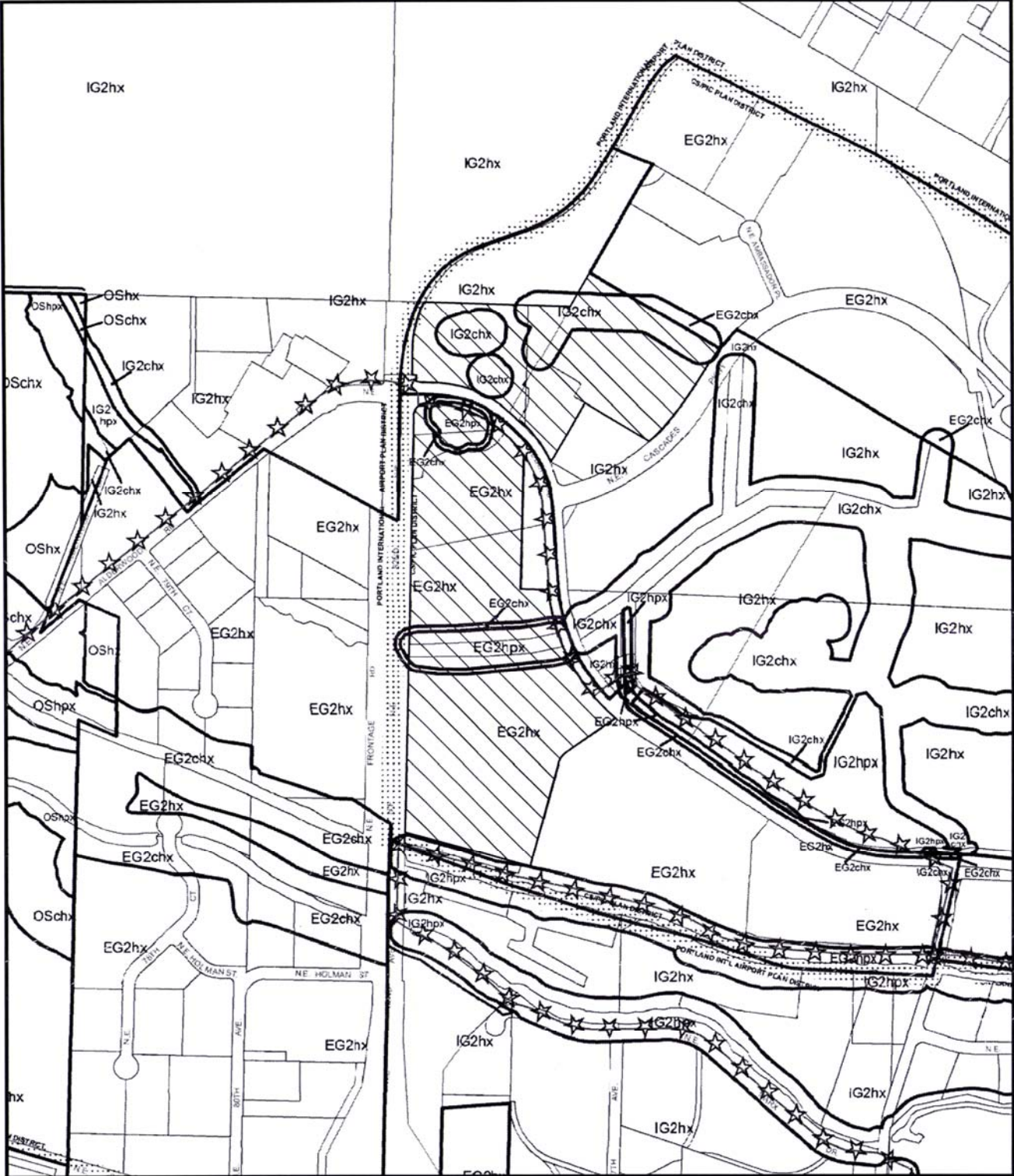
ZONING EXISTING

 Site



This site lies within the:
CASCADESTATION/PORT. INTNTL. CTR. PLAN DISTRICT

File No.	<u>LU 13-200715 ZE</u>
1/4 Section	<u>2239,2339,2439</u>
Scale	<u>1 inch = 400 feet</u>
State_Id	<u>1N2E16B 1900</u>
Exhibit	<u>B.1 (Sep 04,2013)</u>



ZONING

PROPOSED

Site



NORTH

This site lies within the:
CASCADESTATION/PORT. INTNL. CTR. PLAN DISTRICT

File No.	<u>LU 13-200715 ZE</u>
1/4 Section	<u>2239,2339,2439</u>
Scale	<u>1 inch = 400 feet</u>
State_Id	<u>1N2E16B 1900</u>
Exhibit	<u>B.2</u> (Sep 04,2013)