

## CITY OF PORTLAND

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October 29, 2013

### NOTICE OF DECISION

**RE CASE FILE: LU 12- 213885 CP ZC EN**

Consider the proposal of Don Goldberg of The Trust for Public Land and the recommendation from the Hearings Officer for approval, to change the Comprehensive Plan Map designation from Open Space to Industrial Sanctuary and the Zoning Map designation from OS Open Space to IG2 General Industrial 2 for the Northern Parcel, and a Zoning Map Amendment to modify Environmental Protection and Environmental Conservation overlay zones on the site known as the Colwood National Golf Course, in the vicinity of NE Alderwood Rd and NE Cornfoot Rd (Hearing; LU 12-213885 CP ZC EN)

To Whom It May Concern:

On October 23, 2013, at approximately 2:00 p.m., at a regularly scheduled meeting in Council Chambers, the Council voted 5-0 and passed Ordinance No.186308.

City Council's decision is the final review process available through the City. You may appeal this decision to the Oregon Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal with the Board within 21 days of the date of decision, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. The Board's address is: Public Utility Commission Building, 550 Capitol Street NE, Suite 235, Salem, OR 97310-2552. You may call the Land Use Board of Appeals at 1-503-373-1265 for further information on filing an appeal.

Yours sincerely,

LaVonne Griffin-Valade  
Auditor of the City of Portland

By:

Karla Moore-Love, Council Clerk

Enc.

# ORDINANCE No. 186308

\*Amend the Comprehensive Plan Map designation and change zoning of property in the vicinity of NE Alderwood Road and NE Cornfoot Road, the northern portion of the site known as the Colwood National Golf Course property, at the request of Don Goldberg, The Trust for Public Lands (Ordinance; LU 12-213885 CP ZC EN)

The City of Portland ordains:

Section 1. Council finds:

1. The property located at 7313 NE Columbia Boulevard, currently the site of the Colwood Golf Course, consists of four parcels with State ID numbers 1N2E17 00100, 1N2E17 00400, 1N2E17 00300, and 1N2E17AA 02000, legally described as "TL 100 47.57 ACRES, SECTION 17 1N 2E; TL 400 50.40 ACRES, SECTION 17 1N 2E; TL 300 32.17 ACRES, SECTION 17 1N 2E; and TL 2000 0.30 ACRES, SECTION 17 1N 2E" (the "Overall Site"). The Applicant requested a Comprehensive Plan Map amendment and concurrent Zoning Map amendment for one of these parcels, and requested Environmental Review that requires modification of Environmental Protection and Environmental Conservation overlay zones on two of these parcels.
2. The Applicant seeks the following on the Overall Site:
  - a. a Comprehensive Plan Map Amendment from Open Space to Industrial Sanctuary for the property identified as State ID No. 1N2E17 00100, legally described as "Tax Lot 100 47.57 acres, Section 17 1N 2E" (hereinafter referred to as the "Northern Parcel");
  - b. a Zoning Map Amendment from Open Space to General Industrial 2 for the Northern Parcel;
  - c. a Zoning Map Amendment to modify Environmental Protection and Environmental Conservation overlay zones on the Northern Parcel and on the property identified as State ID No. 1N2E17 00400 and legally described as "TL 400 50.40 ACRES, SECTION 17 1N 2E" (the "Eastern Parcel"); and
  - d. approval of concurrent Environmental Review for:
    - 2.74 acres of wetland fill and riparian buffer removal within the Environmental Protection zone on the Northern Parcel;
    - Removal of approximately 24.96 acres of riparian area in the Environmental Conservation zone on the Northern Parcel;
    - A minimum of 3.07 acres of wetland creation and plantings in the Environmental Conservation zone south of Whitaker Slough and east of NE Alderwood Road (on the Eastern Parcel);

- A minimum of 8.89 acres of plantings in the area adjacent to Columbia and Whitaker Sloughs, east of NE Alderwood Road (on the Eastern Parcel);
  - A minimum of 3.15 acres of plantings within the environmental zones remaining on the Northern Parcel; and
  - A minimum of 14.04 acres of plantings in the area between Columbia and Whitaker Sloughs, west of NE Alderwood Road.
3. An application complying with all requirements of Title 33, Planning and Zoning, of the Code of the City of Portland seeking amendment of the Comprehensive Plan Map and Zoning Map and Environmental Review has been received with the proper fee for filing paid.
  4. The Hearings Officer held a duly noticed public hearing on June 12, 2013, and a Recommendation was issued on August 21, 2013, (BDS File No. LU 12-213885 CP ZC EN). The Hearings Officer recommended approval of the requested Comprehensive Map Amendment, Zoning Map Amendment and Environmental Review, with conditions.
  5. The requested Comprehensive Plan Amendment, Zoning Map Amendment and Environmental Review, based on the findings contained in the Recommendation of the Hearings Officer, are found to be in conformance with the Comprehensive Plan and relevant Title 33 approval criteria.

NOW THEREFORE, the Council directs:

- a. City Council adopts the facts, findings, conclusions and recommendations of the Hearings Officer in BDS File No. LU 12-213885 CP ZC EN, except as Conditions B and C are modified and Condition K is added by this ordinance. City Council also adopts supplemental findings to address Policies 3.5, Neighborhood Involvement, Policy 6.5, Traffic Classification Descriptions, and Criterion 33.855.050.B.2, Zoning Map Amendment, as follows:

At the September 25, 2013 City Council hearing for this proposal, the Sumner Neighborhood Association testified that they were not officially notified of the recommended condition for the construction of an additional southbound ramp at I-205 and NE Killingsworth, to fulfill the transportation mitigation requirement. City Council directed Bureau of Transportation (PBOT) staff to meet with the Sumner Neighborhood Association and discuss their concerns and commit to future timely notification to any neighborhood association whose boundaries include a location proposed for off-site mitigation.

The neighborhood meeting occurred on October 8, 2013 with PBOT, Oregon Department of Transportation staff and the applicant in attendance. The transportation staff responded to the concerns raised by neighborhood representatives and explained that the State Transportation Planning Rule allows off-site mitigation to address impacts to regional transportation systems.

The Council has considered the concerns raised by the Sumner Neighborhood Association as well as the competing evidence submitted from the applicant's transportation engineering representative and PBOT staff. The Kittelson and Associates letter dated October 22, 2013 addresses each of the Sumner Neighborhood Association's concerns and outlines the process used for recommending the preferred off-site mitigation. In addition, the letter restates that the proposal will encourage the use of major arterial streets for regional traffic and separate this traffic from local traffic. The letter also addresses the Sumner Neighborhood Association concern that the TIA contained transcription errors in some of the TIA figures. There are no errors in the subject figures. The northbound to westbound I-205 loop off-ramp loads traffic onto NE Killingsworth between these two study intersections, which accounts for the additional westbound traffic arriving at the I-205/Killingsworth Southbound Ramp signalized intersection. PBOT has reviewed the Kittelson letter and find it to be a credible complete response to the Sumner Neighborhood's expressed concerns.

Consistent with the recommendation of the Hearings Officer, Council finds the evidence in the record provided by the applicant and PBOT demonstrates that the proposal satisfies Policy 3.5 and equally supports Policy 6.5. The Council finds that evidence in the record demonstrates that the proposal satisfies City Code Section 33.855.050.B.2, as transportation services are adequate to support the proposal.

- b. The Comprehensive Plan Map Amendment, Zoning Map Amendment and Environmental Review for the Overall Site are approved as follows:
1. A Comprehensive Plan Map Amendment from Open Space to Industrial Sanctuary for the property identified as State ID No. 1N2E17 00100 and legally described as "Tax Lot 100 47.57 acres, Section 171N2E" (the "Northern Parcel");
  2. Zoning Map Amendment from Open Space to General Industrial 2 for the Northern Parcel;
  3. Zoning Map Amendment to modify Environmental Protection and Environmental Conservation overlay zones for the Northern Parcel and on the property identified as State ID No. 1N2E17 00400 and legally described as "TL 400 50.40 ACRES, SECTION 17 1N 2E" (the "Eastern Parcel") as shown on Exhibit B.4; and
  4. Environmental Review for:
    - 2.74 acres of wetland fill and riparian buffer removal within the Environmental Protection zone on the Northern Parcel;
    - Removal of approximately 24.96 acres of riparian area in the Environmental Conservation zone, on the Northern Parcel;
    - A minimum of 3.07 acres of wetland creation and plantings in the Environmental Conservation zone south of Whitaker Slough and east of NE Alderwood Road (on the Eastern Parcel);

- A minimum of 8.89 acres of plantings in the area adjacent to Columbia and Whitaker Sloughs, east of NE Alderwood Road (on the Eastern Parcel);
  - A minimum of 3.15 acres of plantings within the environmental zones remaining on the Northern Parcel; and
  - A minimum of 14.04 acres of plantings in the area between Columbia and Whitaker Sloughs, west of NE Alderwood Road, as illustrated by Exhibits H.26a, H.26b and H.26c.
5. The Comprehensive Plan Map Amendment, Zoning Map Amendment and Environmental Review are subject to the conditions below. Any violation of these conditions shall be subject to the enforcement procedures in the City code, but will not void the Comprehensive Plan Map and Zoning Map Amendments:
- A. Prior to, or concurrent with, the recording of a decision of approval with Multnomah County, the Applicant must execute and record an easement granted to the City of Portland to provide legal access for a public storm outfall. Per PCC 33.730.120, prior to the City making any changes to the Comprehensive Plan Map or Zoning Map, documentation must be submitted by the Applicant that shows that both the land use decision and the easement have been recorded.
- B. Prior to altering any environmental zone designations on the Official Zoning Map, the following must occur:
1. The Applicant must obtain permits from BDS for the mitigation work required under Condition E.
  2. The Applicant must obtain permits from BDS for the resource removal north of NE Cornfoot Road (Tax Lot 100). This may take the form of a Site Development Permit limited to clearing and grading and/or a Commercial Building Permit that includes the grading work and future development.
  3. All BDS permits for mitigation south of NE Cornfoot Road (Tax Lots 300 and 400) must receive final inspection and approval by BDS.
  4. All BDS permits for resource removal north of NE Cornfoot Road (Tax Lot 100) must receive final inspection and approval by BDS. A final occupancy cannot be obtained until the mitigation work required under Condition E (except monitoring required under Condition J) is complete.
- C. Off-site transportation improvements must be addressed, through coordination and construction under separate Public Works Permits issued by PBOT and an ODOT Permit to Construct on State Right of Way. Prior to issuance of Building Permit and/or Site Development Permits for new development on the Northern Parcel (TL 100), financial guarantees to the satisfaction of PBOT and ODOT must be provided for the following improvements:
- Add a third queuing lane for the southbound on-ramp to result in three 12-foot wide lanes;
  - Widen to the outside of the existing lane to accommodate the additional lane;
  - Replace the existing ramp meter to accommodate the additional lane;

- Provide new illumination;
  - Accommodate stormwater from the new impervious area in roadside swales; and
  - Provide any necessary related improvements to NE Killingsworth at the intersection with the southbound I 205 ramp.
- D. All Permits: As part of any Site Development permit, grading permit, and/or building permit application submittal, the following development-related conditions (D through J) must be noted on each of the required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 12-213885 CP ZC EN." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- E. Mitigation Plantings shall be installed on the parcel north of NE Cornfoot Road in substantial conformance with Exhibit H.26a. Plantings shall be installed in the area adjacent to Columbia and Whitaker Sloughs, east of NE Alderwood Road in substantial conformance with Exhibits H.26b and C.5. Plantings shall be installed in the area between Columbia and Whitaker Sloughs, west of NE Alderwood Road in substantial conformance with the forest restoration and enhancement planting tables identified on Exhibit H.26c. All mitigation plantings must be permitted with or in advance of the resource removal on the parcel north of NE Cornfoot Road (Tax Lot 100).
- F. A legal instrument sufficient to carry out mitigation activities must be provided at the time of permit review for the resource removal and mitigation work.
- G. The Applicant shall provide proof of an escrow account with no less than \$25,000 per year of required monitoring or a performance guarantee meeting the standards of PCC 33.700.050 at the time of permit for the resource removal and mitigation work.
- H. A permit from the Bureau of Development Services is required for all resource removal and mitigation activities. The following shall be submitted with applications for permit review of the project elements. All site plans listed below shall be at a scale of 1 inch = 60 feet, or larger.
1. Construction management plan conforming with Exhibits H.26a, C.9 and C.10 and graphically show the following:
    - a. Location and identification of proposed grading for all purposes, with quantities in cubic yards for both fill and cut areas
    - b. All trees to be removed are marked with a large, bold X over the tree
    - c. Location and identification of the required 6-foot chain link tree protection fence placed along the root protection zone (RPZ) of trees to be preserved within disturbance areas and within 50 feet of disturbance areas
    - d. Location of stockpile areas and worker and equipment staging areas

- e. Location and type of erosion control measures to be installed
  - f. Show the Erosion Control installation details, maintenance & monitoring procedures as notes on the plan
  - g. Location of construction ingress and egress
  - h. The official environmental overlay zone boundaries of the Environmental Protection and Conservation zones, with the transition and resource areas correctly identified.
2. A geotechnical report to the satisfaction of the Site Development section of BDS addressing grading, excavation, fill placement and compaction, dewatering, drainage considerations, and slough bank stabilization.
  3. An Erosion Control Plan prepared by a Certified Professional in Erosion and Sediment Control (CPESC) or State of Oregon registered professional engineer.
  4. A graphic Tree Protection Plan shall be included with any permit application, indicating the location of construction fencing for tree protection for all trees to be retained, in conformance with PCC 33.248.065. Temporary tree protection fencing shall conform with PCC 33.248 or a written Alternate Tree Protection Plan, or as required by inspection staff during the plan review and/or inspection stages.
  5. Final Planting plans shall be submitted at permit time, for Planning and Zoning review and approval. The plan shall illustrate the location, species, quantity, spacing and sizes of all required mitigation plantings, consistent with Exhibits C.3-6. The plans shall show each of the following:
    - a. The total trees, shrubs, and native groundcovers, selected from the Portland Plant List, to be planted on site.
    - b. For the restoration area north of and parallel to NE Cornfoot Road, two 40-foot wide driveway accesses may remain unplanted.
    - c. For the area between the Columbia and Whitaker Sloughs west of NE Alderwood Road, an area intended to provide vehicle parking for up to 8 parking spaces may remain unplanted. This area may also contain pedestrian pathways and benches consistent with Portland Parks and Recreation Trail Standards for natural areas.
    - d. All plant materials shall be native vegetation listed on the *Portland Plant List*.
    - e. Plantings shall be installed between October 1 and March 31.
    - f. Prior to installing required plantings, non-native invasive plants shall be removed from all areas within 10 feet of plantings.
    - g. The Applicant shall water plantings as necessary for survival.
- I. An inspection of Permanent Erosion Control Measures shall be required to document installation of the required mitigation plantings.

1. The Permanent Erosion Control Measures inspection (IVR 210) shall not be approved until the required mitigation plantings have been installed (as described in Conditions E and H.5 above);

--OR--

2. If the Permanent Erosion Control Measures inspection (IVR 210) occurs outside the planting season (as described in Condition H.5 above), then the Permanent Erosion Control Measures inspection may be approved prior to installation of the required mitigation plantings – if the Applicant obtains a separate Zoning Permit for the purpose of ensuring an inspection of the required mitigation plantings by March 31 of the following year.
- J. The landscape professional or designer of record shall monitor the required plantings for five years to ensure survival and replacement as described below. The land owner is responsible for ongoing survival of required plantings beyond the designated five-year monitoring period. The landscape professional shall:
1. Provide a minimum of five letters (to serve as monitoring and maintenance reports) to the Cully Neighborhood Association and to the Land Use Services Division of the Bureau of Development Services (Attention: Environmental Review LU 12-213885 CP ZC EN) containing the monitoring information described below. Submit the first letter within 12 months following approval of the Permanent Erosion Control Inspection of the required mitigation plantings. Submit subsequent letters every 12 months following the date of the previous monitoring letter. All letters shall contain the following information:
    - a. A count of the number of planted trees that have died. One replacement tree must be planted for each dead tree (replacement must occur within one planting season).
    - b. The percent coverage of native shrubs and ground covers. If less than 80 percent of the planting areas, and restored temporary disturbance areas, are covered with native shrubs or groundcovers at the time of the annual count, additional shrubs and 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 mitigation area and a site plan, in conformance with Final Planting Plans described above in Condition B.4, showing the location and direction of photos.
    - e. A description of the method used and the frequency for watering mitigation trees, shrubs, and groundcovers for the first two summers after planting. All irrigation systems shall be temporary and above-ground.
    - f. An estimate of percent cover of invasive species (invasive hawthorn, English ivy, Himalayan blackberry, reed canarygrass, teasel, clematis) within 10 feet of all plantings. Invasive species must not exceed 20 percent cover during the monitoring period.



- K. Prior to recording the Comprehensive Plan and Zoning Map Amendment the applicant shall provide a 20-foot wide public access easement to the City along the NE Columbia Boulevard frontage from the intersection with NE Alderwood Road to the western boundary of the site. At the time of a future project approval to improve the intersection of NE Columbia Boulevard and NE Alderwood Road the applicant shall dedicate required right-of-way within this easement area needed for those improvements. The City will then quitclaim the remaining public access easement area not needed for the improvements to this intersection.

Section 2. The Council declares an emergency exists because there should be no delay in the beneficial use of the above-described property; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

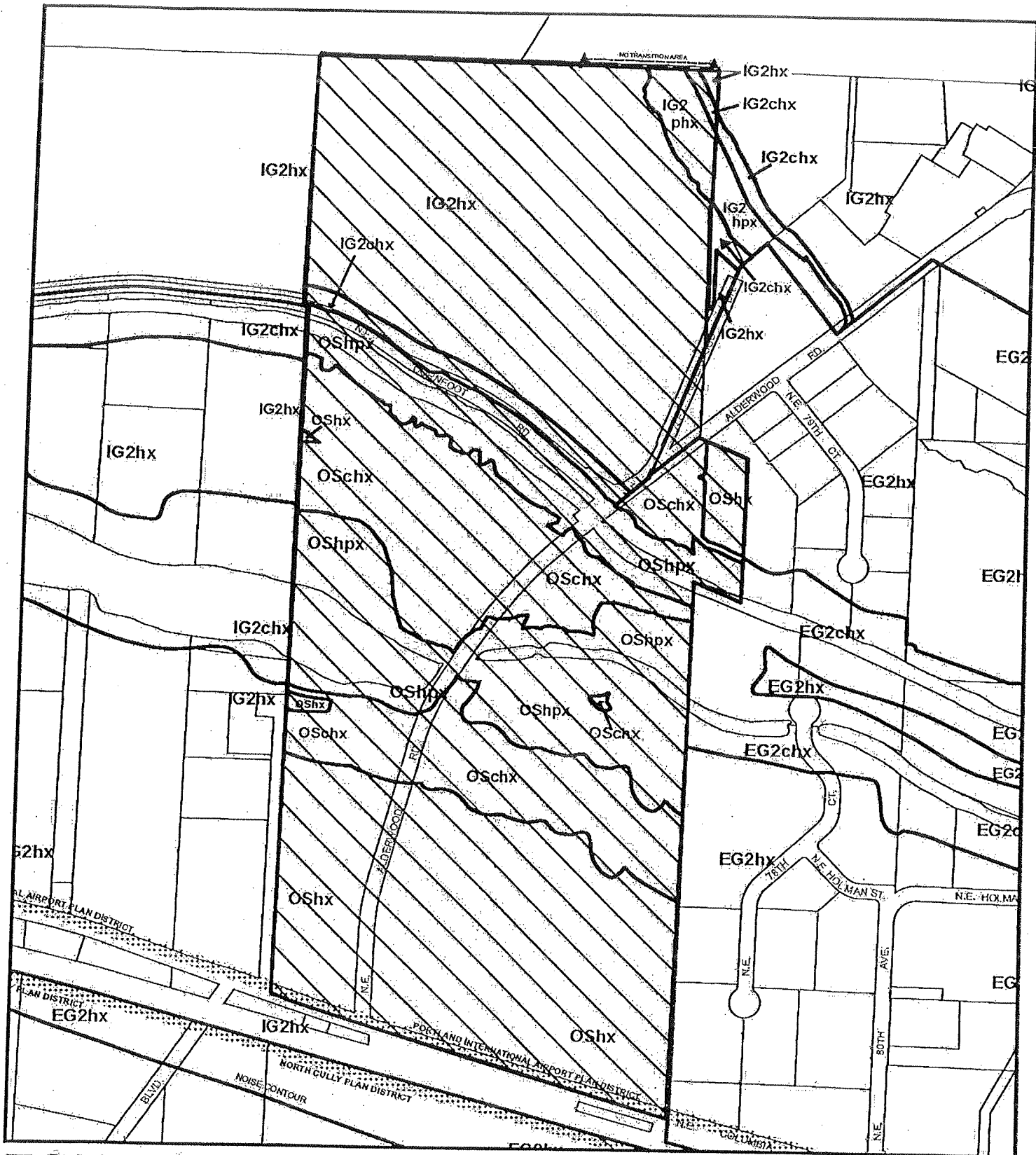
Passed by the Council: OCT 28 2013

Commissioner Amanda Fritz  
Prepared by: Sheila Frugoli, BDS  
Date Prepared: October 23, 2013

LaVonne Griffin-Valade  
Auditor of the City of Portland

By 

Deputy



# ZONING STAFF PROPOSED

 Site



This site lies within the:  
Portland International Airport  
Plan District, Middle Columbia  
Slough Subdistrict.

File No. LU 12-213885 CP,ZC,EN  
 1/4 Section 2337,2338,2437,2438  
 Scale 1 inch = 500 feet  
 State Id 1N2E17 100  
 Exhibit B4 (July 23,2013)