

Ordinance No. 184279 As Amended

Accept and approve a conservation easement in accordance with the Agreement for Development between the City and Siltronic Corporation and direct staff to complete follow-up items (Ordinance)

The City of Portland Ordains:

Section 1. The Council finds:

1. On April 15, 2010 the Portland City Council adopted the *River Plan / North Reach* (The Plan) by Ordinance No.183694. An appeal of the River Plan is currently pending at the Land Use Board of Appeals (LUBA) and has not yet been resolved (*Gunderson LLC v. City of Portland, LUBA Nos. 2010-039/040/041*).
2. The Plan updates the existing Willamette Greenway Plan to better meet local, state, and regional goals. The Plan addresses economic prosperity, watershed health and access to the Willamette River and includes a Natural Resources Inventory that provides the basis for the new River Environmental (e) zone and refinements to the existing Environmental Protection (p) and Environmental Conservation (c) zones.
3. Siltronic owns an approximately 80-acre parcel of partially developed land (the Property) within the boundary of the Plan.
4. Siltronic, through a 1978 development agreement with the City, has contributed to the City's economy by developing two silicon wafer fabrication plants and related facilities on approximately half of the Property and seeks to pursue development on the remaining half.
5. The Plan designates part of the undeveloped upland portions of the Property as a Special Habitat Area, proposes application of the e, c and p overlay zones to undeveloped portions of the Property, and designates part of the Property as a restoration site.
6. Consistent with its initial 1978 development plans for the Property, Siltronic seeks to maximize the amount of developable land on the Property in order to give Siltronic a higher level of certainty that it will be able to quickly respond to development/employment opportunities on the Property.
7. At a Portland Planning Commission hearing on January 13, 2009, Siltronic requested that the City not apply the e, c and p overlays that the Draft Plan proposed to apply to undeveloped portions of the Property.
8. Siltronic and the City discussed ways to achieve mutually supportive environmental protection and economic development objectives on the Property, resulting in a Memorandum of Understanding (MOU) that anticipates that Siltronic will give the City a

conservation easement over the portions of the Property that serve significant natural resource functions and the City will reduce the environmental overlay zones on the part of the Property not subject to the conservation easement.

9. On April 15, 2010, Council adopted a MOU by Resolution no. 36779. Due to a procedural error, amendments that were intended to be inserted into the MOU were not included.
10. On May 5, 2010, City Council adopted a revised MOU by Resolution no. 36784 and directed staff to negotiate a development agreement based on the framework provided by the MOU.
11. On April 15, 2010, as part of the Plan adoption (Ordinance no.183694), Council approved maps showing revised environmental and river overlay zoning for the Siltronic site and stated its intent that the revised maps will replace the maps applying environmental zoning to the Siltronic site as part of the Plan only if a development agreement between Siltronic Corporation and the City of Portland is approved by the City Council and signed by all parties no later than July 1, 2010.
12. Gunderson LLC, Working Waterfront Coalition and Schnitzer Steel Industries appealed the River Plan / North Reach to the State of Oregon Land Use Board of Appeals (LUBA Nos. 2010-039, 2010-040, and 2010-041).
13. On June 23, 2010, Council approved an agreement for development between Siltronic Corporation and the City of Portland based on the framework provided by the MOU (Ordinance No. 183946).
14. On June 29, 2010, the agreement for development was signed by Mayor Sam Adams, Neil Nelson, Siltronic President and CEO and Lavonne Griffin-Valade, City Auditor.
15. On June 23, 2010, Council directed the Bureau of Planning and Sustainability and the Bureau of Environmental Services to prepare ESEE amendments that support the revised environmental zoning maps for Council adoption, negotiate a Conservation Easement, negotiate conveyance provisions and negotiate a protocol for evaluating the environmental status of the Property before January 1, 2011.
16. On June 23, 2010, Council directed that if the actions specified in recital "14" above are completed after January 1, 2011, the revised environmental and river overlay zones for the Siltronic site shown on the attached Exhibit B will become effective on the date that all actions in recital "14" above have been approved by the Council by ordinance. If Council approves the actions in recital "14" on different dates, the revised environmental and river overlay zones shown on Exhibit B will become effective on the latest of the three dates.
17. A Conservation Easement has been prepared and is attached as Exhibit A. The Conservation Easement provides for the management of environmental issues and the

City and Siltronic have agreed upon appropriate provisions for conveyance of the easement. City staff recommends that Council approve and accept this document.

NOW, THEREFORE, the Council directs:

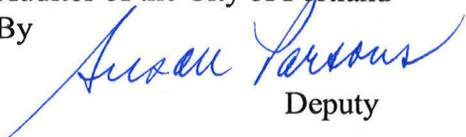
- a. The Conservation Easement attached as Exhibit A and Easement Map attached as Exhibit C are hereby approved and accepted and the Mayor is authorized to sign the easement on behalf of the City.
- b. The Bureau of Planning and Sustainability will prepare and the Council will adopt amendments to the *River Plan / North Reach* ESEE to support the revised environmental zoning maps for the Siltronic site before January 1, 2011 or as soon as practicable following a final appellate decision in *Gunderson v. City of Portland*, LUBA Nos. 2010-039/040/041, whichever is later.
- c. The revised environmental and river overlay zones shown on Exhibit B and adopted by City Council on June 23, 2010 as part of the agreement for development will become effective on January 1, 2011 or on the date that the action in directive "b" above has been approved by Council, whichever is later.

Section 2. If any section, subsection, sentence, clause, phrase, diagram, designation, or drawing contained in this Ordinance, or the plan, map or code it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the plan, map, or code and each section, subsection, sentence, clause, phrase, diagram, designation, and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams, designations, or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

Passed by the Council: DEC 01 2010

Mayor Sam Adams
Prepared by Diane Hale
November 5, 2010

LaVonne Griffin-Valade
Auditor of the City of Portland
By


Deputy

Agenda No.
ORDINANCE NO. 184279 As Amended
 Title

Accept and approve a conservation easement in accordance with the Agreement for Development between the City and Siltronic Corporation and direct staff to complete follow-up items (Ordinance)

INTRODUCED BY Commissioner/Auditor: Mayor Sam Adams	CLERK USE: DATE FILED <u>NOV 12 2010</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration <i>Sam Adams</i>	LaVonne Griffin-Valade Auditor of the City of Portland By: <i>[Signature]</i> Deputy ACTION TAKEN: NOV 17 2010 PASSED TO SECOND READING As Amended DEC 01 2010 <i>3:30PM TIME CERTAIN</i>
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Leonard	
BUREAU APPROVAL Bureau: Planning and Sustainability Bureau Head: Susan Anderson <i>FR</i>	
Prepared by: Diane Hale Date Prepared: November 4, 2010	
Financial Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Council Meeting Date November 17, 2010	
City Attorney Approval <i>[Signature]</i>	

AGENDA <i>6096</i>
TIME CERTAIN <input checked="" type="checkbox"/> Start time: <u>2:00 pm</u>
Total amount of time needed: 15 minutes (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	✓	
2. Fish	✓	
3. Saltzman	✓	
4. Leonard	✓	
Adams	✓	