



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Date: August 13, 2012
To: Interested Person
From: Kim Freeman, Land Use Services
503-823-5663 / Kim.Freeman@portlandoregon.gov

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 12-155381 AD

GENERAL INFORMATION

Applicant: Shannah Anderson
Bureau Of Environmental Services
City Of Portland
1120 SW 5th Ave, Room 1000
Portland, OR 97202
Barbara Edwardson
Metro
600 NE Grand Ave
Portland, OR 97232-2736

Property Owner: Broadmoor Inc.
3509 NE Columbia Blvd
Portland, OR 97211-2037

Site Address: 3509 NE Columbia Blvd

Legal Description: N 30' OF LOT 35 EXC PT IN ST, SUNDERLAND AC & PLAT 3; TL 100 139.66 ACRES SPLIT MAP R315222 (R941130540), SECTION 12 1N 1E; TL 1100 37.75 ACRES SPLIT MAP R315193 (R941121180), SECTION 13 1N 1E

Tax Account No.: R809206130, R941121180, R941130540
State ID No.: 1N1E12CD 00100, 1N1E12D 00100, 1N1E13A 01100
Quarter Section: 2234
Neighborhood: Sunderland, contact Ronda Johnson at 503-823-3156.
Business District: Columbia Corridor Association, contact Peter Livingston at 503-796-2892.

District Coalition: Central Northeast Neighbors, contact Alison Stoll at 503-823-3156.
Plan District: Portland International Airport - Airport Subdistrict
Other Designations: Special Flood Hazard Area
Zoning: IG2chpx, OSchpx – General Industrial 2 and Open Space with Airport Landing overlay zone (h); Portland International Airport Noise Impact overlay zone (x); and Environmental conservation (c) and protection (p) overlay zones.

Case Type: AD – Adjustment Review

Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicant seeks an adjustment to allow a proposed Property Line Adjustment (PLA) to result in a lot being located within two base zones, the IG2 and OS base zones. Metro, in coordination with the Bureau of Environmental Services, is seeking to acquire the property for resource enhancement opportunities. The purpose of the PLA is to protect and enhance habitat and linkages along the Columbia Slough and its watershed. Once acquired, Metro and the City of Portland will demolish all manmade structures on the site as a first step in the future restoration of the site. The Columbia Slough is one of very few areas in North and Northeast Portland with the potential for restoring fish and wildlife habitat.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the Adjustment Review approval criteria of Chapter 33.805.040.A-F of the Portland Zoning Code.

ANALYSIS

Site and Vicinity: The 37.75 acre site is Broadmoor Golf Course, located on NE Columbia Boulevard just east of NE 33rd Drive. One of the lots also fronts on NE 33rd Drive. The site contains golf course associated structures at the southern edge of the site along NE Columbia Boulevard. Buffalo Sough and Columbia Slough flow through the site. The site also includes the large wetland areas.

Zoning: The zoning designation on the site includes OS (Open Space) and IG2 (General Industrial) base zones, with Environmental Conservation ("c"), Environmental Preservation ("c"), and Aircraft Landing ("h") overlay zones. The site is also located in Portland International Airport Plan District, Airport Subdistrict (see zoning on Exhibit B).

The Open Space base zone is intended to preserve public and private open and natural areas identified in the Comprehensive Plan. These areas serve many functions including: providing opportunities for outdoor recreation; providing contrasts to the built environment; preserving scenic qualities; protecting sensitive or fragile environmental areas; and preserving the capacity of and protecting water quality. No new uses are proposed with this application, and all of the proposed improvements are allowed within the Open Space zone.

The General Industrial zones are two of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zones provide areas where most industrial uses may locate, while other uses are restricted to prevent potential conflicts and preserve land for industry. The development standards for each zone are intended to allow new development, which is similar in character to existing development. The intent is to promote viable and attractive industrial areas. General Industrial zone standards are not relevant to this project.

Environmental zones 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 be sensitive to the site's protected resources. The environmental regulations also carry out Comprehensive Plan policies and objectives. The purpose of this land use review is to ensure compliance with the regulations of the environmental overlay zones.

The Environmental Conservation overlay zone is intended to conserve important resources and functional values in areas where the resources and functional values can be protected while allowing environmentally sensitive urban development. This zone is designated with the letter "c" on the official zoning maps.

The “p” overlay provides the highest level of protection to the most important resources and functional values. Development will be approved in the environmental protection zone only in rare and unusual circumstances through environmental review.

The environmental zone is divided into resource area and transition area. The resource area contains important environmental resources to be protected. The transition area is the outermost 25 feet of the environmental zone and is intended to buffer the resource area from impacts of surrounding development.

The Aircraft Landing overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. This zone is designated with the letter “h” on the official zoning maps. The height limit at this location is 150 feet above the established airport elevation, which is approximately 18 feet above sea level. This project is located between six and 17 feet above sea level. The largest trees proposed by the applicant are black cottonwood and red alder. These trees would typically range in height from 100 to 120 feet. These heights are within the allowed height limit of this area.

The Portland International Airport Plan District regulations implement elements of the Airport Futures Land Use Plan by addressing the social, economic, and environmental aspects of growth and development at Portland International Airport (PDX). PDX is a unique land use within the City and requires tailored regulations to address wildlife hazards and impacts to transportation and natural resources. The plan district provides flexibility to the Port of Portland—owner of PDX—to address a constantly changing aviation industry, while addressing the broader community impacts of operating an airport in an urban context. The regulations of this plan district protect significant identified environmental resources consistent with the requirements of airport operations, while maintaining or enhancing the capacity of public and private infrastructure within and serving the district. Additionally, the regulations protect significant archaeological features of the area.

The Airport Subdistrict includes the airport passenger terminal, terminal roadway area, airfield, and other support facilities most of which are owned and operated by the Port of Portland. Also included are other airport-related uses which are generally tenants of the Port. Within the Airport Subdistrict are two unmapped areas known as airside and landside (See Chapter 33.910, Definitions). Airside includes an area defined by a perimeter security fence and the airside uses associated with the airfield which includes runways, taxiways, lighting, etc. The perimeter security fence is not mapped since the fence may move over time due to federal and operational requirements. An area outside the fence—the runway protection zone—is also part of Airside. The airfield and airside uses are also treated differently due to federal regulations. Landside includes the passenger terminal, airport access roadways, parking lots, aircraft maintenance facilities, cargo hangars, maintenance buildings, fire and rescue facilities, and other similar types of development. Also within the Airport Subdistrict is the SW Quadrant Subarea, shown on Map 565-1.

Environmental Resources: The application of the environmental zones is based on detailed studies that have been carried out within eight separate areas of the City. The City's policy objectives for these study areas are described in reports that identify the resources and describe the functional values of the resource sites. Functional values are the benefits provided by resources. The values for each resource site are described in the inventory section of these reports.

The project site is mapped within the *Middle Columbia Corridor/Airport Natural Resources Inventory: Riparian Corridors and Wildlife Habitat* as Special Habitat Areas #CS-1. Resource features and functional values of concern on the project site include open water stream / drainageway channels, scrub shrub and forested wetlands, microclimate and shade; stream flow moderation and water storage; bank function and sediment, pollution and nutrient control; large wood and channel dynamics; organic inputs, food web and nutrient cycling; wildlife habitat; habitat connectivity/ movement corridor.

Land Use History: City records indicate that prior land use reviews include the following:

- LUR 95-00359 ZC – Approval of a Zone Change Map Error Correction
- LUR 01-00505 EN – Approved with conditions a Multnomah County Drainage District proposal to dredge and restore stream banks along a 7-mile reach of the middle and upper Columbia Slough. The project will create wetland benches and meandering channels to be planted with native vegetation.
- LU 03-177802 EN – Approval to remove two culverts; install two bridges and associated bank grading; tree removal and nonnative plantings.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed **July 13, 2012**. The following Bureaus have responded with no issues or concerns:

- Bureau of Environmental Services
- Bureau of Transportation Engineering
- Water Bureau
- Fire Bureau
- Bureau of Parks-Forestry Division
- Site Development Section of BDS

The Multnomah County Drainage District (MCDD) responded with the following comment: MCDD will require a descriptive easement for maintenance over all ditches for activities allowed in ORS 547. Easements will be required prior to the final plat or property adjustment.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on July 13, 2012. No written responses were received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR ADJUSTMENTS

33.805.010 Purpose

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations. They also allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.40 Approval Criteria

The approval criteria for signs are stated in Title 32. All other adjustment requests will be approved if the review body finds that the applicant has shown that either approval criteria A. through F. or approval criteria G. through I., below, have been met. Adjustments to the ground floor window requirements of this Title must also meet the additional requirements stated in the ground floor window sections in the base zones.

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and**

Findings: The applicant is requesting an adjustment to allow the creation of a split zoned lot through a Property Line Adjustment (PLA) process. The PLA regulations (33.667.010) outline the following purposes:

- **A Property Line Adjustment does not result in properties that no longer meet the requirements of this Title;**

- **A Property Line Adjustment does not alter the availability of existing services to a site; and**
- **A Property Line Adjustment does not result in properties that no longer meet conditions of approval.**

The applicant proposes to reconfigure a lot encompassing a large wetland for the transfer of the property to Metro. The PLA does not change the availability of services to either property. In response to the MCDD requirements, easements over the waterways will be required for the PLA process. Very little development exists on the site, no development will be impacted by the PLA, and no new development is proposed. No prior conditions of approval will be impacted by this PLA. Therefore, this criterion is met.

- B. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and**

Findings: The entire subject site is in both Industrial and Open Space base zones; and is located within the Portland International Airport Plan District, Airport Subdistrict. As previously identified, there will be no new development as a result of this proposal. The larger of the two parcels involved in the PLA is currently split zoned in the OS and IG2. The PLA will result in the smaller parcel, currently zoned IG2, increasing in area and gaining some OS base zoning. The proposal will not impact the desired character of the area as no development is proposed. Therefore, this criterion is met.

- C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and**

Findings: Only one adjustment is being requested. Therefore, this criterion is not applicable.

- D. City-designated scenic resources and historic resources are preserved; and**

Findings: The site is not located within a scenic or historic overlay zone. Therefore, this criterion is not applicable.

- E. Any impacts resulting from the adjustments are mitigated to the extent practical;**

Findings: There are no discernable impacts as a result of the proposed adjustment. Therefore, no mitigation is necessary.

- F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;**

Findings: The site is within an environmental overlay zone. There is no development or new disturbance areas proposed with this Property Line Adjustment. The PLA will result in a lot configuration that will allow transfer to Metro, enabling more effective and practical restoration of the site. Therefore, this criterion is 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

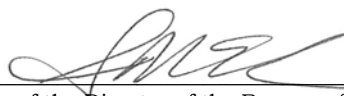
The proposed PLA will not adversely impact the character of the area and will not change the availability of services. The proposal will allow for the property to be transferred to Metro for resource enhancement opportunities. Because the applicant has demonstrated that the approval criteria have been met, the Adjustment should be approved.

ADMINISTRATIVE DECISION

Approval of a property line adjustment creating a split zoned lot, per the approved site plan, Exhibit C-1, signed and dated August 8, 2012, subject to the following conditions:

A. Easements meeting the requirements of the MCDD shall be recorded with the Property Line Adjustment recording process.

Staff Planner: Kim Freeman

Decision rendered by:  **on (August 8, 2012)**
By authority of the Director of the Bureau of Development Services

Decision mailed: August 13, 2012

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 June 27, 2012, and was determined to be complete on July 11, 2012.

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 June 27, 2012.

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. Unless further extended by the applicant, **the 120 days will expire on: November 8, 2012**

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 Adjustment Committee, which will hold a public hearing. Appeals must be filed **by 4:30 PM on August 27, 2012** 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 Adjustment Committee 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 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, 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 Adjustment Committee 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 **August 28, 2012 – (the day following the last day to appeal)**.
- 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. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

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:

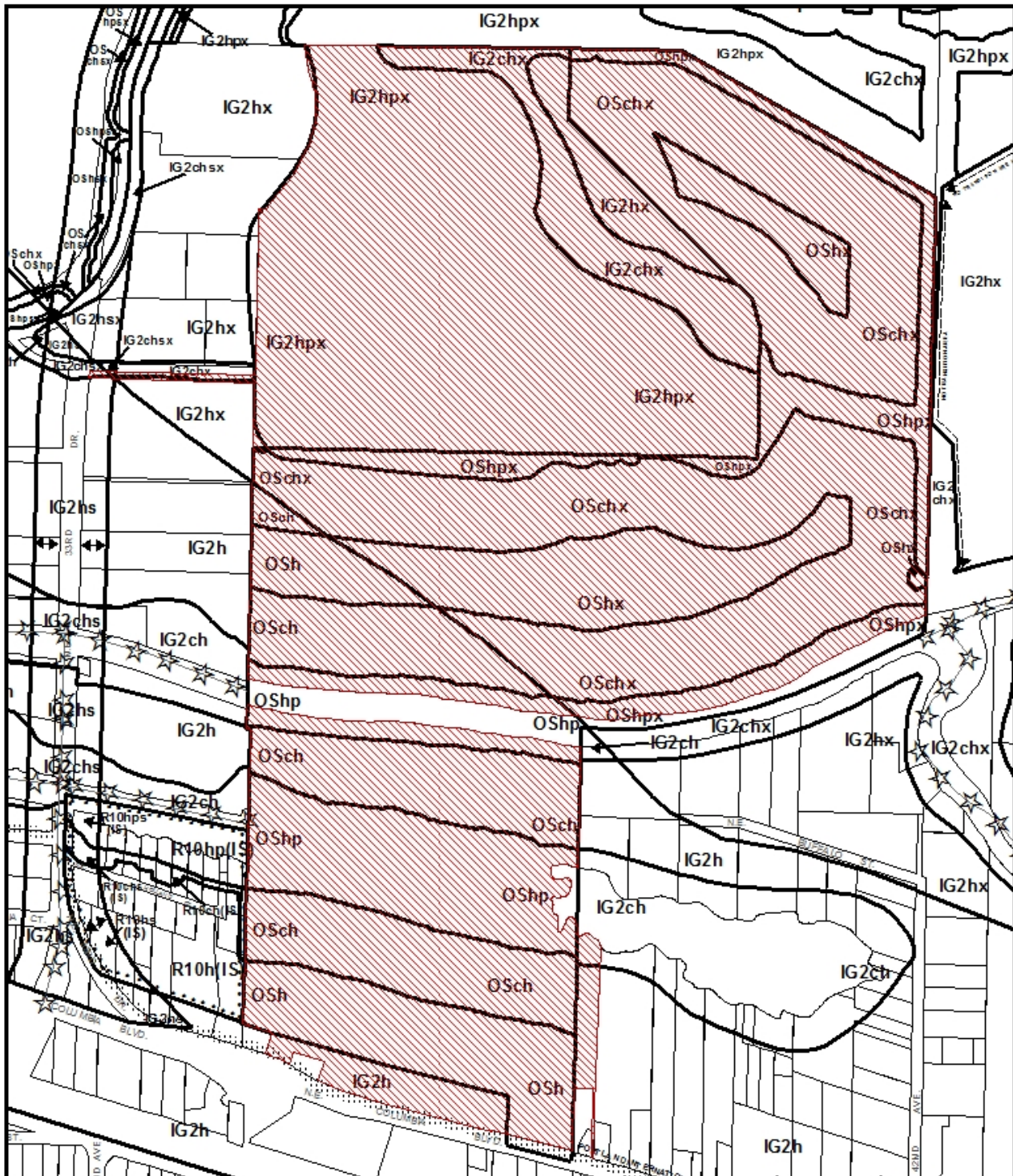
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. PLA Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. MCDD – Multnomah County Drainage District
- F. Correspondence: none
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research

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

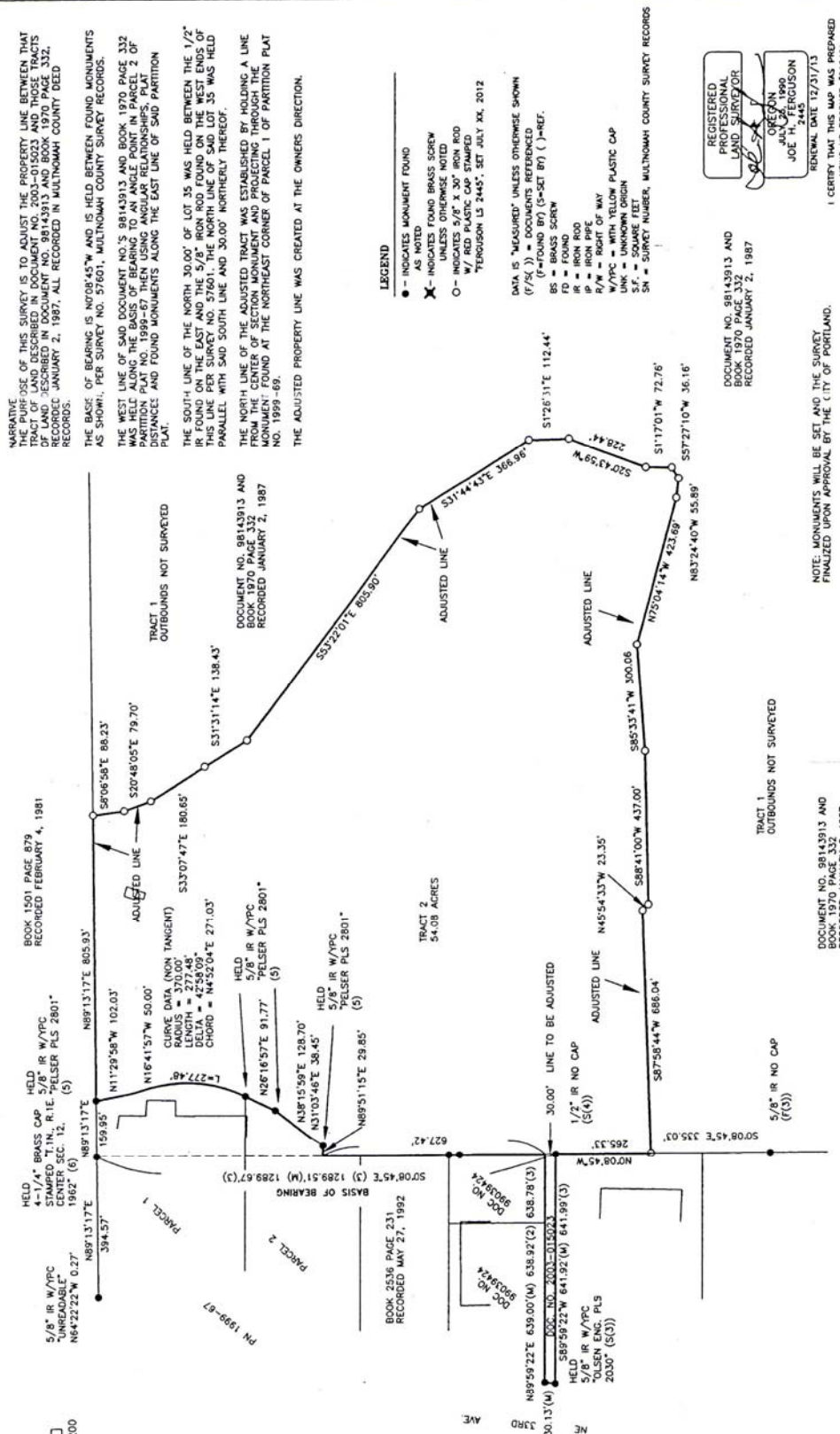
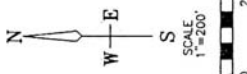
 Site



This site lies within the:
PORTLAND INTERNATIONAL AIRPORT PLAN DISTRICT

File No.	LU 12-155381 AD
1/4 Section	2233, 2234, 2235, 2334
Scale	1 inch = 500 feet
State_Id	1N1E12D 100
Exhibit	B (Jun 29, 2012)

Approved
 City of Portland - Bureau of Development Services
 Planner Agnew Date 8/8/12
*** This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.**



Ferguson Land Surveying, Inc. 646 SE 106TH AVE. PORTLAND, OR 97216 Phone (503) 408-0601 Fax (503) 408-0602	PROPERTY LINE ADJUSTMENT IN THE SW 1/4 AND THE SE 1/4, SECTION 12, T.1N., R.1E., W.M. CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON		CLIENT: METRO 600 HE GRAND AVE. PORTLAND, OREGON	DATE: JUNE 12, 2012 DRAFTED 6.12.2012	JOB NO. 12-045
			REVISIONS REVISIONS	SHEET 1 OF 1	

Exhibit C.1
 LU12-155381A1