



City of Portland, Oregon

Bureau of Development Services

Land Use Services

FROM CONCEPT TO CONSTRUCTION

Charlie Hales, Mayor Paul L. Scarlett, Director Phone: (503) 823-7300 Fax: (503) 823-5630 TTY: (503) 823-6868 www.portlandoregon.gov/bds

Date: March 5, 2013 **To:** Interested Person

From: Kathy Harnden, Land Use Services

503-823-7318 / Kathy.Harnden@portlandoregon.gov

NOTICE OF A TYPE I 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 it to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 13-102598 EN

GENERAL INFORMATION

Applicant: Travis Ruybal / Portland Parks And Recreation Bureau

1120 SW 5th Ave Ste1302 / Portland, OR 97204

Owners: Peninsula Drainage Dist No 2

1880 NE Elrod Dr. / Portland, OR 97211-1810

B & L Storage

14300 N Northsight Blvd #218 / Scottsdale, AZ 85260-3677

Michael P Wilkins

339-A N Columbia Blvd / Portland, OR 97217

Janet L Nollar

30803 SW Grahams Ferry Rd / Wilsonville, OR 97070

Nancy L Monteith-Hamilton

Po Box 188 / Battle Ground, WA 98604

Terrance P Detz

1102 N Schmeer Rd / Portland, OR 97217

Nancie K Paxton

8801 N Vancouver Ave / Portland, OR 97217-0095

Joseph J Dennis

Po Box 2188 / Beaverton, OR 97075-2188

Cathy S Dennis

Po Box 2188 / Beaverton, OR 97075-2188

Gilbert Family LLC

6500 NW Dogwood Dr / Vancouver, WA 98663-1047

Site Location: Along the north shore levee of the Columbia Slough, between N.

Denver Avenue on the west end and N. Vancouver Avenue on the east

end

Legal Description: LOT 1-3 TL 1500, CHAMBREAUS FACTORY SITE; TL 1900 0.10 ACRES,

SECTION 09 1N 1E; TL 1000 0.09 ACRES, SECTION 09 1N 1E; TL 1000 2.83 ACRES, SECTION 10 1N 1E; TL 300 0.69 ACRES, SECTION 10 1N 1E; TL 1300 0.77 ACRES, SECTION 10 1N 1E; TL 800 2.27 ACRES LAND & IMPS SEE R314902 (R941100651) FOR BILLBOARD, SECTION 10 1N 1E; TL 200 0.96 ACRES, SECTION 10 1N 1E; TL 900 4.91 ACRES, SECTION 10 1N 1E; TL 100 2.79 ACRES, SECTION 10 1N 1E; TL 1000 10.07 ACRES, SECTION 10 1N 1E; TL 1400 0.93 ACRES, SECTION 10 1N 1E; TL 1200 0.05 ACRES, SECTION 09 1N 1E; TL 1100 0.03 ACRES, SECTION 09 1N 1E; TL 2100 0.59 ACRES, SECTION 09 1N 1E; S OF SHERWOOD RD LOT 3 EXC PT IN SLOUGH, CHAMBREAUS FACTORY SITE; S OF SHERWOOD RD

LOT 1 EXC PT IN SLOUGH, CHAMBREAUS FACTORY SITE

Tax Account No.: R148800050, R941090720, R941090840, R941100050, R941100390,

R941100480, R941100650, R941100740, R941100810, R941101000, R941101050, R941101770, R941090870, R941090880, R941090860,

R148800090, R148800060, R148800030

State ID No.: 1N1E09AA 01500, 1N1E09AA 01900, 1N1E09AA 01000, 1N1E10BB

01000, 1N1E10BD 00300, 1N1E10BB 01300, 1N1E10BB 00800,

1N1E10BD 00200, 1N1E10A 00900, 1N1E10BD 00100, 1N1E10A 01000,

1N1E10BB 01400, 1N1E09AA 01200, 1N1E09AA 01100, 1N1E09AA

02100, 1N1E09AA 01300, 1N1E09AA 01600, 1N1E09AA 01700

Quarter Section: 2129

Neighborhood: East Columbia NA, contact Maryhelen Kincaid at 503-286-3354.

Business District: Columbia Corridor Association, Peter Livingston at 503-796-2892.

District Coalition: N Portland Neighborhood Serv, Mary Jaron Kelley at 503-823-4099.

Other Designations: 100-Year Floodplain, Environmental Conservation Zone

Zoning: IG2c – Industrial zone with the Environmental Conservation (c)

overlay

IG2ch - Industrial zone with the Environmental Conservation (c) and

Aircraft Landing Zone (h) overlays.

EG2ch – General Employment zone with the Environmental

Conservation (c) and Aircraft Landing (h) overlays

Case Type: EN – Environmental Review

Procedure: Type I, an administrative decision with appeal to the Oregon Land Use

Board of Appeals (LUBA)

Proposal:

The Portland Bureau of Parks and Recreation proposes to develop a 10-foot wide, pervious asphalt pedestrian and bicycle path, with 1-foot gravel shoulders, along an approximately one mile section of the north levee of the Columbia Slough. The proposed trail section will begin on the east side of NE Denver Avenue and end at the west side of NE Vancouver Avenue. The proposal includes signage, striping the paved surface and installing removable metal and wood bollards at each end of this trail segment. This portion of the levee is relatively flat and currently has a graveled surface, except for a small portion located directly underneath I-5. The trail area under I-5 was paved when the Columbia Corridor Bridge on I-5 was recently upgraded. The proposed paved recreation trail will provide a section of the 40 Mile Loop Trail network and is an identified regional trail in the Portland Parks & Recreation "Recreational Trails Strategy" of 2006. The proposed paved trail will connect to another portion of paved trail to the west. The new paved trail will be striped, directional signage will be installed; and three removable bollards will be placed at both ends of this trail segment to keep out motor vehicles.

Chapter 33.430.190, Standards for Public Recreational Facilities requires proposed trails to be no longer than 5,000 linear feet and no wider than 4 feet. Because the proposed trail will be 5250 linear feet long and 10 feet wide, it must be approved through Environmental Review, as a Type I review (33.430.230 Procedure).

Relevant Approval Criteria:

To be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria for Environmental Review of this project are:

33.430.250.C - Public recreational facilities.

FACTS

Description of the Site: The Columbia Slough meanders approximately 19 miles from its mouth at the Willamette River to its beginnings near Blue Lake in NE Portland. Several sections of the proposed trail along the Slough have been completed, although there are several sections remaining to be developed. The approximately 1 mile long section of the trail subject to the current proposal begins just east of N.Denver Avenue and ends just west of N. Vancouver Avenue, approximately a one-mile stretch. The existing levee, where the paved trail will be located, currently has an approximately 16-foot wide, semi-graveled surface and grassy banks which are regularly mowed. Because the location of the trail is on top of a US Army Corps of Engineers' flood control levee, woody vegetation is not allowed to grow or to be planted anywhere on the levee as plant roots could impact the levee's integrity and cause it to fail. The Corps prohibits trees and shrubs to be located within 25 feet of the toe of existing levee slopes.

Zoning: The zoning designation on the site includes General Industrial 2 (IG2) base zone, with Aircraft Landing Zone (h), and Environmental Conservation (c), overlay zones (see zoning on Exhibit B).

The <u>IG2 zone</u> 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 provisions of this zone allow this use; these provisions are not specifically addressed through this Environmental Review.

The <u>"h" overlay</u> limits the height of structures and vegetation in the vicinity of the Portland International Airport; a height contour map is available for review in the Development Services Center. The maximum height of buildings or vegetation on this site is 180 feet.

<u>Environmental overlay zones</u> 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. They protect the most important environmental features and resources while allowing environmentally sensitive urban development where resources are less sensitive. The purpose of this land use review is to ensure compliance with the regulations of the environmental zones.

Environmental Resources: The application of the environmental overlay zones is based on detailed studies that have been carried out within eight separate areas of the City. Environmental resources and functional values present in environmental zones are described in environmental inventory reports for these study areas.

The project site is mapped within the *Inventory and Analysis of Wetlands, Water Bodies and Wildlife Habitat Areas for the Columbia Corridor Industrial/Environmental Mapping Project* as the West Columbia Inventoried Water Features 30 and 40. Water Feature 30 begins at I-5 and runs east until it meets the Peninsula Drainage Canal, west of the Riverside Golf & Country Club. Water Feature 40 begins at the mouth of the Slough on the Willamette River and extends east to meet Water Feature 30 at the I-5 crossing. Both features are sections of the Columbia Slough which is contained within a levy system to reduce flooding in north Portland.

The primary purpose of the Columbia Slough is to provide a drainage network for both rainwater and groundwater for the Columbia River floodplain, which is now largely diked or filled. Because flood control is the Slough's primary purpose, its function as habitat for fish and wildlife is very limited.

Impact Analysis and Mitigation Plan: Because the existing levee has a graveled surface that is currently used by maintenance vehicles to access the levee and slough, the primary impact from this paving project will be to reduce dust and gravel from leaving the site; to very slightly increase impermeability on top of the levee; and to add some very minor runoff down the levee slopes. However, because the paving will be pervious asphalt, additional runoff from this new surface is expected to be minimal. In addition, the applicant does not expect any impacts to the levee slopes since paving equipment will be confined to the center of the levee and will enter the levee at grade level from Schmeer Road, at the west end of the site.

The applicant intends to plant a grass seed mixture of non-native grasses along the top of the levee on both sides of the new pervious asphalt trail. The grass seed will be a Fescue mix with 25 percent each of creeping, chewing, hard and blue fescues. The proposed planting area will include the narrow shoulders and any slope areas that might be impacted by the project or need to have vegetation renewed. This non-native grass mixture is a specification of the Multnomah County Diking District which enforces levee regulations of the US Army Corp of Engineers. The Corps prohibits trees and shrubs from being located on any portion of their levees or within 25 feet of the toe of levees.

Agency Review: A Notice of Proposal in your Neighborhood was mailed on **January 29**, **2013**. The following Bureaus responded with no issues or concerns about the proposal:

- Site Development, Bureau of Development Services
- Bureau of Environmental Services

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **January 29, 2013**. One written response was received from a notified property owner in response to the proposal. The Peninsula Drainage District No.2 responded that the project as proposed has been approved by the U.S. Army Corps of Engineers.

ZONING CODE APPROVAL CRITERIA

33.430.250.C Public Recreational Facilities. In resource areas of environmental zones, public recreational trails, rest points, view points, and interpretative facilities will be approved if the applicant's impact evaluation demonstrates that all of the following are met:

C.1. Proposed development locations, designs, and construction methods are less detrimental to identified resources and functional values than other practicable and significantly different alternatives;

Findings: This criterion requires the applicant to demonstrate that alternatives were considered during the design of the proposal, and that there are no practicable alternatives that would be less detrimental to the identified resources and functional values.

An alternatives analysis for the location of the paved trail was not warranted in this case, as described below. The proposed Columbia Slough Trail Project – NE Denver to NE Vancouver Avenue, is just one section of the Parks Bureau's 40-Mile Loop Trail Network and has been included in the City's trail plan for some time. In addition, there is an existing, graveled path on top of the levee that is available for recreationists and others to use. The existing levee, with its flat top and graveled surface along the Columbia Slough, provides a great alternative for further development as a recreational and bike commuter trail than to try to development an entirely new area for this type of activity. With its existing graveled path, the levee is already developed. Further, because neither the top nor slopes of the levee could be modified per the US Army Corps of Engineers' levee regulations, a detailed alternatives

analysis for paving the surface was not required. The proposal will use pervious asphalt to pave the center of an existing path to facilitate its use by bicyclists and pedestrians and will enhance the commuter experience for those biking to and from work.

The Corps of Engineers requires that the surface of the asphalt path be gently sloped towards the slough so that any runoff will be directed down the bank towards the water rather than towards the protected upland areas. As discussed above, the Corps has strict guidelines for the type of vegetation that can be planted on the top and sides of its levees and will allow only grasses to be planted.

For construction purposes, the site will be accessed from the west end of the trail, off Schmeer Road, at grade level so there will be no access impacts to the levee slopes. A staging area will be located in a City right of way between the levee and Schmeer Road.

Because there are no practicable and significantly different alternatives for a project to pave an existing graveled levee surface, *this criterion is met*.

C.2. The public benefits of the proposal outweigh all significant detrimental impacts;

Findings: As discussed above, no significant detrimental impacts were identified for this proposal and there will be a public benefit, especially for bicyclists.

The proposed paving will enhance both the bicycling and pedestrian experience of traveling along the levee trail. Use of the levee will be especially enhanced for the bicycling public, both recreational and commuter, since bicycling on pavement will be much easier than on the graveled surface. Since paving will be placed down the center of the levee within the existing graveled area, no negative impacts are expected from its construction. In addition, the paved trail on top of the dike affords a safer user experience away from vehicular conflicts.

The foregoing shows that there is a large public benefit from this proposal and that the project will have no identified significant impacts. Therefore, *this criterion is met.*

C.3. Areas disturbed during construction, that do not contain permanent development, will be restored with native vegetation that is similar to the vegetation existing on the site and found on the *Portland Plant List*; and

C.4. There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed.

Findings: These approval criteria require the protection of resources outside of the proposed disturbance area from impacts related to the proposal, such as damage to vegetation, erosion of soils off the site, and downstream impacts to water quality and fish habitat from increased stormwater runoff and erosion from the site.

The applicant proposes to install coconut fibre wattles near the top of both slopes of the levee. The surface area of the levee is approximately 12 feet wide. The surface area to be paved is located in the center of the levee surface and is 10 feet wide. A one-foot wide buffer will be located on each side of the pavement, for a total 12-foot-wide improvement. A typical 10-foot wide asphalt paving machine will drive down the center of the slope laying down the asphalt and compressing it as it slowly moves along. Very little to no material is expected to stray from the asphalt path, but the wattles will catch anything that might.

The wattles will not be pinned in place as the Corps does not allow any type of penetration of the levee. Finally, the Parks Bureau plans to reseed the area along the sides of the paved area, whether disturbed by this project or not. In addition, any other areas on the levee that are currently under-vegetated will also planted with the grass seed mixture. Therefore, there will be almost no impacts to existing vegetation on the top or sides of the slough.

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 Portland Bureau of Parks and Recreation proposes to pave an existing graveled path to make a 10-foot wide, pervious asphalt pedestrian and bicycle path, with 1-foot gravel shoulders along the north levee of the Columbia Slough. As described above, the proposal will have few, if any, impacts to the surrounding area as the scope of the project is limited to the existing surface of the levee. Because the levee is under the supervision of the US Army Corps of Engineers, which has strict rules protecting its integrity and safety, typical Environmental Zone tree and shrub mitigation requirements will not be allowed within the project area. The MCDD's required grass seed mix will be used to reseed any minor disturbance areas that could result from this project as well as any other under-vegetated areas along the levee slopes. Because there will be no new disturbance area required for this paving project, mitigation is not being required either on or off-site.

ADMINISTRATIVE DECISION

Approval of a plan to pave a 10-foot wide trail with pervious asphalt down the middle of a 12-foot-wide levee surface to create a hard surface pedestrian and bicycle path, with 1-foot gravel shoulders along an approximately one-mile section of the north levee of the Columbia Slough. The paving project includes signage, striping the paved surface, and installing removable metal and wood bollards at each end of the trail segment, and is located between NE Denver Avenue on the west end and NE Vancouver Avenue on the east end, per the approved site plans: Exhibits C.1 through C.4.c, signed and dated March 1, 2013,

Staff Planner: Kathy Harnden

Decision rendered by: ______ on March 1, 2013

By authority of the Director of the Bureau of Development Services

Decision mailed March 5, 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 January 9, 2013, and was determined to be complete on **January 23, 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 January 9, 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. Unless further extended by the applicant, **the 120 days will expire on: May 24, 2013.**

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.

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, 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. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

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.

Recording the final decision.

If this Land Use Review is approved, the final decision must be recorded with the Multnomah County Recorder. A building or zoning permit will be issued only after the final decision is recorded. The final decision may be recorded on or after **March 6, 2013.**

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, permitees must demonstrate compliance with:

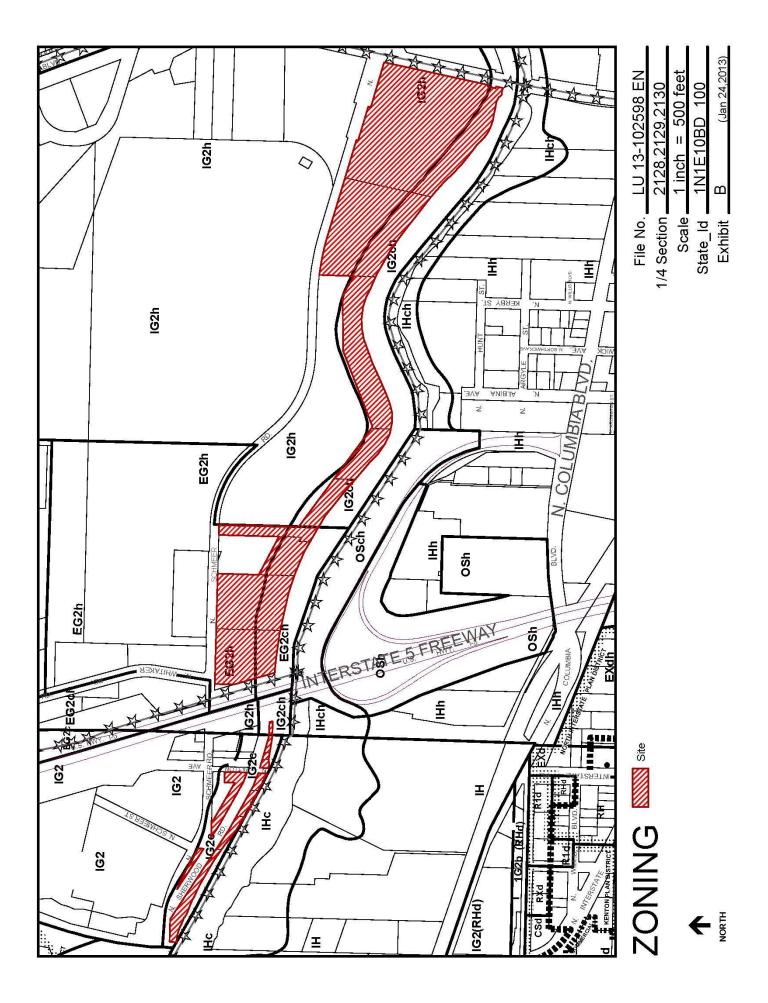
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code for the City of Portland, and all other applicable ordinances, provisions and regulations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

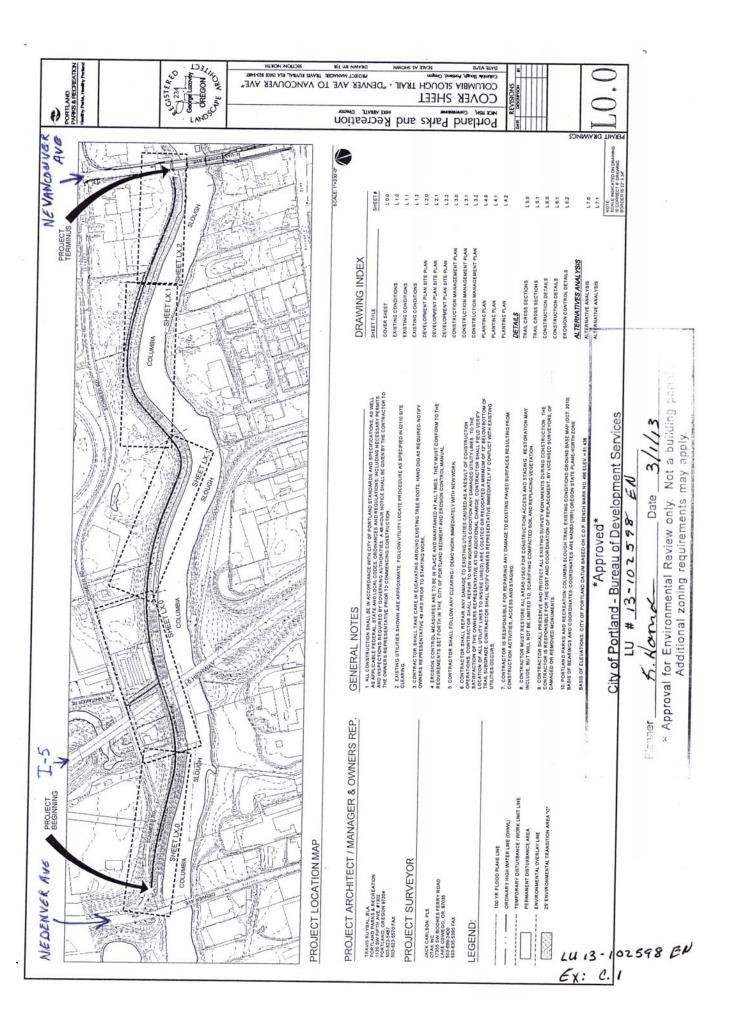
EXHIBITS

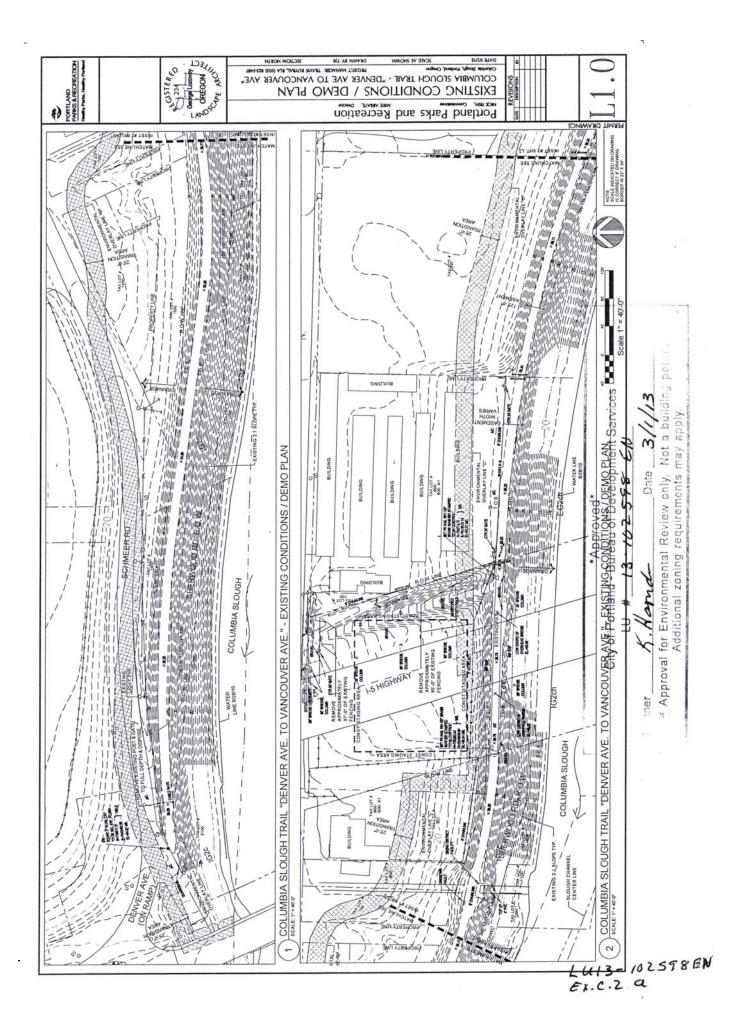
NOT ATTACHED UNLESS INDICATED

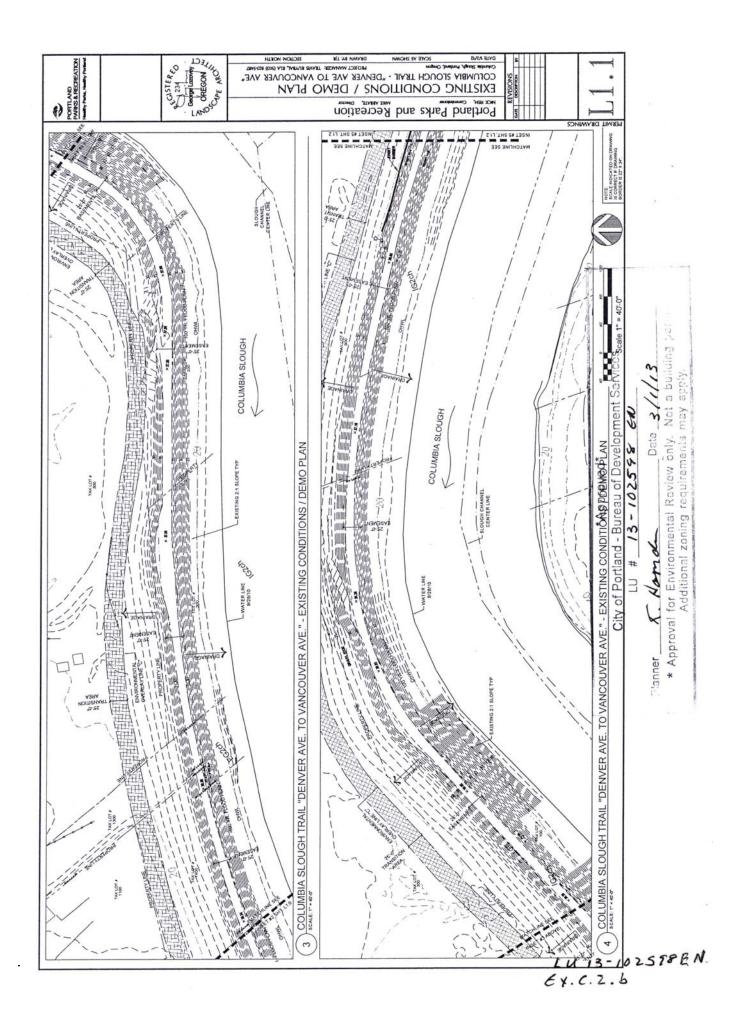
- A. Applicant's Statement
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan C.1 (attached)
 - 2. a c Existing Conditions Plans (L1.0 L1.2)
 - 3. a c Proposed Development Plans (L2.0 L2.2)
 - 4. a e Construction Management Plans (L3.0 L3-2, L6.0, L6.2)
 - 5. a c Mitigation/Planting Plans (L4.0 L4.2)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Site Development Review Section of BDS
 - 3. Peninsula Drainage District No. 2
- F. Correspondence: None received
- G. Other:
 - 1. Original LU Application
 - 2. Site photos submitted by applicant

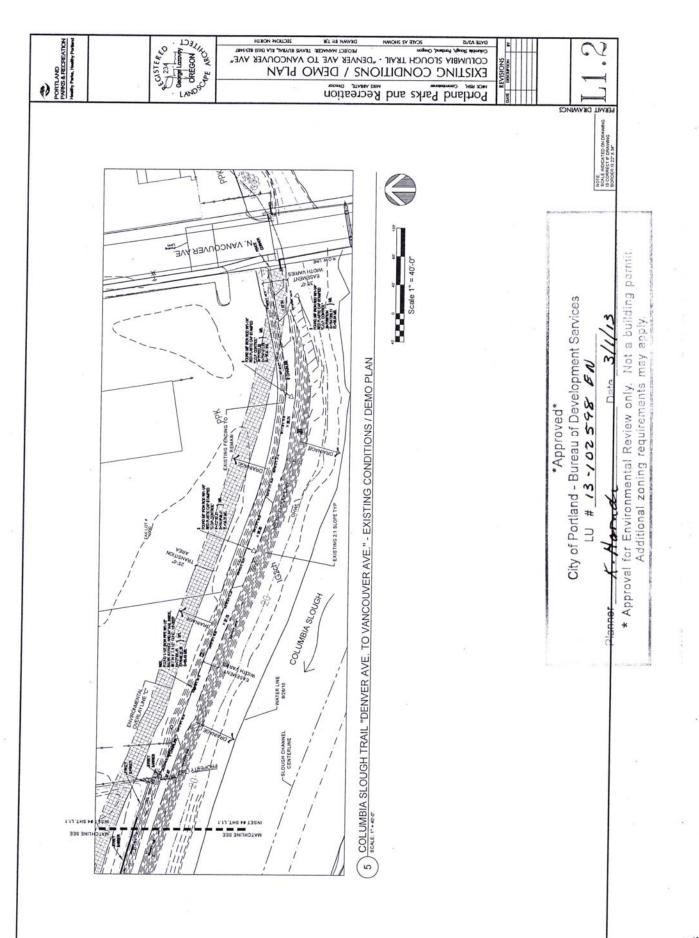
The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



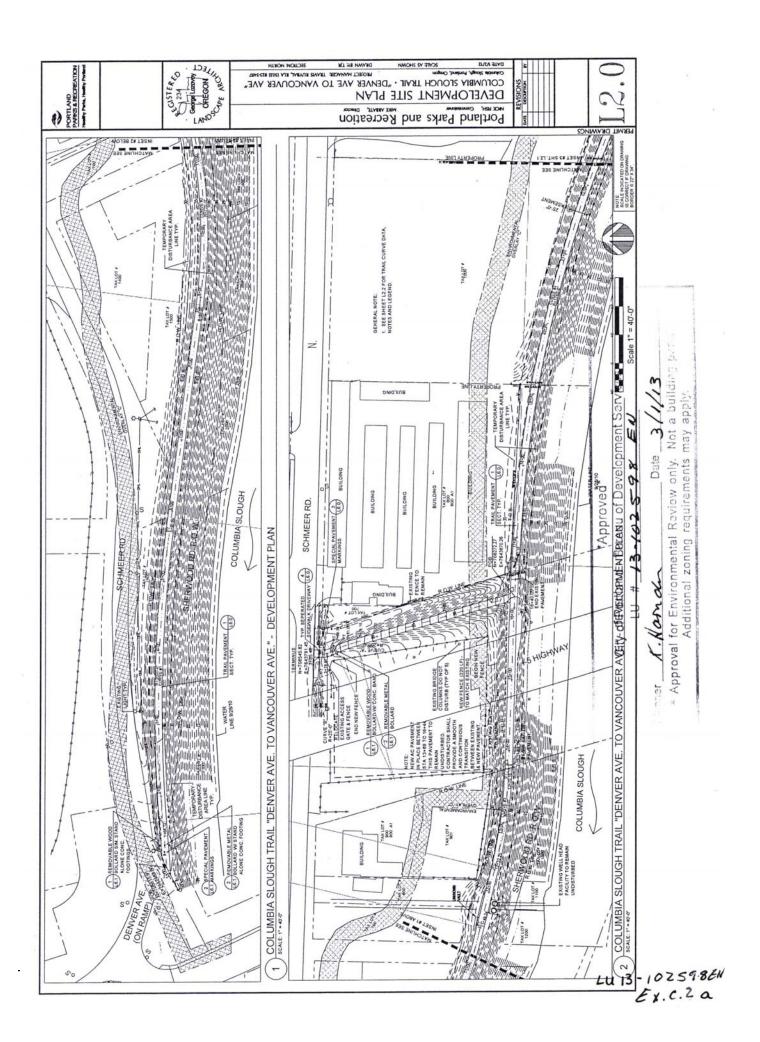


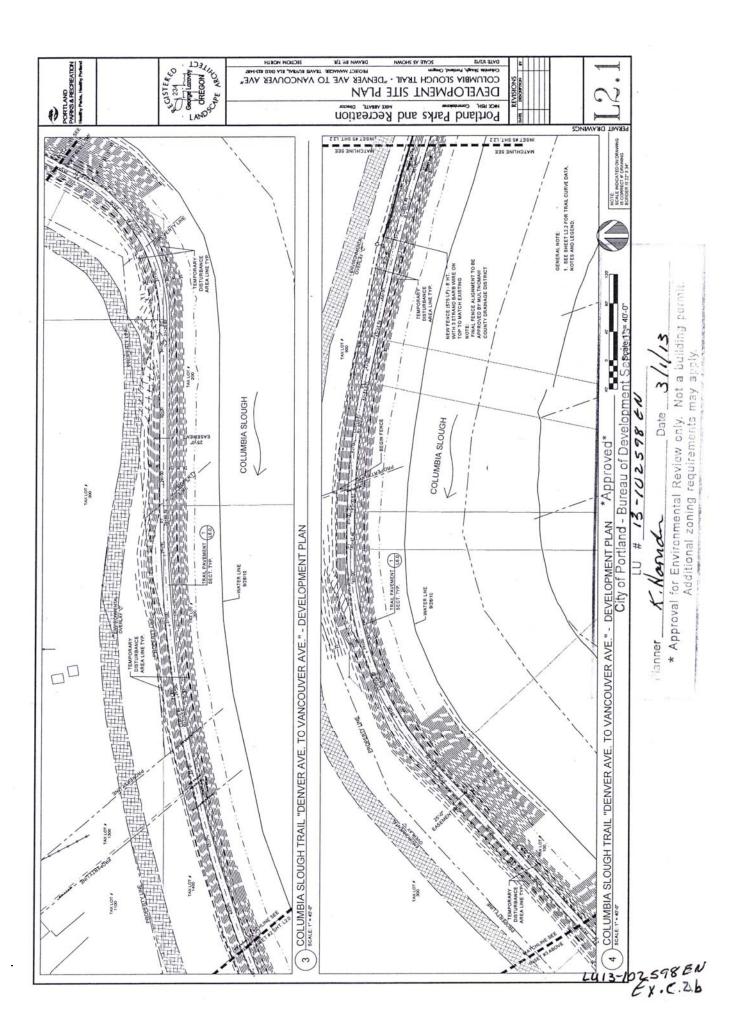


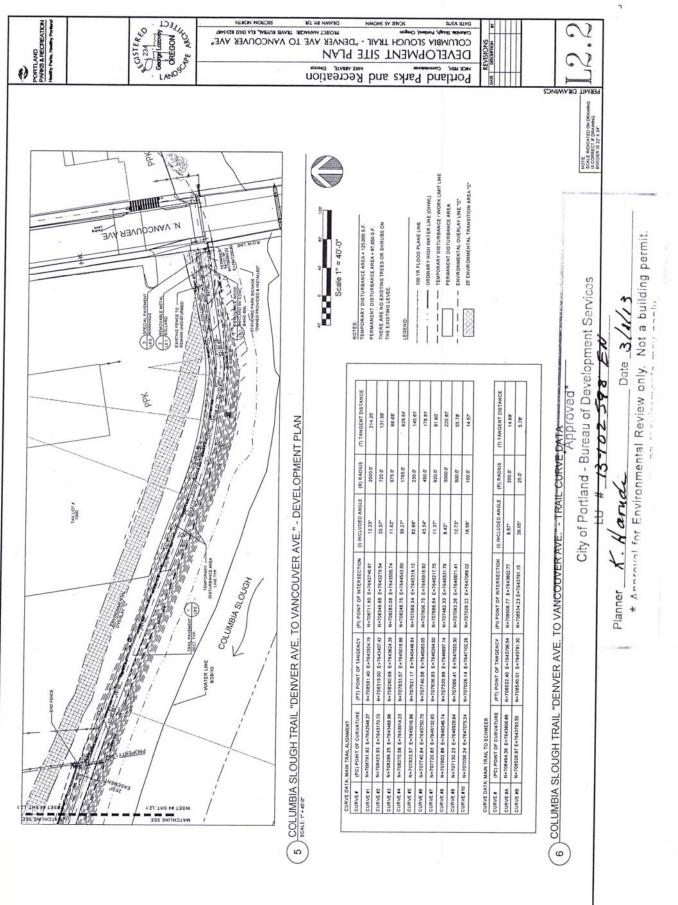




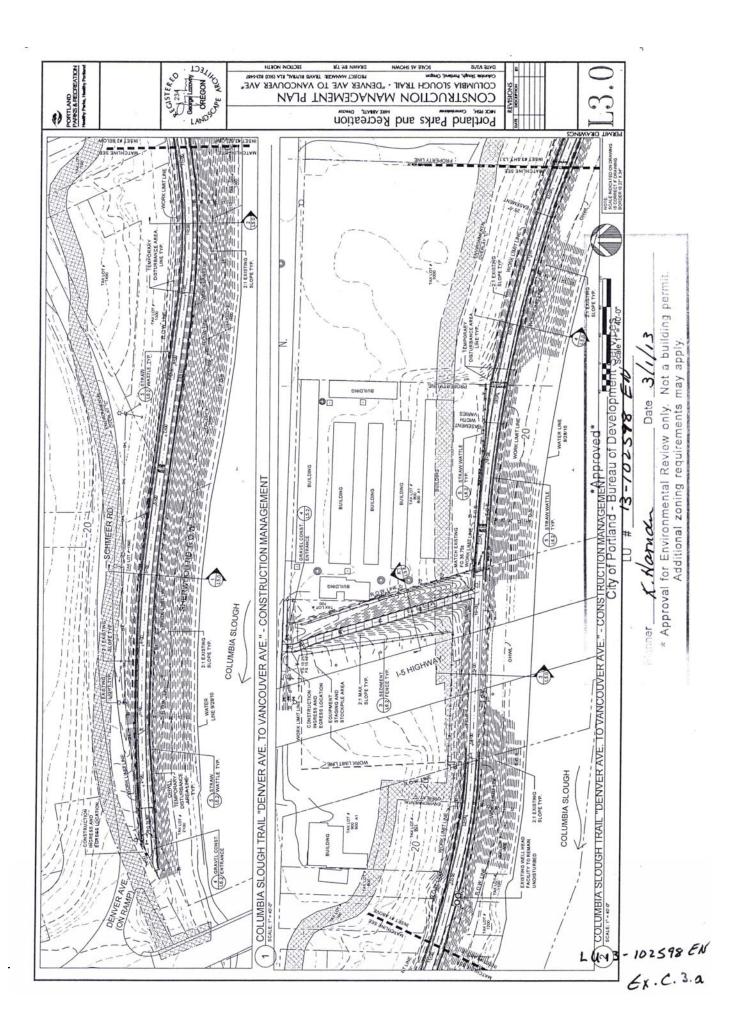
Ex. C.Z.C

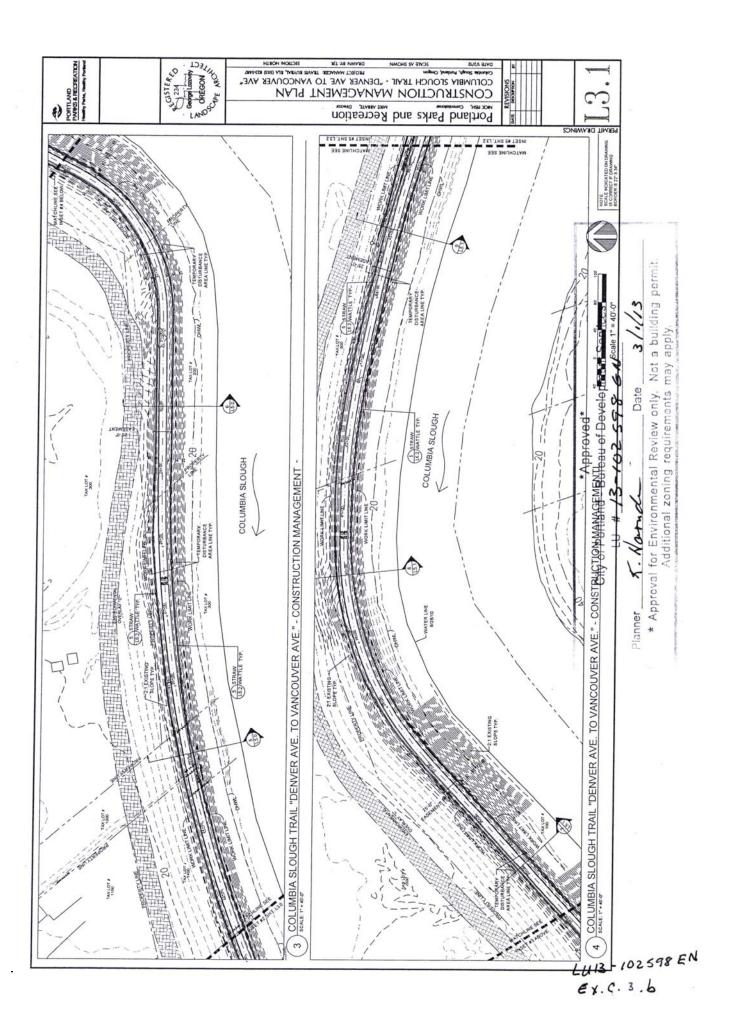


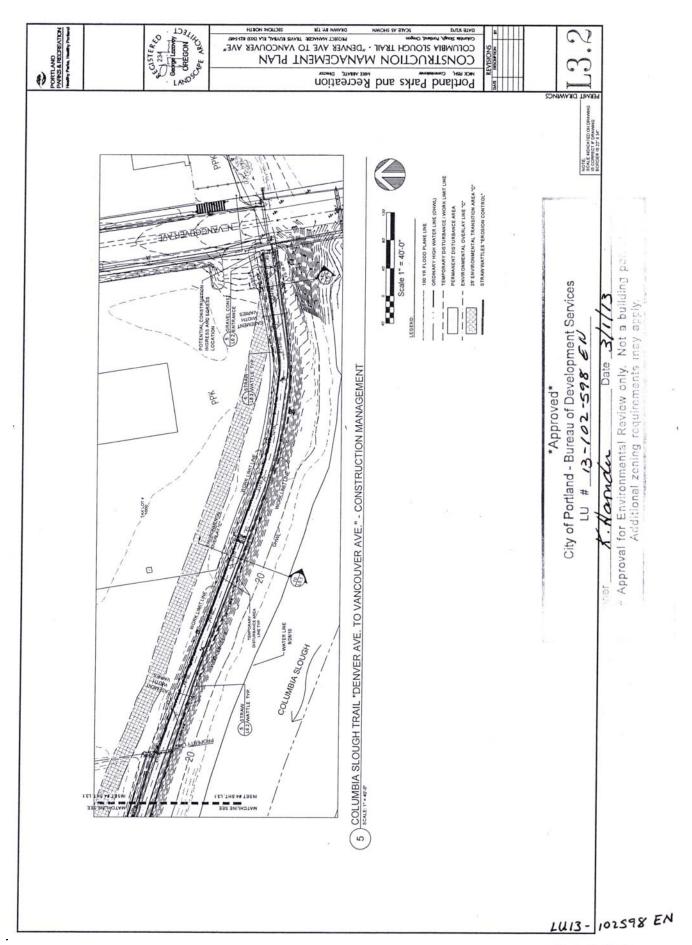


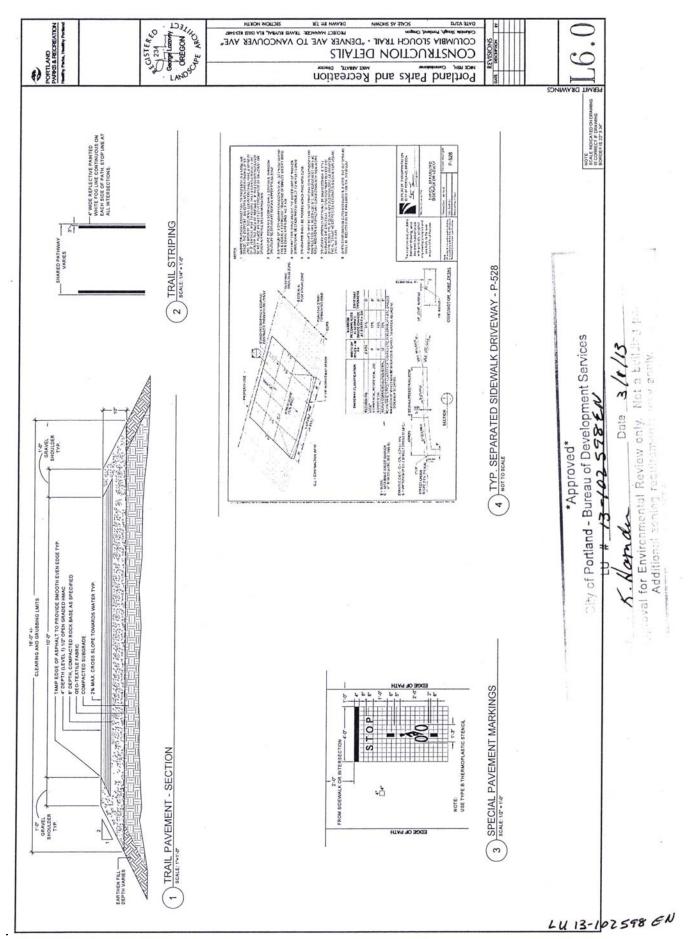


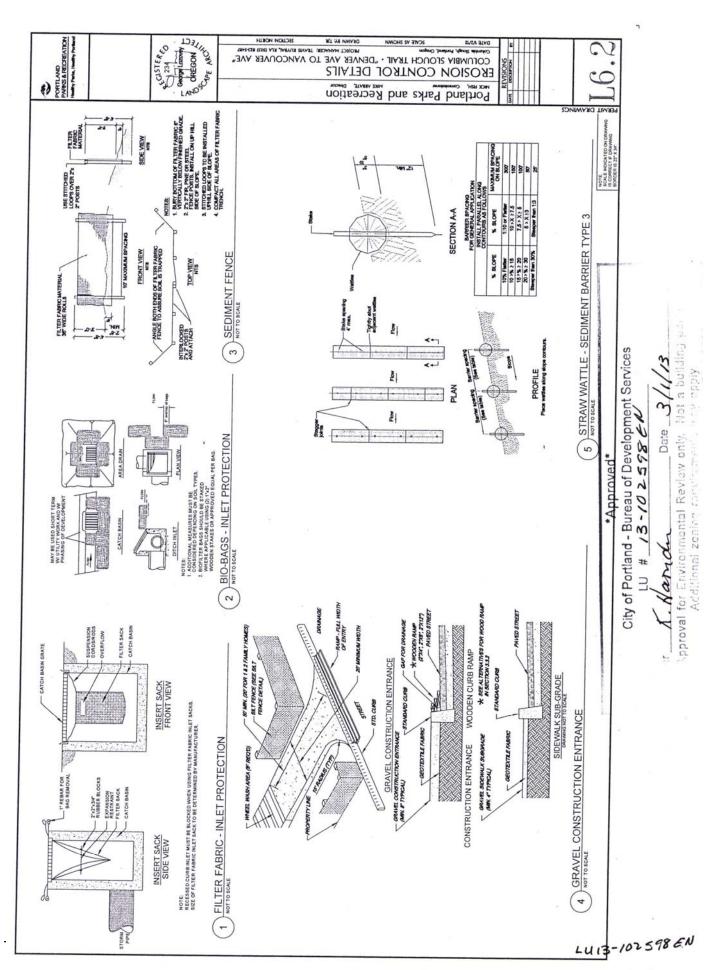
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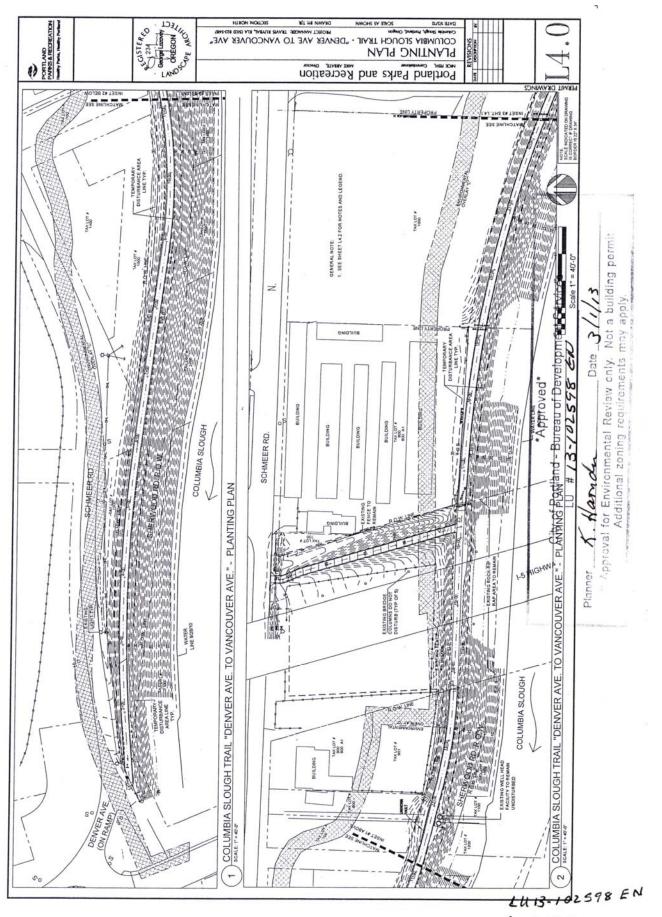


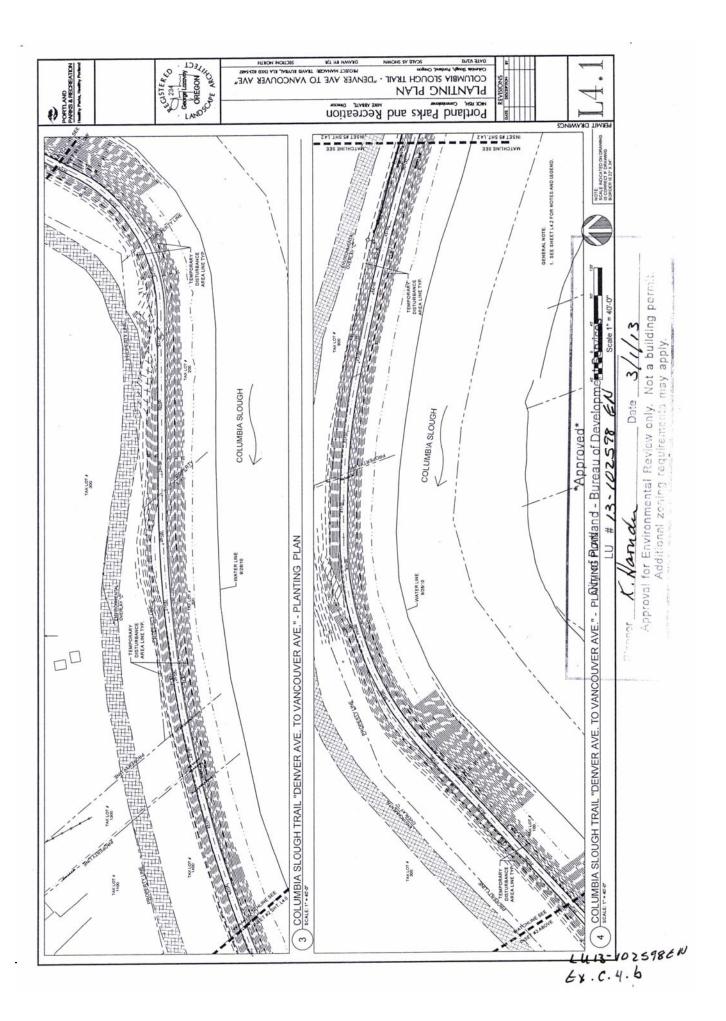












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LU-13-102598 EN		WANCOUVER.	COLUMBIA SLO	COLUMBIA SLOUGH TRAIL "DENVER AVE. TO VANCOUVER AVE." - PLANTING PLAN	NOTES: THERE ARE NO EASTING TREES OR SHRUBS WITHIN THE PROJECT WORK LAMTS. THE ANDIOR SHRUB PARITING IS NOT ALLOWED WITHIN PROJECT WORK LAMTS. PER JAULT MAN HOUNTY DRAINGE DISTRICT. PRANT REPER.		THEORIE THE PROPERTY OF THE PR	City of Portland - Bureau of Development Services LU # 13-102578 = 2 Planner A. Kary — Date 3/1/13 Additional Zoning Tray apply.	