

**MEMORANDUM OF UNDERSTANDING
DRAFT CITY VERSION – 2/10/10**

This Memorandum of Understanding (“MOU”) is entered into between the City of Portland (“City”), the Portland Development Commission (“PDC”) and Siltronic Corporation (“Siltronic”) as of this ____ day of _____, 2010.

Purpose

The purpose of this MOU is to identify areas of agreement between the City, PDC and Siltronic concerning future zoning and development of Siltronic’s property.

Recitals:

A. The City is in the process of adopting a land use policy document and implementing regulations entitled *The River Plan / North Reach Recommended Draft* (the “Draft Plan”). This multi-objective plan includes recommendations related to economic prosperity, watershed health and access, among other things. These objectives can be integrated through careful design and use of innovative planning tools.

B. The Draft Plan proposes to meet objectives for watershed health by protecting existing natural resources and functions, ensuring that development impacts to existing natural resources are minimized and mitigated, and ensuring that opportunities for future restoration and enhancement are not precluded by development. The Draft Plan proposes to facilitate economic and industrial development by strengthening land use regulations to protect prime industrial land and support riverfront businesses, providing more predictability and flexibility for redevelopment and expansion and undertaking public investments in infrastructure and land development to fuel private investment in the working harbor. The Draft Plan recognizes that restoration and economic prosperity are interdependent activities in the North Reach, and one will not be successful without the other. The Draft Plan also proposes to improve access to, along and across the river.

C. The Draft Plan includes a Natural Resource Inventory that documents the extent, condition and functionality of riparian corridors and wildlife in the North Reach, and provides the basis for the new River Environmental (e) zone and refinements to the existing Environmental Protection (p) and Environmental Conservation (c) zones. The Draft Plan designates a portion of the undeveloped upland portions of Siltronic’s property as a Special Habitat Area because the existing upland habitat provides connectivity between the Willamette River and Forest Park. The Draft Plan released on November 28, 2009 proposes application of e, c and p overlay zones to undeveloped portions of the Property as depicted on the attached Exhibit A. The Draft Plan also designates part of the Property as the Doane Creek restoration site with proposals to enhance the natural resource functions of the area.

D. Siltronic owns an approximately 80-acre parcel of partially developed land (the "Property"), which lies within the boundaries of the land to which the Draft Plan applies. An aerial photo of the Property is attached as Exhibit B. Siltronic acquired the Property from the City in 1978 and entered into a Disposition and Development Agreement dated May 26, 1978 (the "DDA"). The fundamental purpose of the DDA was to implement the Northwest Front Avenue Industrial Renewal Project, which was created to attract Siltronic to the City to develop a \$30-40 million dollar silicon chip fabrication plant and employ workers with hiring preference to City residents. Siltronic has since exceeded its development responsibilities under the DDA by developing two silicon wafer fabrication plants and related facilities on approximately one-half of the Property. The existing improvements are shown on Exhibit B.

E. The City and Siltronic seek to advance a key principle of the Draft Plan through this MOU and a future Development Agreement ("DA") to follow -- that environmental protection and economic development can be mutually supportive objectives. The preliminary agreement outlined in this document is designed to achieve several substantive requirements of the Draft Plan. Both the City and Siltronic intend to protect, restore and maintain significant existing habitat, mitigate for impacts to natural resources, maintain effective use of the existing industrial land supply and achieve the City's economic development objectives, particularly in the high tech and green technologies areas.

F. The current zoning code designates the Siltronic property riverward of an existing utility easement on the Property for river dependent and related uses (i overlay). All parties acknowledge that this designation does not reflect the uses present on the land for the last 30 years, that it may hamper future industrial development compatible with current uses on the site, and needs to be changed to a g overlay zone.

G. 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. The desired future developable area (Development Site) is shown on Exhibit C, (Development Site and Conservation Easement Map). Siltronic desires that the City not apply the e, c and p overlays that the Draft Plan proposes to apply to undeveloped portions of the Property.

H. Consistent with the goals and objectives of the draft Plan, the City has identified certain portions of the Siltronic Property as providing significant natural resource functions, including riparian functions along the open portions of Doane Creek, habitat for grassland-associated wildlife species and wildlife connectivity between Forest Park, Doane Creek, North Doane Lake and the Willamette River. The City desires that Siltronic grant the City a conservation easement for land that provides the existing functions to be protected by the e, c and p overlays proposed for the Property by the Draft Plan.

I. PDC engaged a consultant (URS) to identify development impacts and mitigation options associated with reasonably anticipated future development and mitigation activities ("Mitigation Study"), using a Habitat Evaluation Process/Habitat Equivalency Analysis process developed collaboratively by URS, City and Siltronic representatives. The Mitigation Study was used by the Parties during negotiations of this MOU to identify the total mitigation obligation (or debit), in habitat units that would result from future development impacts to the grassland habitat on the Development Site. The monetary value of the mitigation obligation was then calculated based on the replacement value of habitat units in the North Reach area. This habitat value was calculated at approximately \$1 million.

Preliminary Agreement

To achieve their mutual objectives, the City, PDC and Siltronic have discussed the potential terms of a Development Agreement with regard to implementation of the Draft Plan and new development on the Property, and have tentatively agreed as follows:

1. Zoning. When the City Council adopts the Draft Plan, the base zoning and overlay zoning for the Property will be as shown on Exhibit A. If, no later than July 1, 2010, a Development Agreement is approved by the City Council with the Development Site and Conservation Easement areas shown in Exhibit C and is signed by all parties, the base zoning and overlay zoning will be changed to reflect that set forth on Exhibit D. If a Development Agreement is not approved by the Council and signed by all parties on or before July 1, 2010, this MOU and Exhibit D are void and will have no force and effect.
2. Conservation Easement Conveyance. In exchange for modifying the environmental conservation and river environmental overlay zoning, which provides Siltronic with development certainty and provides the City with the opportunity to own and enhance an important restoration site identified in the River Plan / North Reach, Siltronic agrees to convey, at no cost to the City, a perpetual conservation easement over and across the land area shown in Exhibit C (the Conservation Easement Area). The Development Agreement shall include a mutually acceptable legal description of the Conservation Easement Area, which will be conveyed to the City within sixty (60) days after the execution of the Development Agreement; OR the effective date of the Draft Plan, whichever occurs first.

As development occurs on the Development Site, the City and Siltronic may revise and rerecord the Conservation Easement. The Conservation Easement may be revised to reflect the actual placement of development on the Property, and to add additional property to the original Conservation Easement Area. The City agrees it will impose no development condition of approval which requires expansion of the Conservation Easement Area. Any revision of the Conservation Easement Area shall be consistent with the objectives of the Development Agreement.

3. Conservation Easement Purpose and Objectives. The purpose of the Conservation Easement is to allow for mitigation or restoration within a habitat corridor on the Property that extends from the point where Doane Creek first intersects the Property along the southwest property boundary to the Willamette River. To accomplish this purpose, the corridor shall have the key dimensions indicated on Exhibit C.

Mitigation or restoration activities by any party within the Conservation Easement Area are intended to accomplish the following objectives:

- Protect in perpetuity a wildlife habitat connectivity corridor between the Willamette River and Forest Park, enhance upland wildlife habitat, and improve riparian corridor functions, including but not limited to microclimate and shade, flow and hydrology, water quality and pollutant control, and food web and nutrient cycling,
- Maintain security of and minimize disruption to Siltronic's business and manufacturing activities on the Property.

4. Use of Conservation Easement Area. Access to and use of the Conservation Easement Area by the City and Siltronic will be addressed in the Development Agreement. In general, the City and Siltronic intend that access and use activities will be grouped into two categories, Phase I and Phase II areas indicated on Exhibit C, to correspond with the timing of development of the Development Site, as outlined in Exhibit E, Conservation Easement Access and Use. These activities are generally described as follows:

a. Phase I activities will be allowed until development occurs on the Development Site or 15 years from the effective date of the Development Agreement, whichever occurs first.

b. Phase II activities will be allowed in perpetuity after Phase II is initiated.

c. In addition to the terms outlined in Exhibit E, Siltronic may use the Conservation Easement area for calculating setbacks, buffers, lot coverage, vegetated area and other development standards, except that the Conservation Easement Area may not be used for calculating compliance with the required river setback and stormwater management development standards.

d. As development occurs on the Development Site, the fence along the boundary of the Property will be moved to a permanent location on the boundary between the Conservation Easement Area and the Development Site, as shown in Exhibit C.

e. In both phases, no permanent uses will be allowed within the Conservation Easement that would be inconsistent with the primary use of

protecting, enhancing, restoring and maintaining the area as a natural resource area, including the long term potential for daylighting parts of Doane Creek. Any part of the Conservation Easement area temporarily disturbed due to the activities allowed in Phases I and II will be returned to its previous state or better.

f. The existing Siltronic trail adjacent to the river will be retained although its location may change.

5. ESEE Analysis. BPS staff will recommend to the City Council that the Draft Plan ESEE analysis be amended at the time the Development Agreement becomes effective and that the proposed overlay zones for the site be consistent with the proposed revisions to the ESEE analysis, to be included in the Development Agreement as a separate exhibit..
6. Mitigation To arrive at an equitable trade between Siltronic and the City concerning the value of natural resources on the Development Site and the value of the Conservation Easement to be granted to the City, the parties used the City's HEP/HEA process (as described in Recital I.) and real estate appraisals from each party. While this approach does not mitigate for lost habitat, the parties agreed that these values would help inform to what degree there was an equivalency between the donation of a conservation easement and adequate compensation for habitat values lost due to development. In exchange for not applying c and e overlay zoning to the Development Site, and thus providing Siltronic with significantly enhanced development certainty, the City will receive from Siltronic a conservation easement which will include the remaining upland grassland habitat and riparian areas along the open channel and piped portions of Doane Creek and connecting with the Willamette River. This exchange provides the City with an asset that can be maintained, enhanced and restored, including improving the vegetated corridor and, potentially, the daylighting of Doane Creek. Doane Creek is one of two tributaries in the North Reach with sufficient stream flow to support salmonids. The easement also provides the City with certainty that a wildlife habitat connectivity corridor will be protected in perpetuity.

The City agrees that the benefits of a permanent wildlife habitat connectivity corridor and the potential for future restoration of Doane Creek as salmonid habitat, combined with the monetary asset of the land conveyed to the City, are adequate compensation, and that additional mitigation for future development impacts to the upland grassland located outside of the easement is not required. During the process of creating the Development Agreement, and following public testimony during the River Plan / North Reach hearing, there will be further discussion concerning the equity of this tradeoff. The Development Agreement will reflect any adjustments to this point of agreement.

7. Potential Additional Habitat. Siltronic and/or the developer of the Development Site will explore the idea of an eco-roof useable for habitat purposes as part of planning activities for the site. If the concept is determined to be feasible from an economic, functional and compatible use perspectives and valuable for wildlife, the City will evaluate the feasibility of paying Siltronic and/or the developer for any cost differential between a conventional roof structure and one that incorporates an eco-roof habitat.
8. Front Avenue. At this time the City does not intend to exercise its eminent domain authority to condemn land for any extension of Front Avenue through the Property beyond its existing terminus located at the southeast corner of the Property, unless a future land use review requires transportation improvements to meet the associated approval criteria.
9. The Greenway Trail. The City will consider and take reasonable measures to address security issues that Siltronic may raise for the Property regarding any trail constructed in the Conservation Easement Area that connects the railroad bridge to Highway 30 or Front Avenue, consistent with other applicable regulatory requirements.
10. PDC Funding. PDC intends to contribute funds from the Willamette Industrial Urban Renewal Area (WIURA) for the purpose of advancing restoration work in the WIURA. Initial funding is estimated to be approximately \$200,000, to be disbursed over one or more years, and shall be limited to expenses that are eligible under state law and will not be used to pay for obligations that otherwise are the responsibility of Siltronic or other property owners in the Draft Plan area. PDC staff intends to request Commission approval to provide that some or all of this initial funding be applied toward improvements in the Conservation Easement Area.

PDC will also consider other financial support to Siltronic as part of a negotiated incentive package tied to substantial new private capital investments in buildings and equipment resulting in the retention of existing Siltronic jobs at the location and/or the creation of new jobs at the Development Site by Siltronic Corporation, their partners, or another entity. To qualify for such support development must occur prior to the expiration of the WIURA or depletion of these funds (whichever occurs later).
11. Portland Harbor/NRDA Obligations. The MOU and the Development Agreement are not intended to nor shall they have any affect on the parties' legal rights, responsibilities or obligations under federal superfund and other environmental laws and regulations. The Parties to this agreement agree that neither this MOU nor the DA will preclude Siltronic from asserting that the Mitigation Tasks or Restoration Tasks required under the Development Agreement may qualify as consideration or credit toward their NRDA obligations.

12. Legal Effect. This MOU is not intended to and does not obligate any party to take any particular action and is not legally binding.

City of Portland

PDC

Siltronic Corporation

List of Exhibits

Exhibit A: River Plan / North Reach proposal

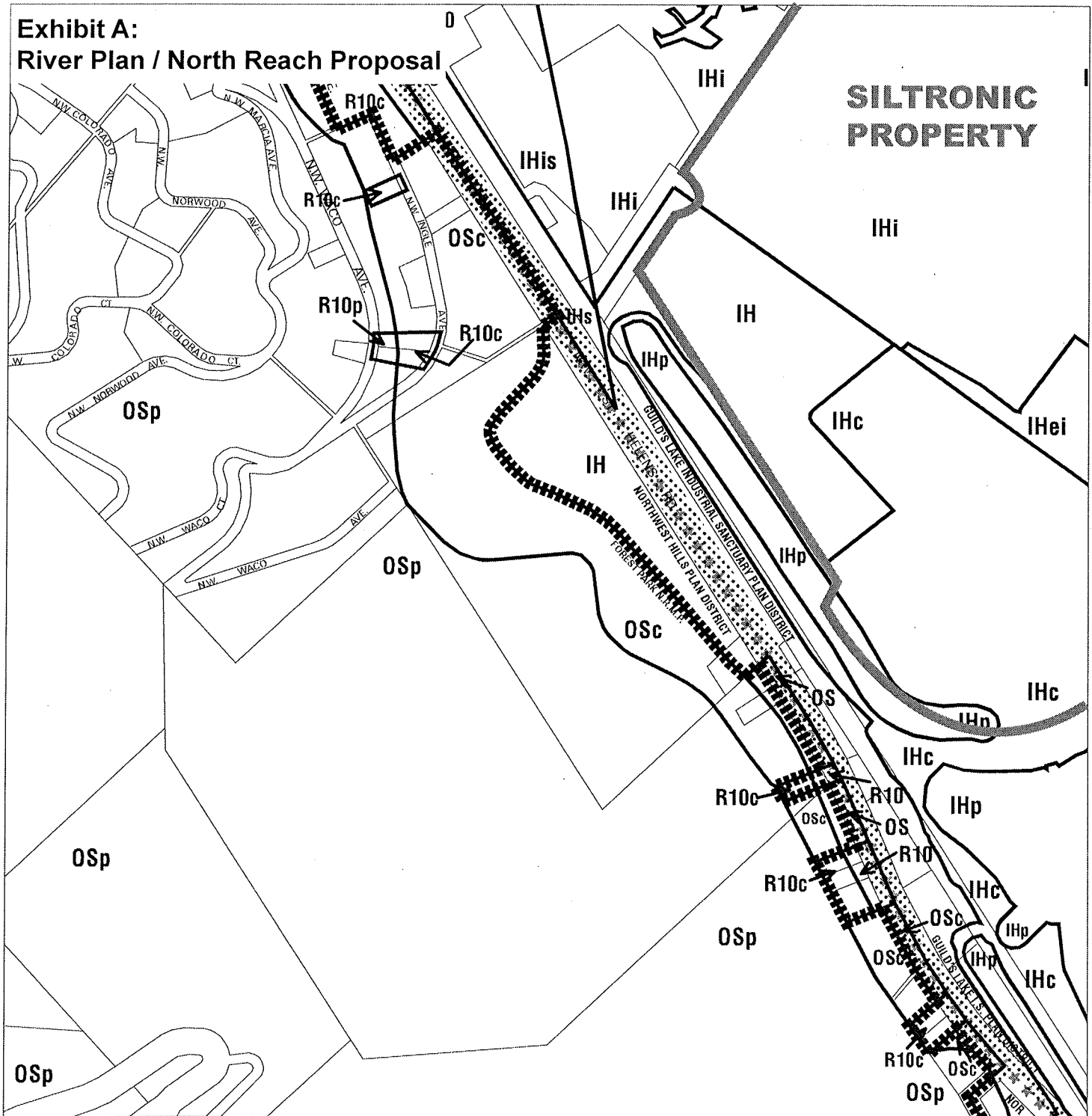
Exhibit B: Air photo of the Property

Exhibit C: Development Site and Conservation Easement map

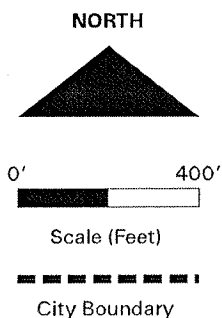
Exhibit D: Post Agreement Overlay Zoning

Exhibit E: Conservation Easement Access and Use

Exhibit A: River Plan / North Reach Proposal



River Plan/North Reach Proposed Zoning Bureau of Planning - City of Portland, Oregon



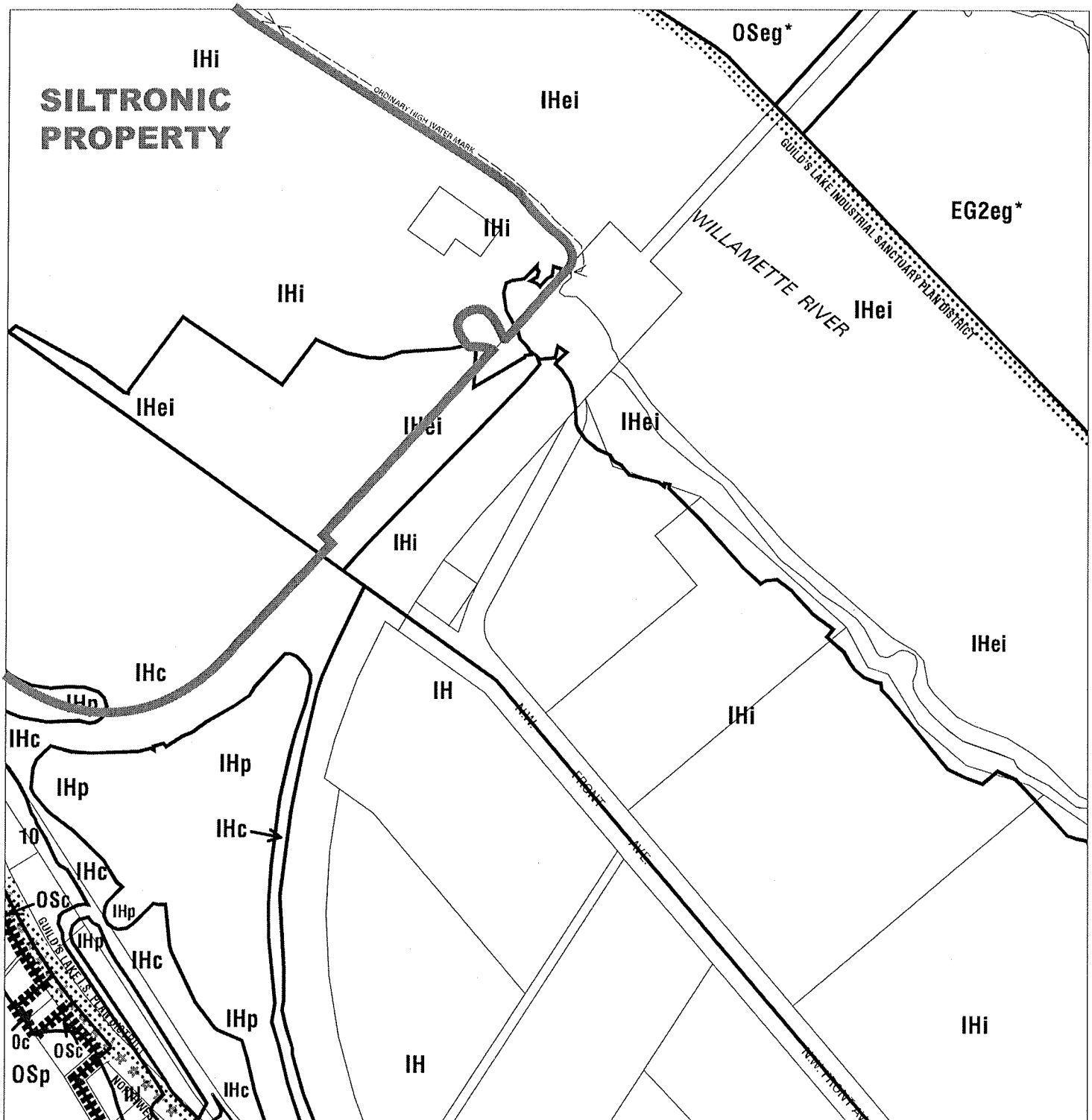
i = River Industrial Zone
g* = River General Zone
r* = River Recreational Zone
e = River Environmental Zone

c = Environmental Conservation Overlay
p = Environmental Protection Overlay

*** Public Trail
←---→ Ordinary High Water Mark (O.H.W.M.)
= area between arrows

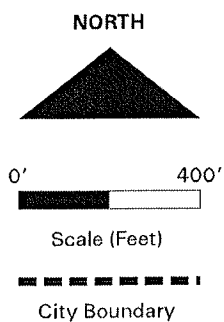
November, 2009

Map 1/4 Section 2321



River Plan/North Reach Proposed Zoning

Bureau of Planning - City of Portland, Oregon



i = River Industrial Zone
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 e = River Environmental Zone

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 p = Environmental Protection Overlay

*** Public Trail

←→ Ordinary High Water Mark (O.H.W.M.)
 = area between arrows

November, 2009

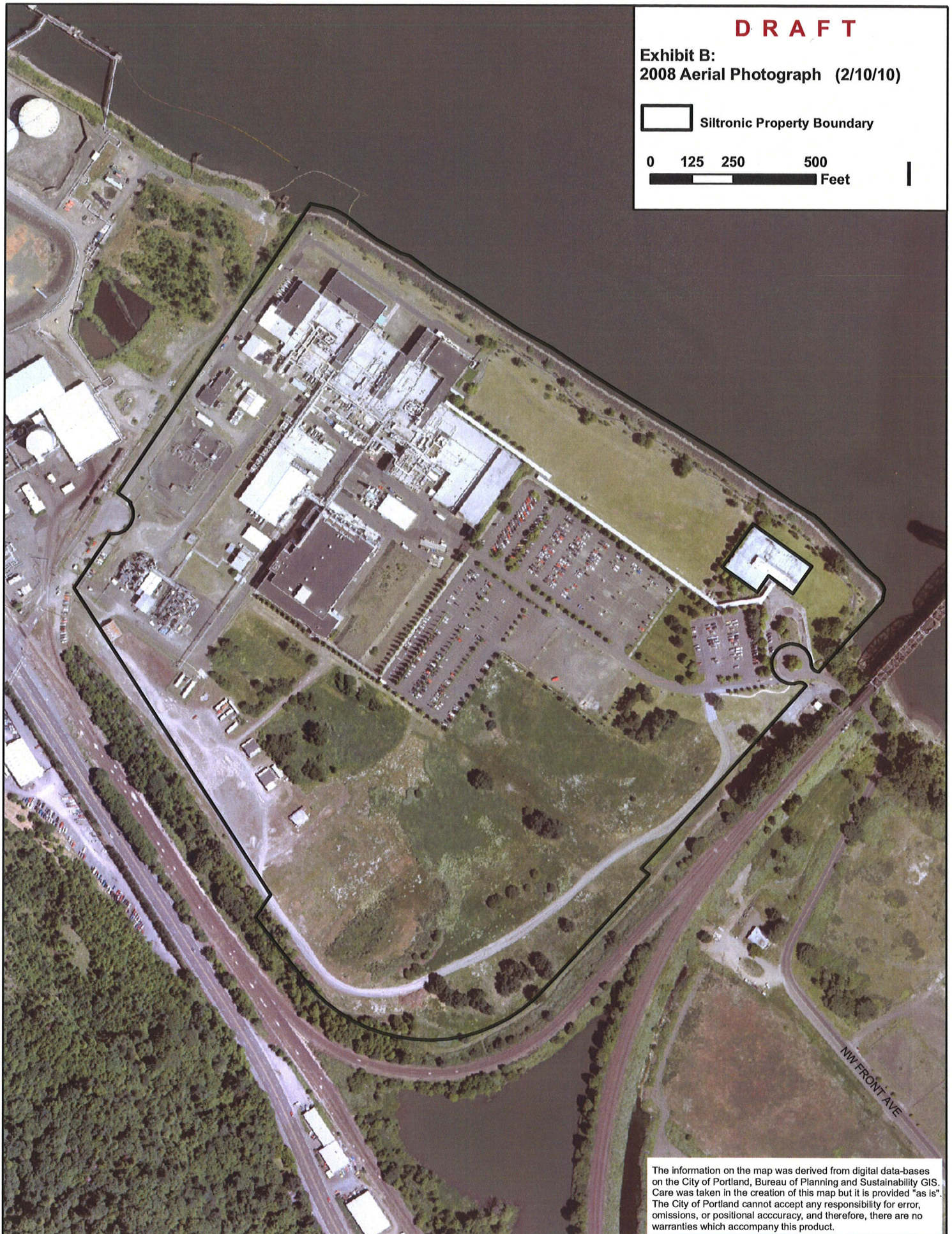
Map 1/4 Section 2322

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Exhibit B:
2008 Aerial Photograph (2/10/10)

 Siltronic Property Boundary

0 125 250 500
Feet

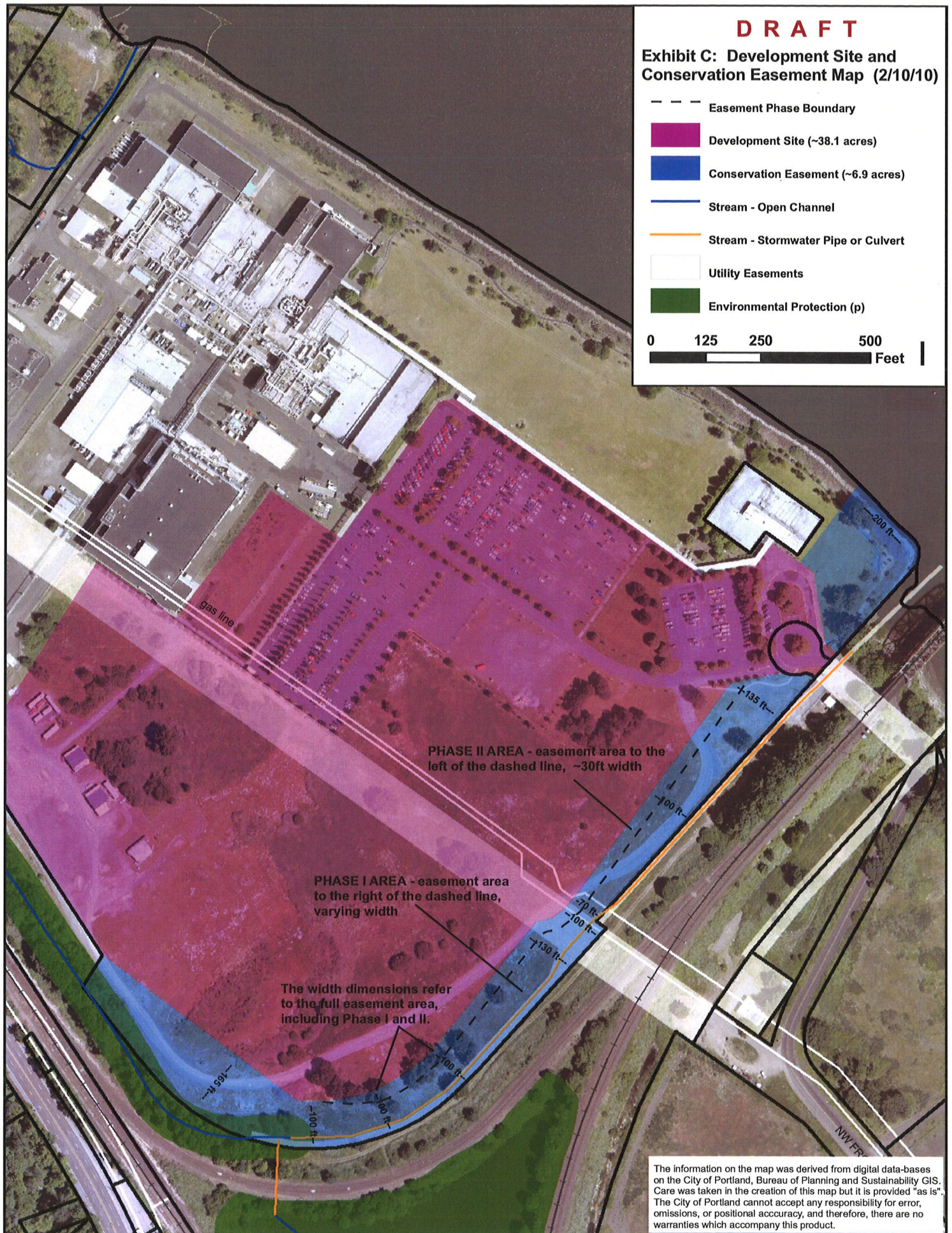


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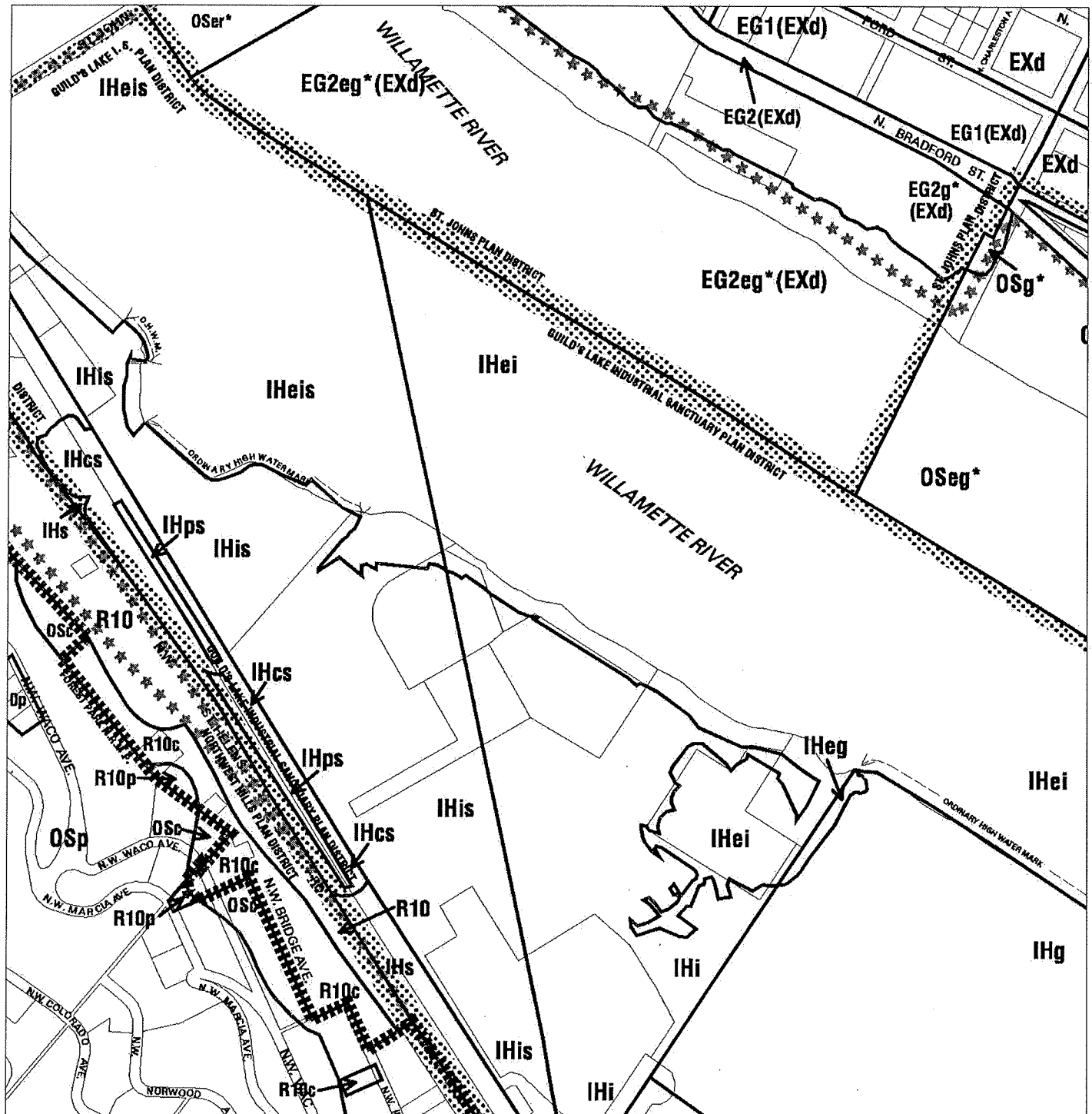
DRAFT**Exhibit C: Development Site and Conservation Easement Map (2/10/10)**

- Easement Phase Boundary
- Development Site (~38.1 acres)
- Conservation Easement (~6.9 acres)
- Stream - Open Channel
- Stream - Stormwater Pipe or Culvert
- Utility Easements
- Environmental Protection (p)

0 125 250 500
Feet

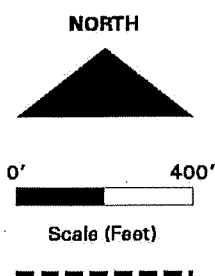


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River Plan/North Reach Proposed Zoning

Bureau of Planning - City of Portland, Oregon



- i = River Industrial Zone
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- c** = Environmental Conservation Overlay
p = Environmental Protection Overlay
☆☆☆ Public Trail
← — — — → Ordinary High Water Mark (O.H.W.M.)
 = area between arrows

February, 2010

Map 1/4 Section 2221

NORTH

0' 400'

Scale (Feet)

City Boundary

City of Dallas

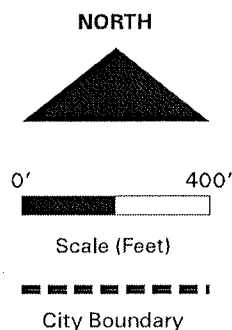
c = Environmental Conservation Overlay
p = Environmental Protection Overlay
☆☆☆ Public Trail
← ——— → Ordinary High Water Mark (O.H.W.M.)
= area between arrows

Map 1/4 Section 2321

Bureau of Planning - City of Portland, Oregon

c = Environmental Conservation Overlay
p = Environmental Protection Overlay

←-----→ Ordinary High Water Mark (O.H.W.M.)
= area between arrows



February, 2010

Map 1/4 Section 2322

Exhibit E: Conservation Easement Access and Use

	PHASE I AREA	PHASE II AREA
Pre-Construction	Access to existing gravel road; repair and maintenance of fence; maintenance and sampling of groundwater monitoring wells; access to existing utility corridor.	Same as in Phase 1
Construction	Storage of construction equipment and materials only if storage cannot reasonably be accomplished first on property outside of the Conservation Easement Area or on Phase 2 of the Conservation Easement Area; location of utilities if they cannot reasonably be located outside of the Conservation Easement or on Phase 2 of the Conservation Easement Area; emergency vehicle access.	Storage of construction equipment and materials if storage cannot reasonably be accomplished on property outside of the Conservation Easement Area; installation of utilities if they cannot reasonably be installed outside of the Conservation Easement Area; emergency vehicle access.
	PHASE I AREA	PHASE II AREA
Post-Construction	Access for building maintenance; sampling and maintenance of groundwater monitoring wells; access to existing utilities; access to existing utility corridor; security operations.	Same as in Phase 1
Future-Construction	Access for major building modification or reconstruction to the extent that any impact to the natural resource values of the Conservation Easement are de minimus.	Same as in Phase 1