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CITY OF PORTLAND
Office of the City Auditor
1221 SW Fourth Avenue, Room 140
Portland, OR 97204-1900

I hereby certify this Land Use Document No. LU 10-169463 CU MS EN AD – Order of Council to be a complete and exact copy of the original as the same appears on file and of record in my office and in my care and custody on February 22, 2011.

LAVONNE GRIFFIN-VALADE
Auditor of the City Of Portland

By *Susan Parsons*
Deputy

RETURN TO CITY AUDITOR
131/140/Auditor's Office

9

**ORDER OF COUNCIL ON APPEAL OF
EAST PORTLAND NEIGHBORHOOD ORGANIZATION LAND USE AND TRANSPORTATION
COMMITTEE AGAINST HEARINGS OFFICER'S DECISION TO APPROVE WITH
CONDITIONS THE APPLICATION OF THE PORTLAND WATER BUREAU FOR
AMENDMENTS TO THE 2003 POWELL BUTTE CONDITIONAL USE MASTER PLAN,
ENVIRONEMENTAL REVIEW AND ADJUSTMENTS FOR CONSTRUCTION OF WATER
SYSTEM, PARK FACILITY AND TRAIL IMPROVEMENTS AT 15800 SE POWELL BLVD
(HEARING; LU 10-169463 CU MS EN AD)**

Appellant: East Portland Transportation and Land Use Committee
Linda Bauer, Chair

Applicant: Teresa Elliott, Project Manager
Portland Water Bureau
1120 SW 5th Avenue, Room 600
Portland, OR 97204

Applicant's Representative: Tim Brooks, Main Contact
Winterbrook Planning
310 SW 4th Avenue, #1100
Portland, OR 97204

Site Address: 15800 SE Powell Boulevard

Legal Description: BLOCK 5 LOT 1 TL 2300, ANDEREGG MEADOWS; LOT 5&6 TL 3400 SPLIT LEVY R562710 (R42850-0510 & R562741 (R42850-0520), JENNELYND AC; LOT 13 TL 2500, JENNELYND AC; LOT A, JOHNSON CREEK PK; LOT 5-10, SYCAMORE AC; LOT 11&12, SYCAMORE AC; LOT 13-18, SYCAMORE AC; LOT 19, SYCAMORE AC; TL 1100 0.63 ACRES, SECTION 12 1S 2E; TL 700 115.48 ACRES, SECTION 12 1S 2E; TL 100 160.00 ACRES, SECTION 13 1S 2E; TL 400 7.88 ACRES, SECTION 13 1S 2E; TL 300 108.60 ACRES, SECTION 13 1S 2E; TL 200 121.00 ACRES, SECTION 13 1S 2E; TL 400 6.73 ACRES, SECTION 07 1S 3E; TL 500 6.36 ACRES, SECTION 07 1S 3E; TL 6900 11.40 ACRES, SECTION 18 1S 3E; TL 3700 12.41 ACRES SPLIT MAP R340557 (R993180870), SECTION 18 1S 3E; TL 6700 2.67 ACRES SPLIT LEVY R495375 (R428501910), SECTION 18 1S 3E; TL 900 2.85 ACRES, SECTION 18 1S 3E; TL 1700 22.00 ACRES SPLIT MAP R340528 (R993180520), SECTION 18 1S 3E; TL 1800 0.56 ACRES SPLIT MAP R340558 (R993180880), SECTION 18 1S 3E

Plan District: Johnson Creek Basin Plan District – South Subdistrict

Zoning: OS, R10, R2, a, c, p: Open Space, Single Dwelling Residential 10,000, Multi-Dwelling Residential 2,000 with Environmental Conservation, Protection and Alternative Design Density overlay zones

Land Use Review: Type III, Conditional Use Master Plan Amendment and Environmental Review with Adjustments (CU MS EN AD)

Proposal: In 2003, the City approved the Powell Butte Conditional Use Master Plan, which implemented the first 10 years (through 2013) of planned water system improvements and park improvements set forth in the 1996 Powell Butte Master Plan ("1996 Plan").

The Applicant, the Portland Water Bureau ("PWB"), seeks approval of a Conditional Use Master Plan Amendment and Environmental Review, with Adjustments to development standards. This request, if approved, will effectively amend and update the 2003 Powell Butte Conditional Use Master Plan - LUR 00-00414 MS CU EN AD (the "2003 Plan"), and approve construction of water system, park facility, and trail improvements in the area addressed by the Master Plan.

The 2003 Plan approved development, including construction of a new underground water reservoir (Reservoir #2), water system components and park improvements. The current application seeks to amend the 2003 Plan, as specific footprints of various features have been refined via analysis of wetlands, etc., and with input from a sustained public input process.

The main features of the **water system development** currently proposed include: final construction of Reservoir #2, the new underground 50 million gallon water reservoir (site preparation for the 50 million gallon reservoir was approved as 'Stage 1' in LU 09-125820 EN AD); an emergency overflow pipe that connects to an existing overflow structure located at Johnson Creek; and Conduit 5, a new water pipeline that will connect to Conduits 2, 3 and 4 to supply water to the reservoirs from the Bull Run Watershed.

Stormwater facilities for the reservoir area will be mostly replaced with shallow, meandering swales, one north and northeast of Reservoir #2, and one south of Reservoir #1. Swales will be planted with native vegetation and shaded by deciduous trees. Stormwater flows moving through the vegetated swales will be filtered at the soil/root interface, reducing velocities and allowing sediments to be removed from the runoff before leaving the project site. Revisions to the Stormwater Plan trigger amendments to the 2003 Plan.

Park center improvements will include a new caretaker's residence, a maintenance facility building and storage yard, an interpretive center (with ADA-accessible restrooms), an outdoor teaching amphitheater, reconfigured and paved parking area, revised Trail Master Plan ("Trail Plan"), and the SE 162nd Avenue entry road will be repaved after construction and configured with bike and pedestrian lanes.

Stormwater from the maintenance facility and park center area will flow to a new stormwater detention pond north of the bus parking area to provide quantity and quality control. The 12-inch sewer will be extended and will direct stormwater from the pond to the expanded infiltration area at the base of the Butte.

Stormwater runoff from the interpretive center and caretaker's residence will be routed to either soakage trenches or flow-through facilities, depending on conditions found during construction.

This proposal also includes an update to the Trail Plan. The new Trail Plan has been modified to minimize impacts to wildlife, vegetation and potential wetlands, and provide an outdoor recreational experience that is more compatible with the natural qualities of the site. The proposed design resulted from months of collaboration among community groups, park users, City agencies, and project landscape architects and ecologists. These changes also trigger amendments to the 2003 Plan.

The Applicant requests three **Adjustments** to Master Plan Development Standards as follows:

- An Adjustment to allow a wider disturbance area (greater than 40 feet in width) for construction of Conduit 5 pipeline;
- An Adjustment to allow a more effective shrub replanting standard for the Conduit 5 corridor and the open meadow area, which will result in a higher density planting of shrubs than required; and
- An Adjustment to allow a wider tree removal exemption area (greater than 5 feet) in order to construct the new maintenance facility, stormwater detention pond, stormwater line, Conduit 5 and parking areas, all which require an excavation beyond the 5-foot limit on moderate slopes.

The proposal triggers Environmental Review for the new water system components (as approved in the 2003 Plan), as well as the park center facilities and the new trail system, as amended by this Master Plan Amendment. The proposed projects are located in the Environmental zones and must comply with the approval criteria established by the 2003 Plan.

The appeal hearing before the City Council was opened in the Council Chambers, 1221 SW 4th Avenue on February 3, 2011 at approximately 2:00 p.m. At the conclusion of the public hearing and after hearing public testimony, Council voted 5-0 to tentatively deny the appeal of the East Portland Neighborhood Organization Land Use and Transportation Committee and uphold the Hearings Officer's decision with modifications, including adding an additional condition of approval regarding emergency notification of nearby residents. The Council directed staff to prepare findings and conclusions for February 16, 2011, at 9:30 a.m. On February 16, 2011, at approximately 9:30 a.m., Council voted 4-0 to deny the appeal of the East Portland Neighborhood Organization Land Use and Transportation Committee; uphold the Hearings Officer's decision with modification and adopted findings and conclusions.

Based on evidence in the record and adoption of the Council's Findings and Decision in **Case File LU 10-169463 CU MS EN AD** and by this reference made a part of this Order, City Council hereby denies the appeal of the East Portland Neighborhood Organization Land Use and Transportation Committee and upholds the Hearings Officer's decision with modifications to approve the Portland Water Bureau amendments to the 2003 Powell Butte Conditional Use Master Plan, environmental review and adjustments for construction of water system, park facility and trail improvements at 15800 SE Powell Boulevard.

DECISION

It is the decision of City Council to:

Approve:

- Amendments to the Conditional Use Master Plan for Powell Butte, with the duration of the amended Master Plan to extend at least the requested five years from the date of the final decision of this Land Use Review, or until the approved Master Plan is superseded by a request to further amend and update the Master Plan, or until all proposed development approved under this amendment is completed, within a maximum of ten years from the date of the final decision;
- Environmental Review to construct water system and park center components, stormwater facilities, and trails; and
- Adjustments to allow a disturbance area wider than 40 feet for Conduit 5; to allow shrub plantings as shown on Exhibits C.46 through C.60; to allow tree removal as shown on Exhibits C.78 through C.89; and to allow parking lot plantings as shown on Exhibits C.46 through C.60.

Together this decision of approval allows the implementation and development of 'Stage 2' construction of a new underground water reservoir, water system components, trails, and park improvements; in substantial conformance with Exhibits C.8 through C.91.

The main features of the water system development include: final construction of Reservoir #2, a new underground 50 million gallon water reservoir; an emergency overflow pipe which connects to an existing overflow structure located at Johnson Creek; and Conduit 5, a new water pipeline which will connect to Conduits 2, 3 and 4 to supply water to the reservoirs from the Bull Run Watershed.

Associated stormwater facilities for the reservoir area and park center improvements, including a new caretaker's residence, a maintenance facility building and storage yard, an Interpretive Center (with ADA-accessible restrooms), an outdoor teaching amphitheater, reconfigured and paved parking area, a revised trail plan, and the SE 162nd Avenue entry road reconfigured with bike and pedestrian lanes are projects included in this approval.

The Environmental Review and Adjustment Review approvals are subject to Conditions of Approval A through D, and F presented below:

The Conditional Use Master Plan Amendment Review approval is subject to Conditions of Approval E through H, presented below:

- A. All Permits:** As part of any Site Development permit, grading permit, and/or building permit application submittal, the following development-related conditions (B through D) 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 10-169463 CU MS EN AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. Site plans required for permit review:** The following site plans shall be submitted with applications for permit review of the project elements. Trail plans shall be at a scale of 1"= 100' or larger. All other site plans listed below shall be at a scale of 1 inch = 60 feet, or larger.
1. Construction management plans shall be included. They shall conform with Exhibits C.62 through C.88 and graphically show the following:
 - a. Temporary 4-foot or 6-foot high construction fencing shall be placed along the Limits of Construction Disturbance for the approved development, as depicted on Exhibits C.62 through C.88 Construction Management and Tree Protection Plans, or as required by inspection staff at permit time.
 - b. No mechanized construction vehicles are permitted outside of the approved "Limits of Construction Disturbance" delineated by the temporary construction fence or in the case of trail construction, the 'limits of Construction Disturbance' designated for each trail construction corridor. Such equipment is restricted to small-scale walk-behind or ride-on mechanized equipment with a track width no larger than 48 inches. All planting work to be done outside the Limits of Construction Disturbance, shall be conducted using hand held equipment.
 - c. Accurately show the clearing limits required for the outfall improvements noted on Exhibit C.25 Proposed Development Johnson Creek Outfall Structure.
 - d. Construction management plans shall include details of the culvert extension pipes and armoring along Pipeline Road, and include construction notes as needed to prescribe erosion and sediment control measures (including incorporating more vegetation) around the culverts, and shall show BES-required drainage reserves over all drainageways.
 2. Detailed construction plans for trail improvements shall be included at the time of permit review for trails. They shall conform with Exhibits C.31 through C.36 and C.75 through C.77, and graphically show the following:

- a. Accurate topography, delineation of wetlands and water bodies and plant composition existing within 50 feet of each proposed trail.
 - b. Site-specific construction plans, including grading, and construction details, footing details, and sections/elevations for each proposed trail, bridge, boardwalk, causeway, and stairway. Grading (earthwork) may be shown using cross sections and details; proposed grading contours need only be shown for hard-surfaced trails.
 - c. Accurate alignment, width and paving materials of each trail.
 - d. Proposed grading showing existing and proposed contours on hard surface trails.
 - e. Proposed temporary construction area delineated and dimensioned along each trail.
 - f. Proposed restoration measures for temporary construction areas.
 - g. Identify construction techniques (hand held equipment, track hoe, etc.).
 - h. Tree protection measures graphically depicted, and approved by the City Forester.
 - i. Barricading or restoration measures for trails to be closed.
3. 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 attached Exhibit A.2, Alternative Tree Protection Plan. Temporary tree protection fencing shall conform with the Alternative Tree Protection Plan and Tree Protection Plan, or as required by inspection staff during the Plan Review and/or inspection stages.
1. 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 landscape and mitigation plantings. Landscape plans shall include parking lot landscaping and shall demonstrate that all parking-lot landscaping requirements from PCC 33.266 are met.

The plans shall show each of the following:

- a. A total of 1,414 trees, 27,357 shrubs, and native groundcovers, selected from the Portland Plant List, shall be planted, in substantial conformance with Exhibits C.46 through C.61 and C.90 and C.91.
 - b. All temporary construction areas shall be planted with native vegetation.
 - c. Plantings shall be installed between October 1 and March 31.
 - d. Prior to installing required plantings, non-native invasive plants (including invasive hawthorn and blackberry) shall be removed from all areas within ten feet of plantings.
 - e. The Applicant shall water plantings as necessary for survival.
 - f. All required trees shall be marked in the field by a tag attached to the top of the plant for easy identification by the City Inspector. All tape shall be a contrasting color that is easily seen and identified.
 - g. After installing the required plantings, the Applicant shall request inspection of Permanent Erosion Control Measures (IVR 210) by BDS, who will confirm that all required mitigation plantings have been installed. A letter of certification from the landscape professional or designer of record may be requested by BDS to document that the plantings have been installed according to the approved plans.
5. Final Wetland Mitigation plans shall be provided at permit review and shall include all proposed grading, proposed hydrologic conditions (Ordinary High Water), and all proposed plant species, locations, quantities, sizes, and spacing. These plans shall be consistent with wetland mitigation descriptions presented in Exhibits A.21, C.90 and C.91.

6. Stormwater plans demonstrating that all new parking lot landscaping areas shall be shown to meet the requirements of Section 1.5 of the Stormwater Management Manual, to be reviewed and approved by BES.
7. The Applicant shall submit a plan showing all drainageways and any drainage reserve locations, along with detailed information regarding all work proposed to be done within drainage reserve areas, to be reviewed and approved by BES.

C. 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 Condition B.4 above);

--OR--

2. If the **Permanent Erosion Control Measures** inspection (IVR 210) occurs outside the planting season (as described in Condition B.4 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.

D. 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 Pleasant Valley Neighborhood Association and to the Land Use Services Division of BDS (Attention: Environmental Review LU 10-169463 CU MS EN AD), 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. For the 1,177 required trees, an 80% survival rate is required (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 ten feet of all plantings. Invasive species must not exceed 20 percent cover during the monitoring period.

E. At time of reconfiguration of parking lot, a minimum of 65 passenger vehicle spaces and four bus/horse trailer spaces must be provided.

- F. Failure to comply with any of these conditions may result in the City's reconsideration of this land use approval pursuant to PCC, Zoning Code Section 33.700.040 and /or enforcement of these conditions in any manner authorized by law.
- G. At time of building permit review, the Water Bureau will submit documentation that the Water Bureau has directed the Portland Office of Emergency Management [POEM] to develop a specific Emergency Notification Plan for the residents in the Hazard Notification Area indicated on the attached map..
- H. At time of building permit review, the Water Bureau will submit documentation that all applicable state and federal permits have been obtained for the discharge of stormwater overflow to Johnson Creek.

Note: In addition to the requirements of the Zoning Code, all uses and development must comply with other applicable City, regional, state and federal regulations.

This decision applies only to the City's environmental regulations. Activities which the City regulates through PCC 33.430 may also be regulated by other agencies. In cases of overlapping City, Special District, Regional, State, or Federal regulations, the more stringent regulations will control. City approval does not imply approval by other agencies.


Conditions of Approval. 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.

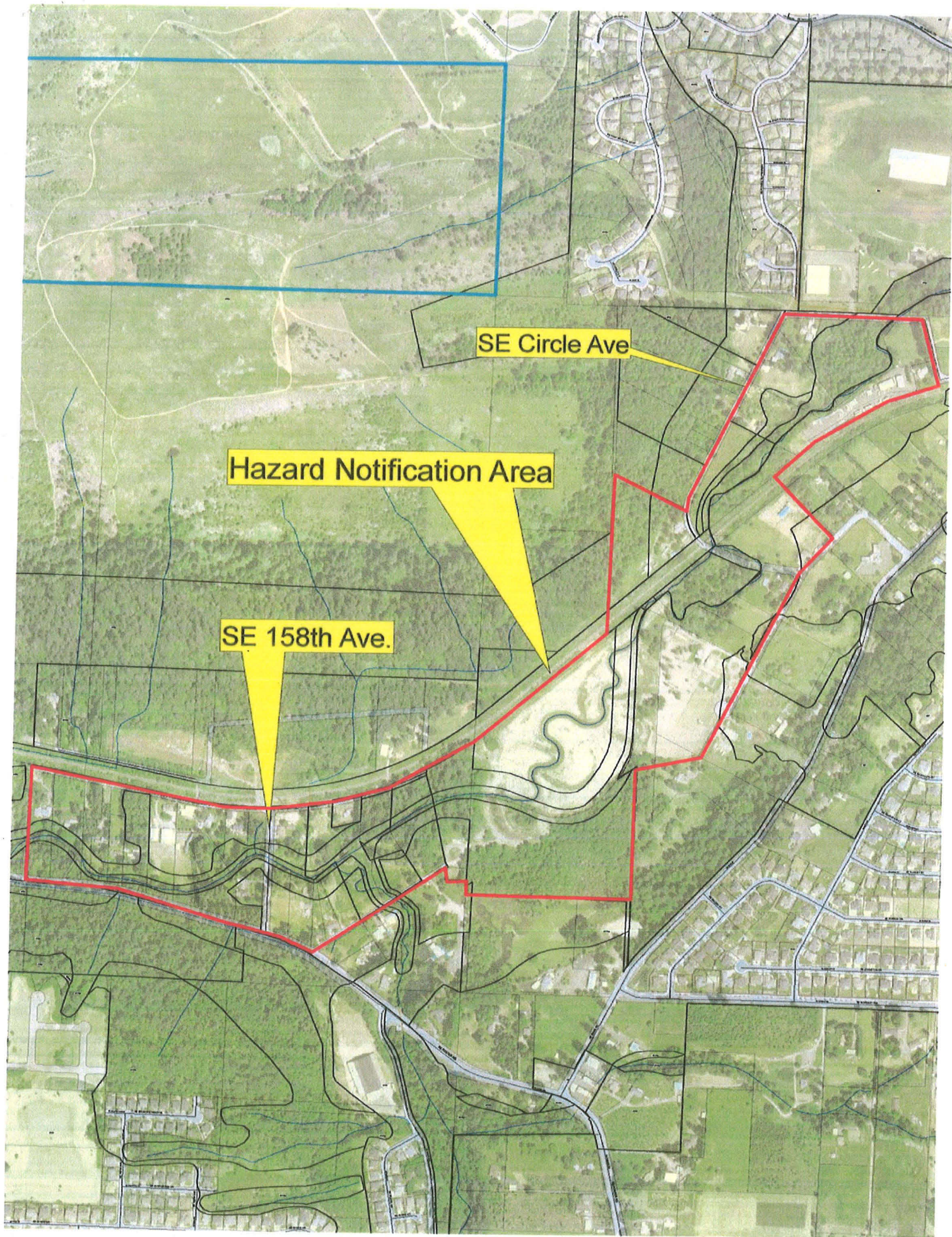
IT IS SO ORDERED:

FEB 17 2011

Date



Mayor Sam Adams
Presiding Officer at Hearing of
February 16, 2011
9:30 a.m. Session



SE Circle Ave

Hazard Notification Area

SE 158th Ave.