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October 28, 2014

VIA HAND DELIVERY

Planning & Sustainability Commission
Bureau of Planning & Sustainability
City of Portland
1900 SW 4th Avenue, Suite 7100
Portland, OR 97201

Re: Draft 2035 Comprehensive Plan
Hayden Island Manufactured Home Community

Dear Commissioners:

This firm represents Hayden Island Enterprises, the owners and operators of Hayden Island Manufactured Home Community ("HIMHC"). HIMHC consists of 440 manufactured home sites, 169 RV sites and 1,500 residents located on Hayden Island. The City has consistently recognized HIMHC as a vital affordable housing resource for the City. On behalf of HIMHC, we are submitting the following comments and concerns regarding the draft 2035 Comprehensive Plan.

- A. The City should postpone the adoption of the Comprehensive Plan Map amendments and consider them concurrently with the Mixed Use Zones Project amendments.**

The draft 2035 Comprehensive Plan proposes to change the Comprehensive Plan designation of HIMHC's RV park property from General Commercial to Mixed Use – Neighborhood. It is our understanding that this change is part of the City's plan to change the Comprehensive Plan designation and zoning of virtually all commercially zoned properties outside of the City Central area to some type of mixed use designation and zoning.

The timing of this aspect of the draft 2035 Comprehensive Plan is problematic because the City is still in the process of drafting these mixed use zones as part of the separate Mixed Use Zones Project process. In fact, the proposed code amendments associated with the Mixed Use Zones Project are not scheduled to be considered by the Planning & Sustainability Commission until June 2015 or later. It is simply not possible for HIMHC or any other property owner to understand the implications of changing the Comprehensive Plan designation and zoning to mixed use when the mixed use zones and standards have not yet been created. HIMHC does not even know what specific mixed use zone the City intends for this particular property.

The implementation of a mixed use zone on the RV park could have a significant effect on HIMHC. The new mixed use zone could change the types of allowed uses and the development standards. Although the City staff advised us that the City does not intend to propose significant changes to the types of allowed uses and development standards in the mixed use zones, there is no assurance that the City staff and/or the decision makers won't change this approach during the Mixed Use Zones Project process.

Given that it is not possible to assess the impact of changing the Comprehensive Plan designation of RV park property from General Commercial to Mixed Use – Neighborhood until HIMHC knows what specific mixed use zone the City intends for this particular property, as well as the allowed uses and development standards for that mixed use zone, the City should postpone the adoption of the Comprehensive Plan Map amendments and consider them concurrently with the Mixed Use Zones Project amendments. The City should not consider changes to the Comprehensive Plan designation of these properties until the new mixed use zones and zoning regulations have been proposed as well.

B. The new mixed use Comprehensive Plan designation and zone applied to the RV park property must continue to allow residential uses such as RVs.

The RV park property is currently zoned General Commercial (CG). The CG zone allows Residential Household Living uses as an allowed use in this zone. PCC 33.130.130, Table 130-1. The RV park qualifies as a Residential Household Living use because the RVs are residential dwelling units. PCC 33.920.110. Therefore, the RVs are currently allowed residential uses in the CG zone.

To the extent the City adopts a new mixed use Comprehensive Plan designation and zone to this property, it must ensure that Residential Household Living uses continue to be allowed use in the new mixed use zone. Additionally, the City should not change the mixed use zone development standards in a way that creates a nonconforming development situation or exacerbates an existing nonconforming development situation with respect to the RV park.

C. The City needs to ensure that previously recognized nonconforming use protections for HIMHC are incorporated into the draft 2035 Comprehensive Plan and implementing code amendments.

HIMHC is an officially recognized nonconforming development that has unique characteristics because manufactured homes and RVs are moved, replaced and/or change more frequently than traditional nonconforming use structures. As a result, the typical nonconforming use approach does not apply to HIMHC. HIMHC wants to ensure that the City's 2035 Comprehensive Plan and proposed adoption of new mixed use designations and zoning recognize this unique attribute of HIMHC and provide adequate nonconforming use protections as the City has done in the past.

In 1999, the City acknowledged that the removal of a manufactured home and installation of a replacement home does not constitute an "alteration" that triggers the requirements under PCC 33.258.070.D to bring the development into conformance with the new development standards. We attached a copy of the letter from the City to HIMHC's representative, dated September 7,

1999, acknowledging this interpretation and application of the nonconforming use standards in PCC Chapter 33.258.

In 2009, the City proposed rezoning the eastern portion of the manufactured park from CG to Residential (R2) as part of its adoption of the Hayden Island Plan. City Council Ordinance No. 183124. Hayden Island Enterprises agreed to support this proposed change in exchange for certain assurances that it would not adversely affect the nonconforming use status of the park. The City agreed to zoning code amendments and legislative commentary that recognized the following: (1) allowed HIMHC 15 years to rebuild and reoccupy the park in the event an earthquake, flood or other major catastrophe damaged or destroyed all or a significant portion of the park; (2) the installation of a manufactured dwelling unit will not trigger the requirement to bring a nonconforming development into compliance with the existing regulations; and (3) the noise installation requirements in PCC 33.470.040 are not applicable to manufactured dwelling units. We attached relevant portions of Ordinance No. 183124 and PCC 33.470.040.

Since the City is updating its Comprehensive Plan, we believe it is appropriate to adopt policy language recognizing these unique attributes and the necessity for these nonconforming use protections to ensure the long-term preservation of this vital affordable housing resource. HIMHC also wants to ensure that these same nonconforming use protections are recognized and applied specifically to the RV park as part of the draft 2035 Comprehensive Plan, Mixed Use Zones Project and related code amendments.

D. The City should not adopt policies regarding a West Hayden Island deep water marine industrial use, given the outcome of the West Hayden Island Plan process.

HIMHC has serious concerns about the adoption of a policy regarding the future annexation and development of West Hayden Island as part of the draft 2035 Comprehensive Plan. Proposed Policy 6.41 provides:

“West Hayden Island. Provide for the future annexation of West Hayden Island for a combination of open space and deep water marine industrial uses with supplemental requirements in a plan district or other implementation agreement that ensures mitigation of impacts and provision of public benefits. The annexation ordinance, future zoning, plan districts, and intergovernmental agreements will be used to:

Allow no more than 300 acres for future deep water marine terminal and infrastructure development.

Permanently protect and enhance at least 500 acres as open space to be managed primarily for the benefit of the regional ecosystem.”

As the Planning & Sustainability Commission is well aware, the City recently went through an extensive public process regarding the Port of Portland’s proposal to annex and develop West Hayden Island with a deep water marine industrial use. There was significant community opposition to the Port’s plan. The Port ultimately withdrew its request due to its unwillingness to accept the City’s mitigation plan.

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October 28, 2014

The City should not adopt a policy as part of the 2035 Comprehensive Plan that recognizes a deep water marine industrial development plan that had significant community opposition and was recently withdrawn by the proponent.

We appreciate your consideration of our comments. We look forward to working with the City further on this matter.

Very truly yours,

HATHAWAY KOBACK CONNORS LLP

A handwritten signature in cursive script that reads "E. Michael Connors".

E. Michael Connors

EMC/df

Enclosures

cc: Hayden Island Enterprises

SEP. 7. 1999 4:15PM
FROM CITY ATTORNEY

O'DONNELL & CLARK
503-823-4047

1999 09-07 10:10 AM P.02/03



CITY OF
PORTLAND, OREGON
OFFICE OF CITY ATTORNEY

Jeffrey L. Rogers, City Attorney
City Hall, Suite 430
1221 S.W. 4th Avenue
Portland, Oregon 97204
Telephone: (503) 823-4047
Fax No.: (503) 823-3089

September 7, 1999

Mark P. O'Donnell
O'Donnell & Clark LLP
1706 N.W. Glisan Street, Suite 6
P.O. Box 3495
Portland, OR 97208-3495

BY FAX AND
FIRST CLASS MAIL

Re: Hayden Island Mobile Home Community

Dear Mark:

I reviewed your letter of May 12, 1999 and subsequent letters with Sterling Bennett of the City's Office of Planning and Development Review. In your letters, you argue the City's nonconforming development regulations should not apply to the removal and installation of individual mobile homes in the Hayden Island Mobile Home Community (Community) located North of N. Hayden Island Drive and legally described as Tax Lot 41, Section 33, Township 2 North, Range 1 East, Quarter Section 1728. Specifically, you contend the movement of homes on and off individually leased spaces in the Community is not an "alteration" that triggers the requirement for nonconforming upgrades to the site(s) within the meaning of PCC 33.258.070.D.2.

Sterling and I agree with your argument. The removal of one mobile home from a leased space and the installation of another home in its place is not an "alteration" that triggers the requirements in PCC 33.258.070.D.2. If, however, the owner of the Community makes physical changes to common areas or other development on the site, such as landscaping, parking, community rooms, laundry facilities or recreational facilities, these changes may constitute "alteration" of the site as that term is defined in PCC 33.910.030. If the alteration meets the monetary thresholds stated in PCC 33.258.070.D.2.a, the owner will be required bring the nonconforming development further into compliance with the code as required by PCC 33.258.070.D.2.b.



SEP. 7.1999 4:15PM
FROM: CITY ATTORNEY

O'DONNELL & CLARK
523-823-4047

1999.09-07 NO. 120 P. 4
10:18 #161 P.03/03

Mark P. O'Donnell
September 7, 1999
Page 2

Thank you for your patience in waiting for our response. Please call either Sterling or me if you have additional questions.

Sincerely,

Kathryn S. Beaumont

Kathryn Beaumont
Senior Deputy City Attorney

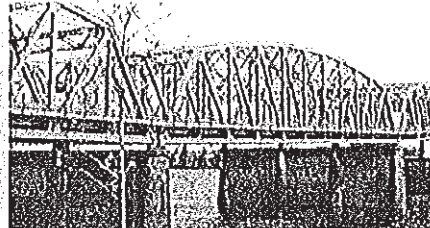
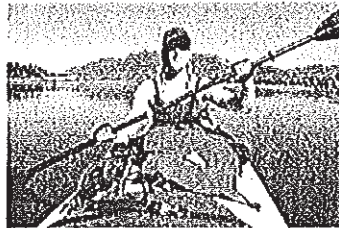
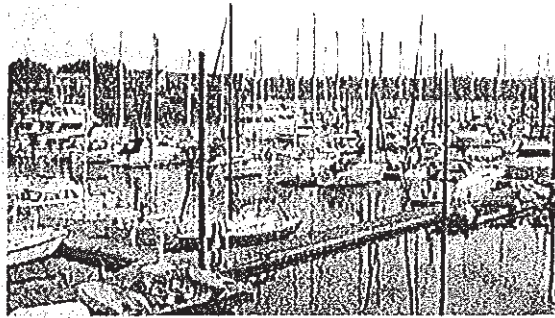
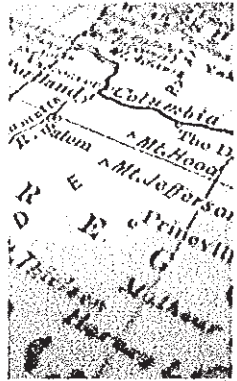
KB:NP

- c. Sterling Bennett, Office of Planning and Development Review
Susan Feldman, Office of Planning and Development Review



HAYDEN ISLAND

Portland's Only Island Community



Planning Commission Recommendations

PLANNING COMMISSION RECOMMENDATIONS:

Recommended Hayden Island Plan Changes

The City of Portland Planning Commission in its decision to recommend this plan to the City Council made the following comments:

- The parcel at the eastern terminus of North Tomahawk Island Drive, owned by Columbia Crossings, in the height opportunity area permitting additional height to 80 feet, have a pedestrian walkway in the along the edge of the property adjacent to North Portland Harbor. This easement may be provided in the 25 foot setback from the river's edge.
- Once the Columbia River Crossing (CRC) improvements are constructed the transportation system will change in the vicinity of the new interchange. At that time, additional street designation amendments are warranted. These amendments are previewed in Appendix C-4, "Other Transportation System Plan Amendments", and displayed as Exhibits I through O. These amendments are not part of the plan to be adopted as part of the Comprehensive Plan at this time through the Hayden Island Plan process, but will be subject to a separate adoption process following the federal Record of Decision for the CRC project. These future amendments to the Transportation System Plan will be referred back to the Planning Commission for approval.

The Portland Planning Commission recommends that City Council take the following actions:

Adopt the ordinance that:

- Adopts the Hayden Island Plan (this report)
- Amends the Portland Comprehensive Plan Map and Zoning Map as shown in this report;
- Amends Title 33, Planning and Zoning Code, as shown in this report;
- Amends the Transportation System Plan, as shown in this report; and
- Adopts the commentary in the report, and the report itself, as further findings and legislative intent.

At the Portland City Council hearing on June 18, 2009, the Council recommended that the following changes be made to this document, all of which are included in the following text:

1. Change bullet points to numbers or letters.
2. Page 9, first bullet under "Provide for better access to and from Hayden Island" is changed to "Provide direct access to and from Hayden Island by the CRC without getting on the interstate."
3. Page 9, next bullet point down is changed to "Consider building a West Hayden Island bridge if found appropriate in the West Hayden Island planning process."
4. Page 35, changed the second bullet point under Leadership to " Work with stakeholders including Hayden Island Neighborhood Association, river community groups, environmental and business interests and the Port of Portland, to explore transportation connections to potential development on West Hayden Island."
5. The Office of Healthy and Working Rivers was added to the Accountability list under Leadership for each of the Implementation Actions on pages 34 and 35.
6. On page 57, the plan district code section 33.532.270 Drive-Throughs was amended to provide for drive-throughs as a permitted development on North Jantzen Drive.
7. On page 64, commentary was incorporated to explain that the replacement of manufactured homes does not trigger the upgrade to nonconforming development standards of manufactured home parks. Additional commentary was added to state that issue of noise insulation standards for land based manufactured homes will be addressed through the City of Portland and Port of Portland Airport Futures Project. This project will be investigating and determining appropriate noise mitigation for all areas impacted by Portland International Airport, including Hayden Island.
8. On page 65, section 33.470.050 adds regulations for manufactured housing parks that are severely damaged by natural disasters.
9. There are other changes throughout the code language, but they are improvements to clarity and consistency and do not change the effect or meaning of the regulations.

An Island Community Concept

This Hayden Island Plan builds on the elements that the residents and businesses on the island value most – the river lifestyle, a close-knit community, access to the water and improved access to the mainland. It also envisions growth in ways that create a resident population that is large enough to support local-serving businesses and amenities. This plan accomplishes this vision by preserving existing uses while promoting new mixed-use development to meet the future needs of the community.

RIVER LIFESTYLE COMMUNITY

Residential Development

The plan preserves the variety of residential communities on the island, including single-family, multifamily, floating and manufactured homes. Building on this diverse residential flavor, the plan provides for residential development on vacant lots on the eastern portion of the island with proposed zoning changes. The plan seeks to help preserve the large manufactured home community on the island. The only changes for the floating home communities on the south shore would be some reduction in the number of homes in the Jantzen Beach Moorage as a result of the construction of the CRC project.

Two new residential communities are proposed for the eastern end of the island on land owned by Columbia Crossings, with plans for approximately 800 new dwelling units. As part of the planning for these residential areas, additional height is being recommended. With the added height, a pedestrian walkway will be required on the south side of the Tomahawk Bay Development site. This walkway will be located at the top of the bank along North Portland Harbor.

Industrial Development

There is a range of industrial uses on the island, including transportation-related businesses for the auto auction facility and shipping facilities. Most of the industries on Hayden Island are located there in order to be close to the water and are marine-related, including boat building and sales, boat repair and storage, and boating supplies and marinas. The island contains industrial uses and land on its western edge that would be unchanged in this Hayden Island Plan.

New Transit-Oriented Development

The plan works with the proposal by Jantzen Beach SuperCenter to

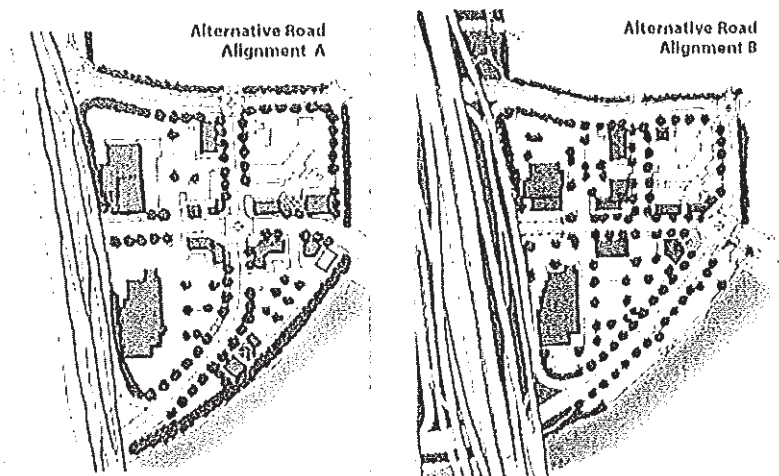
modernize and improve the center while incorporating long-term options for more intense mixed-use development. In the first phase, the existing mall would be demolished, and new retail outlets that are designed around an urban grid street pattern would be constructed. This new street grid would provide for a walkable block pattern that over time would allow the center to become a mixed use, mid-rise center with residential retail and commercial uses. An additional 2,000 new dwelling units could be constructed under the proposed development pattern.

The plan for the Jantzen Beach SuperCenter responds to the future light rail station that would be built as part of the CRC project. Redeveloping the shopping center in a fashion that supports transit-oriented development and incorporates the new light rail station creates an opportunity for a plaza and gateway, both physical and symbolic, to Hayden Island. It is important that the new station is constructed to be a landmark along the highway and to serve as a focal point of Hayden Island.

A New Center

A walkable mixed-use community needs a center. Today, Hayden Island's center is filled by freeway and ramps. With the proposed CRC construction of the new freeway and new interchange, there will be land east of I-5 that could become available for redevelopment. This plan calls for the land to be used for a neighborhood retail center that will serve the local community and be accessible via new sidewalks and a better local street system.

In the new center, roads providing for freeway access will be north and south of a new local east/west main street in the alignment of Tomahawk Island Drive. The freeway-related road will loop around the center, with Tomahawk Island Drive bisecting the center to provide a Hayden Island main street. Two eastern alignments for this loop road were considered – one through the neighborhood retail center using North Jantzen Drive, and a second around the eastern edge of the center on a new road. The community expressed a clear preference for the first option, which places the freeway-related road farther away from existing residences, although there are unresolved freeway design issues regarding the minimum distance between freeway ramps and local roads and driveways.



Two road networks were proposed for the east neighborhood; one coming through the center shown on the left, A, and the second alternative, B, on the right, showing the road circling the neighborhood on a new road to the outside.

Comprehensive Plan and Zoning Code Amendments

SUMMARY OF THE PROPOSED ZONING

The proposed zoning embraces the Hayden Island Plan's overall concept for the island as an island community with a range of housing choices and commercial and industrial areas to support residents and the marine industries, while creating a walkable community to support the proposed extension of light rail. The following are summaries of the proposed zoning.

General Commercial (CG) is the most prevalent zone on Hayden Island, because it provides for the flexibility to develop residential units supporting transit-oriented development and to build a sizable residential community to support local commercial enterprises. This plan proposes to change the eastern half of the manufactured home park from CG to R2 to reflect the residential nature of the existing development and to protect an affordable housing choice on the Island. There are no changes proposed for the zoning of Jantzen Beach and Lotus Isle floating home moorages. The moorage is considered a multi-dwelling use and is permitted in the CG zone.

Neighborhood Commercial (CN2) is proposed for the area east of I-5 north of North Tomahawk Island Drive, currently zoned CG, to encourage neighborhood commercial uses within walking distance of a large portion of Hayden Island's residential community and within the pedestrian district.

General Industrial (IG2) is the most typical industrial zone on Hayden Island. The only proposed change to

industrial zoning is on sites proposed for residential development where there are existing residential development rights under the x-overday provisions. These sites are small and isolated for industrial use and facilitate more appropriate waterfront development. Some of the floating home moorages are zoned IG2, which allows for floating homes as a conditional use. At this time, no changes for the zoning of West Hayden Island and Tomahawk Bay moorages are proposed.

Open Space (OS) is proposed for Lotus Isle Park and the tennis court park on North Fir Avenue adjacent to the manufactured home park.

Medium-density, Multi-dwelling, Residential (R1) remains on the Columbia Point condominiums property. Columbia Point West Condominiums is proposed to be zoned R2 to reflect its current development density.

Low-density, Multi-dwelling, Residential (R2) remains for the western half of the manufactured home park and the lot at the northwest corner of the island at the end of North Hayden Island Drive. The R2 zone is proposed for the eastern half of the park, as described in the CG description. Columbia Point West, Waterside, Jantzen Beach Village, Riverhouse and Riverhouse East Condominiums are proposed to be zoned R2 to reflect the current development density of 5 to 20 dwelling units per acre.

Low-density, Multi-dwelling, Residential (R3) remains on the southern portion of the manufactured home park and is proposed for the Hayden Bay Condominiums.

Single-dwelling, Residential (R7) remains for the Lotus Isles Homes.

Single-dwelling, Residential (R10) is proposed for the Hayden Bay Marina homes. This is a change from R3 and is being proposed to reflect the current development density.

Residential Farm/Forest (RF) remains for the eastern tip of Island and along the railroad corridor.

Changes in Land Use >

The table at right indicates the changes in land use from what is the existing land use pattern on Hayden Island to the proposed changes in the Comprehensive Plan and Zoning Map

Zoning Classification	Existing Zoning Total Area (square feet/acres)	Existing Zoning Total Area (acres rounded)	Proposed Zoning (square feet)	Proposed Zoning (acres rounded)
CG	14,323,999	328	14,310,595	328
CN2			476,091	11
IG2	8,390,218	192	4,835,865	111
R1	202,347	5	68,176	2
R2	905,416	21	3,112,510	71
R3	1,851,883	43	1,991,171	46
R7	300,713	7	300,713	7
R10		0	839,357	19
RF	432,229	10	432,229	10
OS			40,097	1
TOTAL	26,406,805	606	26,406,804	606

Zoning Commentary

Chapter 33.470, Portland International Airport Noise Impact Zone

33.470.050 Additional Residential Regulations

The only substantive change to this section is to allow transfer of residential density in the Hayden Island Plan District, as outlined in section 33.532.240. However, we have significantly rewritten it to improve clarity without changing the content or effect of the regulations.

A.1.b Replacement housing. This language is now in .050.A.2.

Natural Disasters. This language is added to address the potential impact of a large natural disaster. Here damage to multiple units and the infrastructure in the community is adversely impacted, the replacement of manufactured dwelling units in a manufactured home park requires finding new dwelling units-- and their owners-- to occupy the spaces. Based on a similar situation in Florida, where a park was destroyed by a hurricane, 15 years is a reasonable length of time.

A.1.c. Exemption. There has been some question about the Multnomah County F2 zone, which applied to portions of Hayden Island on January 1, 1981. Specifically, there is concern about whether it is a "County Residential Comprehensive Plan designation or zoning." Planning staff research, confirmed by Multnomah County planning staff, County Council, and Portland's City Attorney has established that the F2 zone was indeed a County Residential Comprehensive Plan designation or zone.

Note: The issue of noise insulation standards for land based manufactured homes will be addressed through the City of Portland and Port of Portland Airport Futures Project. This project will be investigating and determining appropriate noise mitigation for all areas impacted by Portland International Airport, including Hayden Island.

Proposed Zoning Code Language

Amend Chapter 33.470, Portland International Airport Noise Impact Zone

33.470.050 Additional Residential Regulations

A. Restrictions on residential use and density.

1. Prohibition of new residential uses within the Ldn 68 noise contour. Where any part of a site is within the Ldn 68 noise contour, it is subject to the following:

a. New residential uses prohibited. New residential uses are prohibited within the Ldn 68 or higher noise contour, except as allowed specifically by this subsection. If a site is divided by an Ldn 68 noise contour, divides a residential property, the building site including all dwelling units, accessory structures, and required side and rear setbacks must be located entirely outside the Ldn 68 noise contour.

b. Replacement housing.

(1) Existing housing within the Ldn 68 noise contour may be replaced within 5 years if it is damaged or destroyed by fire or other causes beyond the control of the owner. A houseboat that is intentionally removed from its slip by the owner may be replaced within 5 years. A manufactured dwelling that is intentionally removed from a manufactured dwelling park may be replaced within 5 years.

(2) Natural disasters. The replacement time of 5 years is extended to 15 years for manufactured dwelling parks on Hayden Island if:

- Manufactured dwelling units are damaged or destroyed by a natural disaster such as a flood, earthquake, fire or other causes beyond the control of the manufactured dwelling park owner.
- At least 30 percent of the manufactured dwelling units in the manufactured dwelling park are either destroyed or significantly damaged. A unit is significantly damaged if the repair cost is 75 percent of the value of the unit.

c. Exemption. Sites that had a Farm and Forest, Limited Single Family, Low Density Single Family, or Medium Density Single Family Comprehensive Plan Map designation on January 1, 1981 or a County Residential Comprehensive Plan designation or zoning on that date are exempt from this prohibition requirements. Dwelling units added to these sites must meet the requirements of this chapter for residential development within the Ldn 65 contour.

Zoning Commentary

33.470.050 Additional Residential Regulations, cntd.

Note: There has been some discussion of whether replacing a manufactured dwelling unit would trigger upgrades to nonconforming development in manufactured dwelling parks. The current threshold is \$ 131,050 and the typical value of a permit to replace a unit is approximately \$ 10,000 based on the value of the site preparation work. It is highly unlikely--and certainly not intended--that replacement of individual units would trigger upgrades. The threshold is adjusted annually for inflation.



Note: While some state statutes use the term "floating home," the term "houseboat" is used in Portland's Zoning Code. If we use the term "houseboat" in this chapter, we are inconsistent with state terminology, but if we use the term "floating home" we will be inconsistent with other parts of the Zoning Code, including Chapter 33.236, Floating Structures. Because of the scope of this project, we will continue to use the term "houseboat" in this chapter, but note that a code-wide revision to "floating home" should be made in the future.

CHAPTER 33.470
PORTLAND INTERNATIONAL AIRPORT NOISE IMPACT ZONE

(Amended by: Ord. No. 164244, effective 7/1/91; Ord. No. 165376, effective 5/29/92; Ord. No. 174263, effective 4/15/00; Ord. No. 176469, effective 7/1/02; Ord. No. 178509, effective 7/16/04; Ord. No. 182429, effective 1/16/09; Ord. No. 183124, effective 9/18/09; Ord. No. 184521, effective 5/13/11)

Sections:

- 33.470.010 Purpose
- 33.470.020 Short Name and Map Symbol
- 33.470.030 Where These Regulations Apply
- 33.470.035 Corrections
- 33.470.040 Regulations for Residential Uses

33.470.010 Purpose

The Portland International Airport Noise Impact Overlay Zone reduces the impact of aircraft noise on development within the noise impact area surrounding the Portland International Airport. The zone achieves this by limiting residential densities and by requiring noise insulation, noise disclosure statements, and noise easements.

33.470.020 Short Name and Map Symbol

The Portland International Airport Noise Impact Overlay Zone is also referred to as the PDX Noise zone, and is shown on the Official Zoning Maps with a letter "x" map symbol (for PDX).

33.470.030 Where These Regulations Apply

The regulations of the chapter apply within the Portland International Airport Noise Impact Overlay Zone. There are several contours within the zone. The boundaries of the 65 DNL and 68 DNL noise contours are based on the 1990 Portland International Airport Noise Abatement Plan. The 55 DNL noise contour is based on the 2035 50th Percentile Forecast Noise Exposure Map in the 2010 Portland International Airport Master Plan Update.

A set of quarter-section maps, known as the PDX Noise Zone Maps, is available for viewing at the Development Services Center. The maps are the official reference maps for the PDX Noise Zone regulations. The maps show the 55 DNL noise contour and each successively higher noise contour in one DNL increments.

33.470.035 Corrections

An owner may request that the Planning and Sustainability Director initiate a correction to the location of the noise contours shown on the PDX Noise Zone Maps for their property. The owner must show, and the Director must find, that the noise contours do not conform with the location shown in the 1990 Portland International Airport Noise Abatement Plan Update for the location of the 65 and 68 DNL contours, or the 2010 Portland International Airport Master Plan Update for the location of the 55 DNL contour. Corrections are processed as stated in Section 1.01.037 of the Portland City Code.

33.470.040 Regulations for Residential Uses

- A. Noise disclosure statement in the 55, 65, and 68 DNL.** The regulations of this subsection apply to sites in the 55, 65, and 68 DNL contours. Before a building

permit is issued for new residential construction or reconstruction where the total cost of improvements is 75 percent or more of the total assessed improvement value of the site, the owner must sign the City's noise disclosure statement. The noise disclosure statement acknowledges that the property is located within the 55, 65, or 68 DNL noise contour and signifies the owner's awareness of the associated noise levels. The noise disclosure statement must be recorded in the County records by the owner. A packet containing the noise disclosure statement is available at the Development Services Center.

B. Noise easement in the 65 and 68 DNL. The regulations of this subsection apply to sites in the 65 and 68 DNL contours. Before a building permit is issued for new residential construction or reconstruction where the total cost of improvements is 75 percent or more of the total assessed improvement value of the site, the owner must dedicate a noise easement to the Port of Portland. The easement authorizes aircraft noise impacts over the grantor's property at levels established by the DNL noise contour. Any increase of the DNL noise level above that stated on the easement will not void nor be protected by the easement. The easement forms are available at the Development Services Center.

C. Noise insulation required in 65 and 68 DNL. The regulations of this subsection apply to sites in the 65 and 68 DNL contours. New dwelling units allowed by this chapter within the 65 and 68 DNL contours must be constructed with sound insulation or other means to achieve a day/night average interior noise level of 45 dBA. Reconstructed dwelling units where the total cost of improvements is 75 percent or more of the total assessed improvement value of the site must also meet this standard. Garages and similar accessory structures that do not include living area are not subject to this requirement.

1. Certified by acoustical engineer. An engineer registered in Oregon who is licensed in acoustical engineering must certify that the building plans comply with the performance standard for sound insulation prior to the issuance of a building permit.
2. City provides list. The City, in consultation with the Port of Portland, will provide a list of at least three registered engineers licensed in acoustical engineering.
3. Port of Portland pays for sound insulation certification. At an owner's request, the Port of Portland is responsible for the costs of the noise insulation certification of dwelling units submitted by an engineer on the City list. The Port of Portland will pay for the cost of the certification required by this section, but not design, materials, or labor costs associated with installing the sound insulation. The owner has the option to retain any registered engineer licensed in acoustical engineering not on the list, at the owner's expense.

D. Residential use and density.

1. Within the 68 DNL noise contour. Where any part of a site is within the 68 DNL noise contour, it is subject to the following:
 - a. New residential uses.
 - (1) New residential uses prohibited. New residential uses are prohibited within the 68 DNL or higher noise contour except as allowed specifically by this subsection. If a site is divided by a 68 DNL noise contour all dwelling units must be located entirely outside the 68

DNL noise contour.

- (2) Exemption. Sites that had a Farm and Forest, Limited Single Family, Low Density Single Family, or Medium Density Single Family Comprehensive Plan Map designation on January 1, 1981 or a County Residential Comprehensive Plan designation or zoning on that date are exempt from this prohibition. Dwelling units added to these sites must meet the requirements of this chapter for residential development within the 65 DNL contour.
- b. Replacement housing.
- (1) Existing housing within the 68 DNL noise contour may be replaced within 5 years if it is damaged or destroyed by fire or other causes beyond the control of the owner. A houseboat that is intentionally removed from its slip by the owner may be replaced within 5 years. A manufactured dwelling that is intentionally removed from a manufactured dwelling park may be replaced within 5 years.
 - (2) Natural disasters. The replacement time of 5 years is extended to 15 years for manufactured dwelling parks if:
 - Manufactured dwelling units are damaged or destroyed by a natural disaster such as a flood, earthquake, fire or other causes beyond the control of the manufactured dwelling park owner; and
 - At least 30 percent of the manufactured dwelling units in the manufactured dwelling park are either destroyed or significantly damaged. A unit is significantly damaged if the repair cost is 75 percent of the value of the unit.
2. Within the 65 DNL noise contour. Where a site is within the 65 DNL noise contour, it is subject to the following:
 - a. Sites that have a residential Comprehensive Plan Map designation are prohibited from developing to a residential density higher than that of the R10 zone.
 - b. Except as provided in paragraph D.3, sites that have a commercial Comprehensive Plan Map designation are prohibited from developing to a residential density higher than that of the R1 zone.
 3. In the Hayden Island plan district, residential density may be transferred as specified in 33.532.240.

