



## CITY OF PORTLAND

Office of City Auditor Mary Hull Caballero

### Hearings Office

1900 SW 4<sup>th</sup> Avenue, Room 3100

Portland, OR 97201

phone: (503) 823-7307 - fax: (503) 823-4347

web: [www.portlandoregon.gov/auditor/hearings](http://www.portlandoregon.gov/auditor/hearings)



## DECISION OF THE HEARINGS OFFICER IN UNCONTESTED CASE

**File No.:** LU 15-108152 MS AD (Hearings Office 4150015)

**Representative:** Kirsten Van Loo, Planning Consultant  
Emerio Design, LLC  
8285 SW Nimbus, Suite 180  
Beaverton, OR 97008

**Applicant:** Alan Hipolito  
Verde, Inc.  
6899 NE Columbia Boulevard, Suite A  
Portland, OR 97218

**Owner:** City of Portland  
Portland Parks And Recreation Bureau  
Travis Ruybal, Project Manager  
1120 SW 5th Avenue, Suite 1302  
Portland, OR 97204

**Hearings Officer:** Kenneth D. Helm

**Bureau of Development Services (BDS) Staff Representative:** Sheila Frugoli

**Site Address:** NE 72<sup>nd</sup> and 75<sup>th</sup> Avenue, north of NE Killingsworth (Thomas Cully Park)

**Legal Description:** TL 300 24.96 ACRES, SECTION 17 1N 2E

**Tax Account No.:** R942170300, R942170300, R942170300

**State ID No.:** 1N2E17DC 00300, 1N2E17DC 00300, 1N2E17DC 00300

**Quarter Section:** 2437

**Neighborhood:** Cully

**Business District:** None

**District Coalition:** Central Northeast Neighbors

**Plan District:** North Cully

**Zoning:** EG2 h x, R3h (ME) - General Employment 2 zone with the "h" Aircraft Landing and the "x" Portland International Airport Noise Impact overlay zones and the Multi-Dwelling Residential 3,000 zone and Mixed Employment (ME) Comprehensive Plan Map designation.

**Land Use Review:** Type III, MS AD – North Cully Development Review (20-Year Phased Master Plan) and Adjustment Review

**Public Hearing:** The hearing was opened at 8:30 a.m. on July 22, 2015, in the 3<sup>rd</sup> floor hearing room, 1900 SW 4<sup>th</sup> Avenue, Portland, Oregon, and was closed at 9:20 a.m. The record was held open until 4:30 p.m. on August 5, 2015, for new evidence; until 4:30 p.m. on August 12, 2015, for responsive argument and evidence from the open record period; and until 4:30 p.m. on August 19, 2015, for final argument. The record was closed at that time.

**Testified at the Hearing:**

Sheila Frugoli  
Travis Ruybal  
Alan Hipolito  
Kirsten VanLoo  
Donita Fry  
Richard Gunderson

**Proposal:** The applicant is proposing a 20-year, phased development plan for Thomas Cully Park, an approximately 25-acre former landfill site that is now owned by the City of Portland.

**Phase 1** will include the following improvements/development:

- Complete mass grading and installation of utilities;
- Street improvement to NE 72<sup>nd</sup> Avenue;
- West parking lot – approx. 60 spaces;
- Soccer field;
- Playground;
- Completion of Community Garden;
- Restroom facility and picnic shelters;
- Dog park;
- Tribal gathering area; and
- Trail network and fitness stations.

**Phase 2** will include:

- East parking lot – 125 spaces, accessed off NE 75<sup>th</sup> Ave;

- Soccer field;
- Two baseball/softball fields; and
- Basketball courts.

The Phase 1 soccer field may serve both youth and adult leagues. The tribal gathering area is expected to be used primarily during the weekends. The other Phase 1 improvements will generally serve the immediate neighborhood. The Phase 2 improvements will generate significantly more activity with adult baseball/softball, little league baseball and soccer fields. A concession stand will operate weekday evenings and weekends. The adult soccer field and both baseball fields will have field lighting for evening use. The Portland Parks Bureau will schedule the use of the sports fields.

The park improvements require a North Cully Development Review because the site is over 5 acres in size and is within the North Cully Plan District.

Because the former landfill is capped with a membrane liner and methane gas extraction continues to occur on the site, there are physical constraints that do not allow the applicant to fully comply with City landscaping requirements. The applicant is requesting a Zoning Code Adjustment to the interior parking lot landscaping standard. Specifically, the minimum required number of trees cannot be met. Combined, the proposed parking lots are deficient by 25 small or 17 medium size trees. The applicant intends to plant approximately 350 new trees on the park site.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the criteria of Title 33. The relevant criteria are:

- 33.560.050.A-G, North Cully Development Review
- 33.805.040.A-F, Adjustment

**Hearings Officer Decision:** It is the decision of the Hearings Officer to adopt and incorporate into this decision the facts, findings, and conclusions of the Bureau of Development Services in their Revised Staff Report and Recommendation to the Hearings Officer dated August 5, 2015, and to issue the following approval:

**Approval** of an Adjustment to reduce the total number of trees in the required interior parking lot landscape areas by either 25 small-size or 17 medium-size trees; and

**Approval** of a North Cully Development Review for a 20-year, phased development plan for Thomas Cully Park, an approximately 25-acre former landfill site, to include:

Phase 1 Improvements

- Complete mass grading and installation of utilities;
- Street improvement to NE 72<sup>nd</sup> Avenue;
- West parking lot – approx. 60 spaces;

- Soccer field;
- Playground;
- Completion of Community Garden;
- Restroom facility and picnic shelters;
- Dog park;
- Tribal gathering area; and
- Trail network and fitness stations.

Phase 2 Improvements

- East parking lot – 125 spaces, accessed off NE 75<sup>th</sup> Ave;
- Soccer field;
- Two baseball/softball fields; and
- Basketball courts.

Approval is subject to the following conditions:

- A. Building Permit applications for any of the proposed improvements identified in Phase 1 must include:
  1. Construction of a 60-space parking area with access from NE 72<sup>nd</sup> Avenue.
  2. Installation of interior parking lot landscaping, consistent with approved plan Exhibit C.15.a;
  3. Installation of landscaping and stormwater management facilities located within 25 feet of outer edge of parking area, consistent with approved plan (Exhibit C.15.a);
  4. Construction of a paved pathway/trail, at least 10 feet-wide, that connects the Phase 1 and Phase 2 improvements and provides internal emergency vehicle access.
- B. Prior to Building Permit issuance for Phase 1 improvements, a City of Portland Public Works Permit must be issued for improvements to NE 72<sup>nd</sup> Avenue, from NE Killingsworth to the site, per Permit Number TB 0006 (13-224054 WT/13-232190 WE) and an Oregon Department of Transportation (ODOT) Miscellaneous Permit must be obtained for any work in the highway right-of-way.
- C. Prior to Building Permit issuance of any Phase 2 improvements that includes one or more of the following: soccer field, baseball/softball field, and basketball courts, the applicant must submit to the Portland Bureau of Transportation (PBOT) and ODOT an updated traffic analysis. The analysis must address pedestrian and bicycle safety and identify any necessary improvements to the intersections of NE 72<sup>nd</sup> and Killingsworth and NE 75<sup>th</sup> and Killingsworth.
- D. Building Permit applications for any of the proposed improvements for Phase 2 must include the construction of a 125-space parking area with access from NE 75<sup>th</sup> Avenue. The parking lot must include interior landscaping, landscaping within 25 feet of its outer edge and stormwater management facilities, consistent with approved plan (Exhibit C.15.b).

- E. Prior to the issuance of Building Permit(s) for Phase 2 improvements, if deemed necessary by ODOT and PBOT, the applicant must have approved plans and have secured financial guarantees to construct those improvements to the satisfaction of ODOT and PBOT.
- F. Prior to the use of the Phase 2 sports facilities, the required improvements to the NE 72<sup>nd</sup>/Killingsworth and NE 75<sup>th</sup>/Killingsworth intersections must be completed to the satisfaction of ODOT and PBOT.
- G. An approved Adjustment to reduce the required number of trees in the interior parking lot landscape areas will remain in effect for Phase 2, if the applicant submits documentation from the Oregon Department of Environmental Quality or Metro that verifies the methane gas extraction facilities are still in operation.
- H. This approved North Cully Development Review will expire 20 years from the effective date of the final decision.

**Basis for the Decision:** BDS Revised Staff Report in LU 15-108152 MS AD, Exhibits A.1 through H.14, and the hearing testimony from those listed above.



Kenneth D. Helm, Hearings Officer

8-28-2015

Date

<b>Application Determined Complete:</b>	May 28, 2015
<b>Report to Hearings Officer:</b>	July 10, 2015
<b>Revised Report to Hearings Officer:</b>	August 5, 2015
<b>Decision Mailed:</b>	August 28, 2015
<b>Last Date to Appeal:</b>	4:30 p.m., September 11, 2015
<b>Effective Date (if no appeal):</b>	September 14, 2015 Decision may be recorded on this date.

**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.

**Appeal of the decision.** ANY APPEAL OF THE HEARINGS OFFICER'S DECISION MUST BE FILED AT 1900 SW 4<sup>TH</sup> AVENUE, PORTLAND, OR 97201 (503-823-7526). Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5<sup>th</sup> floor. **An appeal fee of \$5,000 will be charged (one-half of the application fee for this case, up to a maximum of \$5,000).** Information and assistance in filing an appeal can be obtained from the Bureau of Development Services at the Development Services Center.

**Who can appeal:** You may appeal the decision only if you wrote a letter which is received before the close of the record on hearing or if you testified at the hearing, or if you are the property owner or applicant. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

**Appeal Fee Waivers:** Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chair person or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization's bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

**Recording the final decision.**

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.

- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034  
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

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

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

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

**EXHIBITS**  
**NOT ATTACHED UNLESS INDICATED**

- A. Applicant's Statement
  - 1. Original Application and Findings
  - 2. Media Excerpts
  - 3. Preliminary Stormwater Report
  - 4. Preliminary Engineering Design Report
  - 5. Memo dated May 19, 2015, from Emerio Design on Additional Information
  - 6. Application and Findings, with Annotated Findings, received May 20, 2015
- B. Zoning Map
- C. Plans and Drawings
  - 1. Phase I Site Plan
  - 2. Phase II Site Plan
  - 3. Site Details – Play Area and Trellis Structure
  - 4. Site Details – Bartering Circle and Overlook Structure
  - 5. Planting Plan
  - 6. Plant Schedule
  - 7. Light Spill Diagram
- D. Notification information
  - 1. Request for response
  - 2. Posting letter sent to applicant
  - 3. Notice to be posted
  - 4. Applicant's statement certifying posting
  - 5. Mailing list
  - 6. Mailed notice
- E. Agency Responses
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Bureau of Development Services Site Development Review Section
  - 6. Bureau of Development Services Life Safety Plan Review Section
  - 7. Bureau of Parks, Forestry Division
  - 8. Oregon Department of Environmental Quality
- F. Letters: None
- G. Other
  - 1. Original LUR Application
  - 2. Request from applicant to reschedule the July 22, 2015 hearing date
  - 3. Email from applicant requesting to retain the July 22, 2015 hearing date
- H. Received in the Hearings Office
  - 1. Hearing Notice - Frugoli, Sheila



2. Request to Reschedule - Hardy, Douglas
3. Withdraw of Reschedule Request - Hardy, Douglas
4. Staff Report - Frugoli, Sheila
5. 7/13/15 Memo - Marshman, Capt. Michael
6. 7/20/15 Memo - Haley, Robert
  - a. 7/20/15 Letter from ODOT - Haley, Robert
7. Traffic Impact Analysis - Haley, Robert
8. 7/22/15 Memo - Frugoli, Sheila
9. PowerPoint Presentation - Frugoli, Sheila
10. Record Closing Information - Hearings Office
11. 5/5/15 Memo - Frugoli, Sheila
12. Request for Extension of 120-day - Frugoli, Sheila
13. Revised Staff Report - Frugoli, Sheila (**attached**)
  - a. Attachment - Frugoli, Sheila (**attached**)
  - b. Attachment - Frugoli, Sheila (**attached**)
14. 8/14/15 Letter requesting the record be closed - Hipolito, Alan





**City of Portland, Oregon**  
**Bureau of Development Services**  
**Inspection Services - Land Use Services**  
FROM CONCEPT TO CONSTRUCTION

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

**REVISED**  
**STAFF REPORT AND RECOMMENDATION TO THE HEARINGS OFFICER**

**CASE FILE:** LU 15-108152 MS AD  
PC # 14-158683

**REVIEW BY:** Hearings Officer

**WHEN:** July 22, 2015 at 8:30 AM

**WHERE:** 1900 SW Fourth Ave., Suite 3000  
Portland, OR 97201

It is important to submit all evidence to the Hearings Officer. City Council will not accept additional evidence if there is an appeal of this proposal.

**BUREAU OF DEVELOPMENT SERVICES STAFF: SHEILA FRUGOLI / [SHEILA.FRUGOLI@PORTLANDOREGON.GOV](mailto:SHEILA.FRUGOLI@PORTLANDOREGON.GOV)**

**GENERAL INFORMATION**

**Representative:** Kirsten Van Loo, Planning Consultant  
Emerio Design, LLC  
8285 SW Nimbus, Suite 180  
Beaverton, OR 97008

08-05-15 A09:53 RCVD

**Applicant:** Alan Hipolito  
Verde, Inc.  
6899 NE Columbia Blvd., Suite A  
Portland, OR 97218

**RECEIVED**

**AUG 05 2015**

**HEARINGS OFFICE**

**Owner:** City of Portland  
Portland Parks And Recreation Bureau  
Travis Ruybal, Project Manager  
1120 SW 5th Ave., Suite 1302  
Portland, OR 97204

**Site Address:** NE 72<sup>nd</sup> and 75<sup>th</sup> Avenue, north of NE Killingsworth (Thomas Cully Park)

**Legal Description:** TL 300 24.96 ACRES, SECTION 17 1N 2E  
**Tax Account No.:** R942170300, R942170300, R942170300  
**State ID No.:** 1N2E17DC 00300, 1N2E17DC 00300, 1N2E17DC 00300  
**Quarter Section:** 2437

**Neighborhood:** Cully, contact David Sweet at 503-493-9434.  
**Business District:** None  
**District Coalition:** Central Northeast Neighbors, contact Alison Stoll at 503-823-3156.

**Plan District:** North Cully

1900 SW 4th Avenue, Suite # 5000, Portland, OR 97201

CITY OF PORTLAND  
HEARINGS OFFICE  
Exhibit #H-13  
Case # 4150015  
Bureau Case # 15-108152 MS AD

- Zoning:** EG2 h x, R3h (ME) - General Employment 2 zone with the "h" Aircraft Landing and the "x" Portland International Airport Noise Impact overlay zones and the Multi-Dwelling Residential 3,000 zone and Mixed Employment (ME) Comprehensive Plan Map designation.
- Case Type:** MS AD – North Cully Development Review (20-Year Phased Master Plan) and Adjustment Review
- Procedure:** Type III, with a public hearing before the Hearings Officer. The decision of the Hearings Officer can be appealed to City Council.

**Introduction:** A Staff Report and Recommendation to the Hearings Officer was issued on July 10, 2015. Because of the delayed submittal of a finalized Transportation Impact Analysis (TIA) and a written response from the Police Bureau, staff could not determine that all the applicable approval criteria were met. Staff recommended denial of the proposal. Since issuance of the staff report, and prior to the July 22, 2015 public hearing, a TIA report and recommendations from the Portland Bureau of Transportation, Oregon Department of Transportation and Police Bureau was entered into the record. Staff is offering this revised Staff Report to the Hearings Officer in response to these submittals.

**Proposal:** The applicant is proposing a 20-year, phased development plan for Thomas Cully Park, an approximately 25-acre former landfill site that is now owned by the City of Portland.

**Phase 1** will include the following improvements/development:

- Complete mass grading and installation of utilities;
- Street improvement to NE 72<sup>nd</sup> Avenue;
- West parking lot – approx. 60 spaces;
- Soccer field;
- Playground;
- Completion of Community Garden;
- Restroom facility and picnic shelters;
- Dog park;
- Tribal gathering area; and
- Trail network and fitness stations.

**Phase 2** will include:

- East parking lot – 125 spaces, accessed off NE 75<sup>th</sup> Ave;
- Soccer field;
- Two baseball/softball fields; and
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The Phase 1 soccer field may serve both youth and adult leagues. The tribal gathering area is expected to be used primarily during the weekends. The other Phase 1 improvements will generally serve the immediate neighborhood. The Phase 2 improvements will generate significantly more activity with adult baseball/softball, little league baseball and soccer fields. A concession stand will operate weekday evenings and weekends. The adult soccer field and both baseball fields will have field lighting for evening use. The Portland Parks Bureau will schedule the use of the sports fields.

The park improvements require a North Cully Development Review because the site is over 5 acres in size and is within the North Cully Plan District.

Because the former landfill is capped with a membrane liner and methane gas extraction continues to occur on the site, there are physical constraints that do not allow the applicant to fully comply with City landscaping requirements. The applicant is requesting a Zoning Code Adjustment to the interior parking lot landscaping standard. Specifically, the minimum required number of trees cannot be met. Combined, the proposed parking lots are deficient by 25 small or 17 medium size trees. The applicant intends to plant approximately 350 new trees on the park site.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the criteria of Title 33. The relevant criteria are:

- 33.560.050.A-G, North Cully Development Review
- 33.805.040.A-F, Adjustment

**ANALYSIS**

**Site and Vicinity:** The approximately 25-acre site is currently undeveloped, except for a community garden at the terminus of NE 72<sup>nd</sup> Avenue and access roads, a leachate sump, methane gas extraction wells and a central blower/burner, that is located behind a tall chain link fence at the terminus of NE 75<sup>th</sup> Avenue. The property was initially developed as a sand and gravel mine and then was converted to a solid waste landfill in the 1980s. The landfill was closed in 1991.

The site is fully enclosed by a tall chain link fence. There are large piles of fill dirt (that will be used to re-grade the site) and areas along the northern edge of the site that have recently been planted with native plants. Immediately to the north, an active Union Pacific rail corridor separates the site from NE Columbia Boulevard. Industrial business line NE Columbia. On the north side of Columbia Blvd., is the Colwood Golf Course. The City of Portland recently purchased the approximately 48-acre course and is currently updating its facilities. Nearby properties to the east and west are generally developed with industrial and employment uses. Fronting NE 72<sup>nd</sup> Avenue, south of the site, there are single-dwelling residential lots and a trailer park (with recreational vehicles and mobile homes) at NE Killingsworth and 72<sup>nd</sup> Avenue. And fronting NE 75<sup>th</sup> from the site southward to Killingsworth, there are industrial uses. On the south side of NE Killingsworth, the immediate area is primarily developed with commercial uses and residential uses. NE Killingsworth is an Oregon highway-US 30 with 4 traffic lanes and a traffic signal at the intersection of NE 72<sup>nd</sup>.

**Zoning:** Most of the site is within the EG2, General Employment 2 zone. A section on the north edge of the site is within the "x" Portland International Airport Noise overlay zone and all of the site is within the "h" Aircraft Landing overlay zone. The 33,500 square foot portion of the site that is located on the east side of NE 72<sup>nd</sup> Avenue terminus is within the R3, Multi-Dwelling Residential 3,000 zone and has the Mixed Employment (ME) Comprehensive Plan Map designation. The entire site is within the North Cully Plan District.

Below is a description of the all the Zoning Code regulations that apply to the site.

- The **General Employment zones** implement the Mixed Employment map designation of the Comprehensive Plan. The zones allow a wide range of employment opportunities without potential conflicts from interspersed residential uses. The emphasis of the zones is on industrial and industrially-related uses. Other commercial uses are allowed to support a wide range of services and employment opportunities. The development standards for each zone are intended to allow new development which is similar in character to existing development. The intent is to promote viable and attractive industrial/commercial areas.

**General Employment 2.** EG2 areas 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. EG2 zoned lands will generally be on larger areas than those zoned EG1. Parks and Open Space uses as well as Community Gardens are allowed in the EG2 zone without restrictions.

- The **R3 zone** is a low density multi-dwelling zone. It allows approximately 14.5 dwelling units per acre. Density may be as high as 21 units per acre if amenity bonus provisions are used. Allowed housing is characterized by one and two story buildings and a relatively low building coverage. The major type of new development will be townhouses and small multi-dwelling residences. This development is compatible with low and medium density single-dwelling development. Generally, R3 zoning will be applied on large sites or groups of sites.

In the R3 zone, most Park and Open Space uses are allowed. Community Gardens are allowed to operate between sunrise or 7 AM and sunset 9 PM, and sale of produce may occur no more than three consecutive days on two different occasions during a calendar year. Sales must occur on-site (PCC 33.237.200).

- The **Mixed Employment designation** is intended for areas where a wide variety of employment opportunities are encouraged in an industrial-type setting. Industrial uses are allowed with few limitations. Commercial uses are allowed, but are limited in intensity so as to not overburden public services and to maintain adequate industrial development opportunities. Residential development is restricted to prevent conflicts with the other uses. The corresponding zones are General Employment 1 (EG1) and General Employment 2 (EG2).
- The purpose of the **Portland International Airport Noise Impact** overlay zone is to reduce 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.
- The **Aircraft Landing overlay zone** provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation near the airport.
- The regulations of the **North Cully Plan District** are intended to ensure compatible redevelopment of certain large parcels as set forth in the Cully Neighborhood Plan. These parcels are developed with gravel pits, a number of smaller, older single family dwellings and trailer parks with redevelopment probable in the next two decades. Properties should be developed in a cohesive pattern in order to encourage compatible development with the neighborhood to the south. North Cully Development review is a master plan review which will ensure compatibility and cohesive design.

**Land Use History:** City records indicate there is prior land use reviews for this site, as follows:

- MCF 9-79: The former gravel quarry was approved by Multnomah County with associated approvals from the Oregon Department of Environmental Quality (DEQ) and METRO to receive landfill and recycling materials, including demolition waste materials.
- MCF 81-04-04 DR: The County waived landscaping requirements on NE 72<sup>nd</sup> Avenue.
- MCF 82-08-02: The County approved the expansion of the landfill.
- PC 7481: The site was annexed into the City of Portland in December 1984.

- **LUR 99-00622 NU:** With the adoption of the Cully Neighborhood Plan and implementation of associated zoning map changes, the landfill (Waste-Related Use) became nonconforming. Even though it had been closed for a number of years, there was still needed management of the facility. In 1999, the Office of Planning and Development Review (aka BDS) granted administrative approval for DEQ post-closure management which included the installation of a methane gas collection system, repairs to the landfill cover, regrading and reseeding the soil cover and upgrading the stormwater management system.

**Agency Review:** A "Request for Response" was mailed **June 1, 2015**. Agencies, City bureaus and BDS sections have responded, as follows:

The **Bureau of Environmental Services** response addresses the applicable approval criteria and also identifies requirements that will apply at Building Permit Review. Relevant comments that relate to the approval criteria are included as findings in this report. The entire response is included in the record as Exhibit E.1.

The **Portland Bureau of Transportation (PBOT)** submitted an initial response that explained that because updated traffic analysis information from the applicant was submitted late, PBOT did not have time to prepare a favorable recommendation (**Exhibit E.2**). An updated response, dated July 20, 2015, addresses Title 17 requirements and includes a recommendation that addresses approval criterion 33. 560.050.D. The comments that relate to the approval criteria are included as findings in this report. The entire response is included in the record as Exhibit H.6.

The **Oregon Department of Transportation (ODOT)** response, dated July 20, 2015, includes State highway permit requirements and recommendations. The comments that relate to the approval criteria are included as findings in this report (**Exhibit H.6.a**).

The **Water Bureau** identified available water mains that can serve the site (**Exhibit E.3**).

The **Fire Bureau** responded with no concerns, but noted that applicable Fire Code requirements will apply at Building Permit review (**Exhibit E.4**).

The **Site Development Section of BDS** response identified erosion control and geotechnical engineering analysis that will be required during Building Permit review (**Exhibit E.5**).

The **Life Safety Plan Review Section of BDS** memo identified accessibility requirements that will apply at Building Permit review (**Exhibit E.6**).

The **Bureau of Parks-Forestry Division** stated it had no concerns (**Exhibit E.7**).

The **Oregon Department of Environmental Quality (DEQ)** submitted a letter that describes the State's oversight of the closed landfill and the extensive participation in planning the improvements of the park. DEQ supports the redevelopment of the site into a public park (**Exhibit E.8**).

The **Police Bureau's** written response, dated July 13, 2015, addresses approval criterion 33. 560.050.D (**Exhibit H.5**). The comments that relate to the approval criteria are included as findings in this report.

**Neighborhood Review:** The "Notice of Public Hearing" was mailed on June 30, 2015. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

**ZONING CODE APPROVAL CRITERIA****NORTH CULLY DEVELOPMENT REVIEW****33.560.050 Approval Criteria**

All North Cully Development review applications must meet the following approval criteria.

- A. The applicable goals and objectives of the adopted neighborhood plan will be met.

**Findings:** The site is located within the Cully Neighborhood boundary. The Cully Neighborhood Plan was adopted by City Council in 1992. As detailed below, the proposed City park is consistent with most of the relevant policies and objectives. However, without staff recommendations that speak to transportation requirements, staff cannot determine if the proposal will address the transportation-related policies and objectives of this Plan.

**4D. Policy – Recreation**

***Maintain existing parks, playgrounds and private open spaces; encourage new parks and community facilities.***

***4D-1 Objective: Expand existing parks or establish a new, centrally-located park within the neighborhood.***

***4D-2 Objective: Support public and private efforts which create park-like settings in the neighborhood.***

***4D-3 Objective: Preserve and encourage open space within the neighborhood.***

**Findings:** The applicant provided a history of the property that notes the former landfill site was acquired by the Portland Parks Bureau in 2002 “with the intention of developing it as a park that would accommodate a variety of active recreational uses and to serve neighborhood needs, thereby initiating the first step toward implementing the policies and objectives of the Plan. Park deficiency was identified as an issue throughout the process of developing the neighborhood plan.” The proposal will meet this policy.

**5A. Policy: Social and Cultural Center**

***Maintain existing and provide new social and cultural services and facilities.***

***5A – 3 Objective: Establish a multi-purpose community center in a central location to serve the neighborhood. Combine multi-purpose center with a park if possible.***

**Findings:** The established community garden will remain at the site while other elements including gathering areas will be developed. An Inter-Tribal Gathering Garden will be available to the neighborhood as a contemplative space and available for cultural ceremonies for the Native American community. The proposed improvements meet this policy.

**6C. Policy - Pedestrian, Bicycle Routes, and Local Streets**

***Improve sidewalks and bicycle paths to provide a safe transportation route.***

**Findings:** The application identifies planned improvements on NE 72<sup>nd</sup> and NE 75<sup>th</sup> Avenue, north of NE Killingsworth and identifies possible improvements to the intersections when Phase 2 is constructed. With conditions that require improvements to NE 72<sup>nd</sup> Avenue and improvements to the intersections to address pedestrian and bicycle safety, the proposal supports this policy.

As stated above, the proposal is consistent with all relevant Cully Neighborhood Plan policies. Therefore, this at this approval criterion is met.



- B.** The boundaries of the North Cully Development review application coincide with one of the subareas as shown in the adopted Cully Neighborhood Plan or adequate rationale is provided for any deviation.

**Findings:** The subject site is within the mapped "Area 2" boundary of the neighborhood plan. Policy 4 C and Objective 4C-3, below, calls for changes to this "special focus area."

**4.C. Policy – Redevelopment in the Special Focus Area**

*Encourage mixed industrial, commercial and new residential uses within the special focus area while providing a buffer or step-down in use between the heavier industrial uses to the north and the neighborhood to the south.*

**4C-3 Objective:** *Support the current industrial use of Area 1 and 2 and encourage future redevelopment as a mixed-use project regulated by a master plan review to ensure compatibility with the neighborhood to the south. Require master plan review prior to land divisions.*

The proposed new public park with enlarged community garden, cultural garden area, and active and passive recreational facilities will serve both the nearby residential areas as well as the larger community. The use will activate the nearby commercial and employment uses that are located along the NE Killingsworth corridor. The Cully Park, as well as the Parks Bureau's recently updated Colwood Golf Course, will serve as an open space and natural area buffer between the industrial and employment uses and the residential areas to the south. Therefore, this criterion is met.

- C.** The uses proposed are allowed in the base zone and overlay zones.

**Findings:** As described on pages 3 and 4 of this report, the EG2 zone allows all Parks and Open Area uses. In the R3 zone, community gardens and most Parks and Open Area uses are allowed, except accessory parking areas and recreational fields for organized sports. In the portion of the site that is zoned R3, no parking or recreational sports fields are proposed. Hence, no Conditional Use Review is required. The "h" and the "x" overlay zones are applied to sites that are located near the Portland International Airport. The "h" overlay applies no use restrictions. The "x" overlay restricts residential uses in designated areas. Because this proposal does not include housing, there are no conflicts with the overlay zones. Hence, this criterion is met.

- D.** Public services for water supply, streets, police and fire protection are capable of serving the proposed development and sanitary waste disposal, stormwater disposal systems, streets and traffic circulation meet the requirements of Title 17.

**Findings:** As part of Phase 1, the applicant intends to complete mass grading of the site and install on-site utility lines to serve the facility. Improvements to NE 72<sup>nd</sup> Avenue and connections to public water and sewer lines are planned. Vegetative swales will be installed to treat stormwater from the proposed paved surfaces. City bureaus and ODOT have determined that services are or can be made capable of serving the proposal, as explained below.

The **Water Bureau** notes that the property currently does not have water service. However, there is water available from an existing 8" DI water main in NE 72<sup>nd</sup> Avenue.

The **Bureau of Environmental Services (BES)** has no objection to approval of the proposal. Below are key excerpts from the BES response.

**SANITARY SERVICE**

*Existing Sanitary Infrastructure:* According to best available GIS data, the following public sewer infrastructure is located in the vicinity of the project site:

- There is a public 8-inch PVC sanitary sewer in NE 72<sup>nd</sup> Avenue (BES as-built #5049).
- There is a public 8-inch PVC sanitary sewer in NE 75<sup>th</sup> Avenue (BES as-built #5049).
- There is a public 3-inch force sanitary force main located at the northeast corner of this site. The pipe system varies in diameter as it runs northeast under the railroad and NE Columbia Blvd and discharges leachate from this site to the public 8-inch concrete sanitary sewer (located within a sewer easement granted to the City of Portland) that runs north from NE Columbia Blvd through NE 78<sup>th</sup> Court (BES job #4236).

*Service Availability:* Sanitary connections from private property that are to be permitted according to PCC 17.32.090 must be separately conveyed to the property line and connected through individual laterals to a City sanitary or combined sewer. All discharge must be connected via a route of service approved by the BES Chief Engineer.

- *Proposed Development:* The site will be served by a new connection to the 8-inch sanitary sewer in NE 75th, which will be extended through the Public Works Permit (PWP) process.
- *Public Works Permit:* The public sewer will be extended in NE 72<sup>nd</sup> to provide an individual connection location for sanitary discharges from this site. Under PWP #EP022D, BES Development Engineering approved the Concept Development plans (i.e. 30% design) for the sewer extension and is currently reviewing 60% design; therefore BES finds that sanitary sewer can be made available to this site. Approved plans, a financial guarantee, receipt of all outstanding fees, and a signed permit document will be required prior to building permit approval.

*Private Sanitary Lift Station:* Given the topography of the site and the location of the public sewer main, it may not be feasible to construct gravity-only sewer laterals from the proposed development. If a private lift station will be proposed, the applicant should note that it must be approved by both BES Development Review and BDS Plumbing during review of building permit plans, and the sewer must transition to gravity flow prior to entering the right-of-way.

*Staff finds the applicant's proposed sanitary sewer service acceptable for the purpose of reviewing the North Cully Development Review application against the sanitary waste disposal approval criterion.*

**STORMWATER MANAGEMENT**

*Existing Stormwater Infrastructure:* There is no public storm-only sewer available to this property.

*Onsite Stormwater Management:* Stormwater runoff from this project must comply with all applicable standards of the SWMM and be conveyed to a discharge point along a route of service approved by the BES Director or the Director's designee. Staff reviewed the project's stormwater report from ESA Vigil-Agrimis dated January 2015 that documents an assessment of the nine existing drywells on this site by two licensed engineers. Based on their estimate of the drywell capacities, Vigil-Agrimis indicates the existing drywells will have adequate capacity to continue to manage stormwater runoff from the developed site. A summary of the analysis was provided in the report.

The applicant proposes to treat stormwater runoff from the two parking lots and surrounding hardscape by means of vegetated swales in the median of each parking lot and an existing perimeter swale surrounding the site. The paved trail system will be sloped towards vegetated areas and the playground and sports fields will discharge to the perimeter swale which overflows to the existing drywell system. Stormwater runoff from the development will infiltrate onsite via the nine existing drywells that meet minimum setbacks as established in the facility design standards and Exhibit 2-1 of the SWMM.

BES Pollution Prevention has identified through records research that this property is a former landfill

that has contaminated soils or groundwater. Therefore before infiltration facilities can be approved for this project, a site map delineating the contaminated media areas and laboratory reports that include a chemical analysis of the contaminants of concern in the soils and groundwater must be provided to BES for review. At a minimum, the constituents listed in Chapter 4.3.4 of the SWMM must be analyzed. If applicable, the DEQ project manager assigned to the site must approve of on-site infiltration. Based on DEQ and/or BES assessment, BES may require the stormwater facilities to be constructed with an impervious liner so that they function as flow-through facilities instead of infiltration facilities.

*Public Right-of-Way Stormwater Management:* Stormwater runoff from public right-of-way improvements as required by the City of Portland Bureau of Transportation (PBOT) must be managed according to the standards of the SWMM and the Sewer and Drainage Facilities Design Manual.

A voluntary public works permit has been submitted for improvements to NE 72<sup>nd</sup> Avenue from NE Killingsworth north to the future park entrance. Public stormwater management improvements are a part of this permit. Under PWP #EP022D, BES Development Engineering approved the Concept Development plans (i.e. 30% design) and is currently reviewing 60% design.

*Staff finds the applicant's proposed stormwater management plan acceptable for the purpose of reviewing the North Cully Development Review application against the stormwater disposal approval criterion.*

The **Fire Bureau** raised no objections or concerns but notes that Fire Code requirements, when applicable, will be required at time of permit review and development.

The **Police Bureau** has determined it is capable of serving the proposed park. Because the site is relatively large, the Police Bureau recommends that an internal pathway be installed that provides an emergency vehicle connection between NE 72<sup>nd</sup> and NE 75<sup>th</sup> Avenues (Exhibit H.5). The staff recommended Condition A.4, requires construction of a paved pathway, at least 10-foot wide, as part of the Phase 1 improvements.

The **Oregon Department of Transportation response** includes the following information and recommendation:

The site of this proposed land use action is in the vicinity of NE Killingsworth Street (US 30-Bypass). ODOT has permitting authority for this facility and an interest in ensuring that this proposed land use is compatible with its safe and efficient operation.

Curb, sidewalk, bikeways and road widening shall be constructed as necessary to be consistent with the local Transportation System Plan and ODOT/ADA standards. An ODOT Miscellaneous Permit must be obtained for all work in the highway right of way.

NE 72<sup>nd</sup> Ave./NE Killingsworth St

Prior to issuance of a building permit for Phase II, ODOT recommends that the developer/Portland Parks and Recreation Bureau be required to reevaluate the need for pedestrian and bicycle safety improvements at the intersection of NE 72<sup>nd</sup> Avenue and NE Killingsworth Street to include provisions for eliminating future pedestrian and bicycle conflicts at the intersection. A protected left-turn modification on both legs of NE 72<sup>nd</sup> Avenue to the existing signal will improve pedestrian and bicycle safety operation at the intersection when anticipated demand will be increased at the gateway to the park.

NE 72<sup>nd</sup> Ave./NE Killingsworth St

Prior to issuance of a building permit for Phase II, ODOT recommends that the developer/Portland Parks and Recreation Bureau be required to reevaluate the need for pedestrian and bicycle safety improvements at the intersection of NE 75<sup>th</sup> Avenue and NE Killingsworth Street to include

provisions for evaluating the need for raised median and flashing beacons to address the anticipated demands for the future gateway to the park. (Exhibit H.6.a)

The **Portland Bureau of Transportation (PBOT)** submitted the following:

Portland Transportation/Development Review has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services.

At this location the TSP classifies NE Killingsworth as Regional Trafficway & Major City Traffic street, a Major Transit Priority, a City Bikeway, a City Walkway, a Priority Truck street, a Major Emergency Response street, and an Urban Road. According to City GIS, NE Killingsworth is improved with 72-ft of paving and a 7-ft curb-tight sidewalk within a 110-116 foot wide ROW.

At this location, the City's Transportation System Plan (TSP) classifies NE 72<sup>nd</sup> and NE 75<sup>th</sup> Avenues as a Local Service Streets for all modes. According to City GIS, NE 72<sup>nd</sup> Ave a 60-ft wide ROW improved with varying widths of centerstrip paving lacking curbs and sidewalks. The applicant is voluntarily proposing improving NE 72<sup>nd</sup> with curbs, and sidewalk along at least one side from Killingsworth to Phase I of the new Cully Park. NE 75<sup>th</sup> Ave is a 50-ft wide ROW improved with a 32-ft roadway and 9-ft wide sidewalks along the majority of this section from NE Killingsworth to Phase II of Cully Park. The applicant received PBOT approval through its' Street by Street program to not have to construct standard 70-ft diameter cul-de-sacs at the northern termini of NE 72<sup>nd</sup> and NE 75<sup>th</sup>. The applicant has designed the on-site parking lots with circulation which allows larger emergency vehicles to turnaround without the need of a cul-de-sac.

The applicant has submitted a transportation impact study (TIS) prepared by an Oregon licensed traffic engineer. PBOT and ODOT staff has reviewed the study and concurs with the findings that with implementation of the mitigation measures identified in the report for each phase of the new Cully Park, that the transportation system will be capable of serving the proposed park. Below is a summary of the TIS findings:

#### **72<sup>nd</sup>/Killingsworth**

Although NB(northbound)/SB(southbound) LTLs(left turn lanes) are not required to meet LOS, they may be required to improve pedestrian safety as they would eliminate the left turn/pedestrian conflict. This would require some roadway widening and a signal upgrade. Recommend that reevaluation of this intersection for pedestrian safety and any mitigations to be a condition of building permit approval for Phase II. There are number of encroachments consisting of trailers, stairs, fences, and miscellaneous items associated with the trailer park abutting the NE 72<sup>nd</sup> Ave right-of-way. Some items are proposed to be removed, and others items are seeking approval of a lease area of the right-of-way. This review is separate from the North Cully Master Plan review. One of the potential Phase II improvements to NE 72<sup>nd</sup> is the addition of a northbound left turn lane near the intersection with NE Killingsworth. This will require widening the roadway and removal any encroachments necessary for the road widening.

#### **75<sup>th</sup>/Killingsworth**

The TIS shows that the NB approach fails in the year 2036. If as few as three NB left turning vehicles are removed from the projected number, this approach does not fail. Pedestrian improvements will not be required with Phase I. Recommend that reevaluation of this intersection for pedestrian safety and LOS and any mitigations be a condition of building permit approval for Phase II. Likely improvements will be a median island with flashing beacons to mitigate for pedestrian safety. NB left turns may also need to be prohibited to meet LOS.

**Parking Impacts**

The TIS recommends 185 on-site parking spaces be provided. This is based on the findings in the Delta Park Parking Analysis Report done by Lancaster which found that parking demand was approximately proportional with the number of trips generated by the active uses. Using the Parking Generation manual, the 85<sup>th</sup> percentile demand generated by 488: Soccer Complex with 4 fields is 242 on a Weekday, 261 on a Saturday, and 277 on a Sunday. The average demand is 153, 235, and 225 for the same days. Also using the Parking Generation manual, the peak parking demand generated by 411: City Park would be as much as 122. The parking demand generated by Cully Park will fall somewhere between these two uses. The proposed 185 spaces should be adequate to serve the demand generated by the park. A minimum of 60 on-site parking spaces will be required for Phase I, and an additional 125 on-site spaces for Phase II. The submitted site plans comply with the number of on-site parking spaces proposed.

**Transit Facilities**

Trimet Bus Line 72 provides service along NE Killingsworth Street with eastbound stops at NE 73<sup>rd</sup> Avenue, at the 7600 block. Westbound stops are provided at NE 75<sup>th</sup> Avenue.

**Summary**

PBOT and ODOT are recommending conditions of approval for each phase of the proposed park. The likely improvements are identified above. For Phase I, the condition will require the applicant to improve NE 72<sup>nd</sup> Ave in conformance with the public works permits currently under review in project # TB 0006. For Phase II, the applicant must provide an updated traffic analyses to review the pedestrian safety improvements to the intersections of NE 72<sup>nd</sup> and NE 75<sup>th</sup> at NE Killingsworth. The applicant shall be required to construct the improvements to the satisfaction of ODOT and PBOT. (Exhibit H.6)

To address this criterion, staff recommends Condition A to ensure parking will be constructed to support Phase 1 and the internal paved pathway is completed to provide emergency vehicle access onto the entire site. Recommended Conditions B requires improvements to NE 72<sup>nd</sup> Avenue to support the Phase 1 park improvements. Conditions C, E and F will require an evaluation of both the NE 72<sup>nd</sup> and 75<sup>th</sup> and Killingsworth intersections to determine needed pedestrian and bicycle safety upgrades. Recommended Condition D will ensure that on-site parking for Phase 2 is completed when the Phase 2 sports facilities are constructed. With these conditions, staff finds this criterion will be met.

- E.** The development plan shows a completely developed site which is compatible with the surrounding area. In a phased development, the code requirements will be met at each phase in development.

**Findings:** The applicant's development plan identifies park improvements to achieve a completely developed site. The improvements are broken into two phases. The first phase improvements will be located on the western half of the 25-acre site and are planned to be completed during "one construction cycle." The application includes press releases that explain that the development of the park is being led by a non-profit—Verde. Funding of the improvements will continue to rely on a myriad of sources—grants, donations and City funding. Because full funding has not been secured, the applicant proposes that the various improvements identified in Phase 2 be allowed to occur over a 20-year period. The staff recommended conditions are intended to guide necessary improvements as the park is developed in phases.

The proposed development plan identifies two on-site parking lots. The smaller west lot will be developed initially and the larger east lot will be developed to serve the Phase 2 fields that will

be used for organized sports. The development plan shows a parking area layout that meets the dimensional standards of the Zoning Code. According to the BES response, the application identifies vegetative swales that will adequately address stormwater management requirements for the new paved areas (Exhibit E.1).

The Zoning Code requires perimeter landscaping when a parking lot is located within 25 feet of a property line or street and all lots with 10 or more parking spaces must include interior landscaping. The need to protect the landfill cap with varying final soil depths after grading restricts the planting of trees on the site. The applicant has requested an Adjustment to reduce the required number of trees in the interior of the parking lots. The Adjustment Review is discussed below.

In addition, the newly implemented Title 11 -Tree Code applies both preservation and density (new) tree requirements. There are no existing trees on the property. The Tree Code would require the planting of either 274 large canopy size trees, 544 medium or 906 small trees for this 25-acre site. However, because the site will have essentially two primary uses on the site—Parks and Open Space and Waste-Related (landfill), this requirement will not apply. Title 11 exempts sites from the on-site tree density standard for Waste-Related uses. Even though trees are not required, except in the parking lots, the applicant has submitted landscaping plans and a plant schedule. When all the improvements are completed, the park will have numerous—over 300—deciduous and evergreen trees.

With recommended Conditions A and D that specify timing and implementation of the parking lot landscaping, this criterion will be met.

**F.** Any land division proposed as part of the application must facilitate the goals and objectives of the adopted Cully Neighborhood Plan and must not cause piecemeal or fragmented development.

**Findings:** This proposal does not include a land division. Therefore, this criterion is not applicable.

**G.** The proposal must not adversely impact the livability of nearby residential zoned land due to noise, glare from lights, late-night operations, odors and litter.

**Findings:** No concerns have been raised from either the Cully neighborhood association or notified residential property owners about potential livability impacts. The applicant states that the park will be open 5:00 am to midnight, daily in compliance with Title 20-Parks and Recreation (Exhibit A.5). Field lighting will be installed on the two baseball fields and one of the two soccer fields to allow for evening games. Also, lighting will be installed in the parking lots and along the pedestrian paths. The application includes a professionally-prepared spill light analysis that shows that light glare will not exceed the 0.5 foot candles of light measurement that is required in Section 33.262.080.A. The applicant's response to this approval criterion states:

With the inclusion of soccer and baseball fields, there is the possibility for traffic and noise impacts. The design of the park is such that the ball fields are located as far as practicable from the existing residential properties, and upon ultimate buildout, the primary parking lot serving the fields will not be accessed from a residential street. Field light is designed to minimize glare onto adjacent properties. Transportation improvements and the required screening and buffering will help mitigate for adverse impacts" (Exhibit A.1.)

Staff recommended Conditions A and D will ensure that landscaping will be installed to buffer the parking lot activities from the adjacent uses. The Parks Bureau will be scheduling the use of the recreational sports fields and functions at the other gathering areas. Evening events

and games will be scheduled by Parks Bureau staff, consistent with allowances under Title 20. Also, the maintenance of the facility, including litter removal, will be provided by Parks Bureau staff. The existing methane gas extraction system and burner system will continue to operate at the site. There are no known issues regarding nuisance odors associated with the closed landfill operations. Staff does not anticipate odor impacts being created by the park facilities.

With conditions that trigger the installation of parking lot landscaping, this criterion will be met.

**H.** In addition to the approval criteria listed above, development south of NE Killingsworth will meet the following approval criteria:

1. Vehicular access will be prohibited from NE Alberta through the area. A buffer will be established along the southern portion of the area if commercial or industrial uses are proposed along the southern edge. Pedestrian access from NE Alberta will be provided.
2. Development of the eastern portion of the area will support park acquisition and expansion of Sacajawea Park with service and recreational facilities.
3. Development will include a mixture of uses such as housing and commercial or light industrial.

**Findings:** The subject site is located north of NE Killingsworth. Therefore, this criterion does not apply.

## ADJUSTMENT REVIEW

### 33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F., below, have been met.

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

**Findings:** In order to protect the membrane cap on the landfill and not interfere with the methane gas extraction system, the applicant is requesting to reduce the number of trees required in the interior parking landscaping islands. The tree requirement is based upon the proposed number of parking spaces and the size of trees that will be planted in the interior landscape areas. Based upon the submitted plans, the proposed 60 spaces in the west lot and 125 spaces in the east lot requires a combined total of 93 small trees or 61 medium-size trees. No new large trees are proposed in or adjacent to the parking areas. Given this, the plan reflects a combined deficiency of 25 small trees or 17 medium trees.

The purpose of the parking lot landscaping requirement is found under Section 33.266.130.A. Relevant to this request, this section includes the following:

**Purpose.** *The development standards promote vehicle areas which are safe and attractive for motorists and pedestrians. Vehicle area locations are restricted in some zones to promote the desired character of those zones.*

- *The parking area layout standards are intended to promote safe circulation within the parking area, provide for the effective management of stormwater runoff from vehicle areas, and provide for convenient entry and exit of vehicles. The setback and landscaping standards:*
  - *Improve and soften the appearance of parking areas;*
  - *Reduce the visual impact of parking areas from sidewalks, streets, and especially from adjacent residential zones;*

- *Direct traffic in parking areas;*
- *Shade and cool parking areas;*
- *Reduce the amount and rate of stormwater runoff from vehicle areas;*
- *Reduce pollution and temperature of stormwater runoff from vehicle areas; and*
- *Decrease airborne and waterborne pollution.*

The proposed Phase 1 (west) parking lot abuts residentially-zoned properties to the south. The entrance to the parking lot will be located at the northern terminus of NE 72<sup>nd</sup> Avenue. The submitted landscaping plans identify significant landscaping which includes numerous trees and shrubs located between the park improvements and the southern property lines. Also numerous trees and shrubs are planned along both the western and eastern edges of the lot, creating a buffer between the vehicle area and the proposed dog park and playground areas. For the Phase 2 (east) parking lot, the landscaping plan shows a row of trees and shrubs on the southern edge of the lot and additional planting at various edges of the lot. The extensive "perimeter" landscaping cannot count towards fulfilling the interior requirements. However, it will serve to soften the appearance of the lot and reduce the visual impacts to adjacent sites.

On both lots, there are large landscape islands with stormwater swales located in the center of the lots. When analyzing the functional characteristics of pervious and impervious areas and the reduced landscaping that impact or benefit the environment, BES generally takes the lead. BES finds the proposed stormwater management plan acceptable. The BES written response states, "The applicant proposes to treat stormwater runoff from the two parking lots and surrounding hardscape by means of vegetated swales in the median of each parking lot and an existing perimeter swale surrounding the site. The paved trail system will be sloped towards vegetated areas and the playground and sports fields will discharge to the perimeter swale which overflows to the exiting drywell system. Stormwater runoff from the development will infiltrate onsite via the nine existing drywells that meet minimum setbacks as established in the facility design standards and Exhibit 2-1 of the SWMM" (Exhibit E.1).

Staff recommended conditions will specify when the parking lot landscaping must be installed. Recommended Condition G is intended to provide clarity that the Adjustment approval will be effective for the life of the approved North Cully Development Review. If the Phase 2 improvements do not begin for a number of years, there is the possibility that the methane gas extraction piping would no longer be needed. This condition requires the applicant to document that the infrastructure and fewer trees is necessary for the on-going management of the closed landfill.

With conditions, the proposal will equally meet the purpose of the regulation. Therefore, this criterion is satisfied.

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

**Findings:** Given that the proposed parking lots are not located within a residential zone the proposal must be found to be consistent with the classification of the adjacent streets and the desired character of the area. NE 72<sup>nd</sup> and 75<sup>th</sup> Avenues, which both terminate at the site, are designated Local Service streets. An interior parking lot landscaping Adjustment will not affect the intended function of the streets. The terminus of the streets corresponds with the entrances to the parking lots. The proposed landscape areas will serve to guide circulation and the necessary turn-around functions.

The Zoning Code defines the term "desired character" as being based on the purpose statement of the base zone, overlay zone and plan district and the preferred and envisioned character included



in adopted area plans (Section 33.910.030). The zoning regulations and adopted neighborhood plan are discussed in this report under criterion 33.560.050.A-C. As found under these criterion, the proposed extensive landscaping improvements on this landfill site are consistent with the zoning and adopted neighborhood plan. A modest reduction in interior parking lot landscaping is not contrary to the desired character of the site.

For these reasons, this criterion is met.

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

**Findings:** The applicant is requesting only one Adjustment. Therefore, this criterion is not applicable.

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

**Findings:** Scenic resources are shown on the zoning map by the "s" overlay zone. Historic resources are designated by a large dot. There are no such designated scenic or historic resources present on this site.

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

**Findings:** As explained above, the requested Adjustment will not create adverse impacts that require mitigation. Therefore, this criterion does not apply.

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

**Findings:** Environmental overlay zones are designated on the zoning maps with either a "p", Environmental Protection or "c" Environmental Conservation overlay zone. As there are no such designations on this site, this criterion is not applicable.

#### **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**

With conditions, staff recommends approval of the North Cully Development Review and the Adjustment for parking lot landscaping. The North Cully Development Review was crafted in the early 1990s to specifically address a handful of large sites that the City determined needed to be reviewed for compatibility and a cohesive design. This proposal will facilitate the conversion of a historic landfill site into a vibrant community amenity with recreational sports fields, trails, playground, dog park, community and cultural gardens, and on-site parking. The approval allows the site to be constructed over a 20 year period. The recommended conditions will ensure that necessary safety, livability and transportation-related improvements are triggered and completed as the park is developed.

**TENTATIVE STAFF RECOMMENDATION**

(May be revised upon receipt of new information at any time prior to the Hearings Officer decision)

**Approval** of an Adjustment to reduce the total number of trees in the required interior parking lot landscape areas by either 25 small-size or 17 medium-size trees; and

**Approval** of a North Cully Development Review for a 20-year, phased development plan for Thomas Cully Park, an approximately 25-acre former landfill site, to include:

Phase 1 Improvements

- Complete mass grading and installation of utilities;
- Street improvement to NE 72<sup>nd</sup> Avenue;
- West parking lot – approx. 60 spaces;
- Soccer field;
- Playground;
- Completion of Community Garden;
- Restroom facility and picnic shelters;
- Dog park;
- Tribal gathering area; and
- Trail network and fitness stations.

Phase 2 Improvements

- East parking lot – 125 spaces, accessed off NE 75<sup>th</sup> Ave;
- Soccer field;
- Two baseball/softball fields; and
- Basketball courts.

Approval is subject to the following conditions:

- A. Building Permit applications for any of the proposed improvements identified in Phase 1 must include:
  1. Construction of a 60-space parking area with access from NE 72<sup>nd</sup> Avenue.
  2. Installation of interior parking lot landscaping, consistent with approved plan Exhibit C.15.a;
  3. Installation of landscaping and stormwater management facilities located within 25 feet of outer edge of parking area, consistent with approved plan (Exhibit C.15.a);
  4. Construction of a paved pathway/trail, at least 10 feet-wide, that connects the Phase 1 and Phase 2 improvements and provides internal emergency vehicle access.
- B. Prior to Building Permit issuance for Phase 1 improvements, a City of Portland Public Works Permit must be issued for improvements to NE 72<sup>nd</sup> Avenue, from NE Killingsworth to the site, per Permit Number TB 0006 (13-224054 WT/13-232190 WE) and an Oregon Department of Transportation (ODOT) Miscellaneous Permit must be obtained for any work in the highway right-of-way.
- C. Prior to Building Permit issuance of any Phase 2 improvements that includes one or more of the following: soccer field, baseball/softball field, and basketball courts, the applicant must submit to the Portland Bureau of Transportation (PBOT) and ODOT an updated traffic analysis. The analysis must address pedestrian and bicycle safety and identify any necessary improvements to the intersections of NE 72<sup>nd</sup> and Killingsworth and NE 75<sup>th</sup> and Killingsworth.

- D. Building Permit applications for any of the proposed improvements for Phase 2 must include the construction of a 125-space parking area with access from NE 75<sup>th</sup> Avenue. The parking lot must include interior landscaping, landscaping within 25 feet of its outer edge and stormwater management facilities, consistent with approved plan (Exhibit C.15.b).
- E. Prior to the issuance of Building Permit(s) for Phase 2 improvements, if deemed necessary by ODOT and PBOT, the applicant must have approved plans and have secured financial guarantees to construct those improvements to the satisfaction of ODOT and PBOT.
- F. Prior to the use of the Phase 2 sports facilities, the required improvements to the NE 72<sup>nd</sup>/Killingsworth and NE 75<sup>th</sup>/Killingsworth intersections must be completed to the satisfaction of ODOT and PBOT.
- G. An approved Adjustment to reduce the required number of trees in the interior parking lot landscape areas will remain in effect for Phase 2, if the applicant submits documentation from the Oregon Department of Environmental Quality or Metro that verifies the methane gas extraction facilities are still in operation.
- H. This approved North Cully Development Review will expire 20 years from the effective date of the final decision.

**Procedural Information.** The application for this land use review was submitted on January 21, 2015, and was determined to be complete on May 28, 2015.

*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 21, 2015.

*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 requested a 30 day extension at the public hearing. Unless further extended by the applicant, **the 120- day review period will expire on: October 25, 2015.**

**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 recommendation 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 report is not a decision. The review body for this proposal is the Hearings Officer who will make the decision on this case.** This report is a recommendation to the Hearings Officer by the Bureau of Development Services. The review body may adopt, modify, or reject this recommendation. The Hearings Officer will make a decision about this proposal within 17 days of the close of the record. Your comments to the Hearings Officer can be mailed c/o the Hearings Officer, 1900 SW Fourth Ave., Suite 3100, Portland, OR 97201 or faxed to 503-823-4347.

You will receive mailed notice of the decision if you write a letter received before the hearing or testify at the hearing, or if you are the property owner or applicant. This Staff Report will be posted on the Bureau of Development Services website. Look at [www.portlandonline.com](http://www.portlandonline.com). On the left side of the page use the search box to find Development Services, then click on the Zoning/Land Use section, select Notices and Hearings. Land use review notices are listed by the District Coalition shown at the beginning of this document. You may review the file on this case at the Development Services Building at 1900 SW Fourth Ave., Suite 5000, Portland, OR 97201.

**Appeal of the decision:** The decision of the Hearings Officer may be appealed to City Council, who will hold a public hearing. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council

**Who can appeal:** You may appeal the decision only if you write a letter which is received before the close of the record on hearing or if you testify at the hearing, or if you are the property owner or applicant. Appeals must be filed within 14 days of the decision. **An appeal fee of \$5,000.00 will be charged (one-half of the BDS application fee, up to a maximum of \$5,000.00).**

**Appeal Fee Waivers:** Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chair person or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization's bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

#### **Recording the final decision.**

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034  
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

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

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

**Applying for your permits.** A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

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

Planner's Name: Sheila Frugoli

Revised Report Date: August 5, 2015

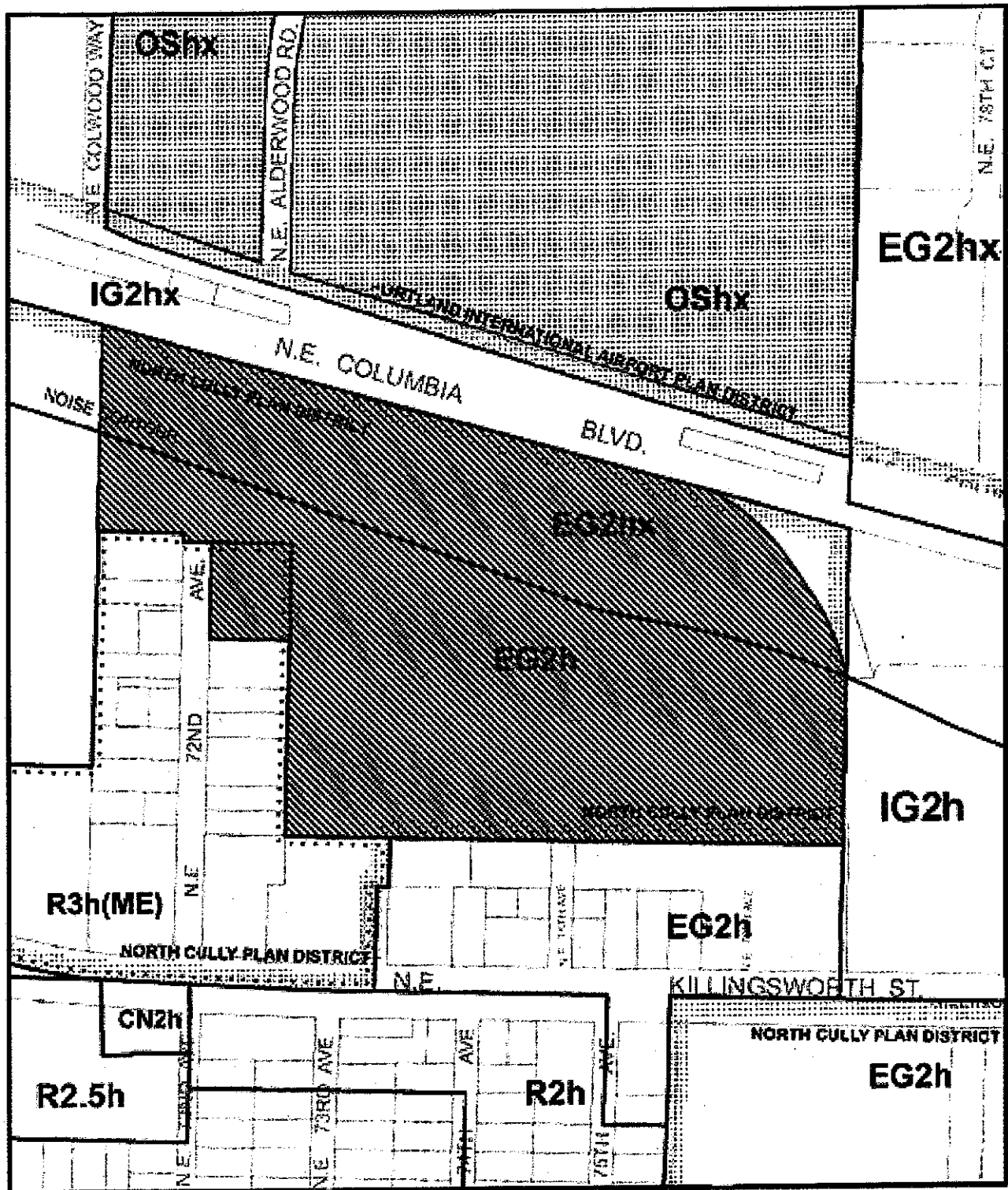
#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
  - 1. Original Application and Findings
  - 2. Media Excerpts
  - 3. Preliminary Stormwater Report
  - 4. Preliminary Engineering Design Report
  - 5. Memo dated May 19, 2015, from Emerio Design on Additional Information
  - 6. Application and Findings, with Annotated Findings, received May 20, 2015
  - 7. E-Mail dated June 25, 2015, from Travis Ruybal identifying Proposed Lighting
- B. Zoning Map (attached)
- C. Plans & Drawings:
  - 1. Phase I Site Plan (attached)
  - 2. Phase II Site Plan (attached)
  - 3. Site Details – Play Area and Trellis Structure (attached)
  - 4. Site Details – Bartering Circle and Overlook Structure (attached)
  - 5. Planting Plan (attached)
  - 6. Plant Schedule (attached)
  - 7. Light Spill Diagram
  - 8. Site Plan – Color Copy with Legend Identifying all Improvements
  - 9. Proposed Depth of Soil

- 10 Existing Conditions
  - 11 Landfill Infrastructure
  - 12 Grading Plan
  - 13 Layout Plan
  - 14 Planting Plan and Plant Schedule – Phase 1
  - 15 Parking Lot Layouts (attached)
    - a. West Parking Lot
    - b. East Parking Lot
  - 16 Fire Truck Turnarounds
  - 17 Utility Plan
  - 18 NE 72<sup>nd</sup> Avenue Improvements
  - 19 Illumination Summary and Spill Light Calculations
  - 20 Future NE 75<sup>th</sup> Ave Improvements
- D. Notification information:
1. Request for response
  2. Posting letter sent to applicant
  3. Notice to be posted
  4. Applicant's statement certifying posting
  5. Mailing list
  6. Mailed notice
- E. Agency Responses:
1. Bureau of Environmental Services
  2. Bureau of Transportation Engineering and Development Review
  3. Water Bureau
  4. Fire Bureau
  5. Bureau of Development Services Site Development Review Section
  6. Bureau of Development Services Life Safety Plan Review Section
  7. Bureau of Parks, Forestry Division
  8. Oregon Department of Environmental Quality
- F. Letters: None
- G. Other:
1. Original LUR Application
  2. Request from applicant to reschedule the July 22, 2015 hearing date
  3. Email from applicant requesting to retain the July 22, 2015 hearing date
  4. Incomplete Application Letter from Staff to Applicant, dated Feb. 11, 2015.

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



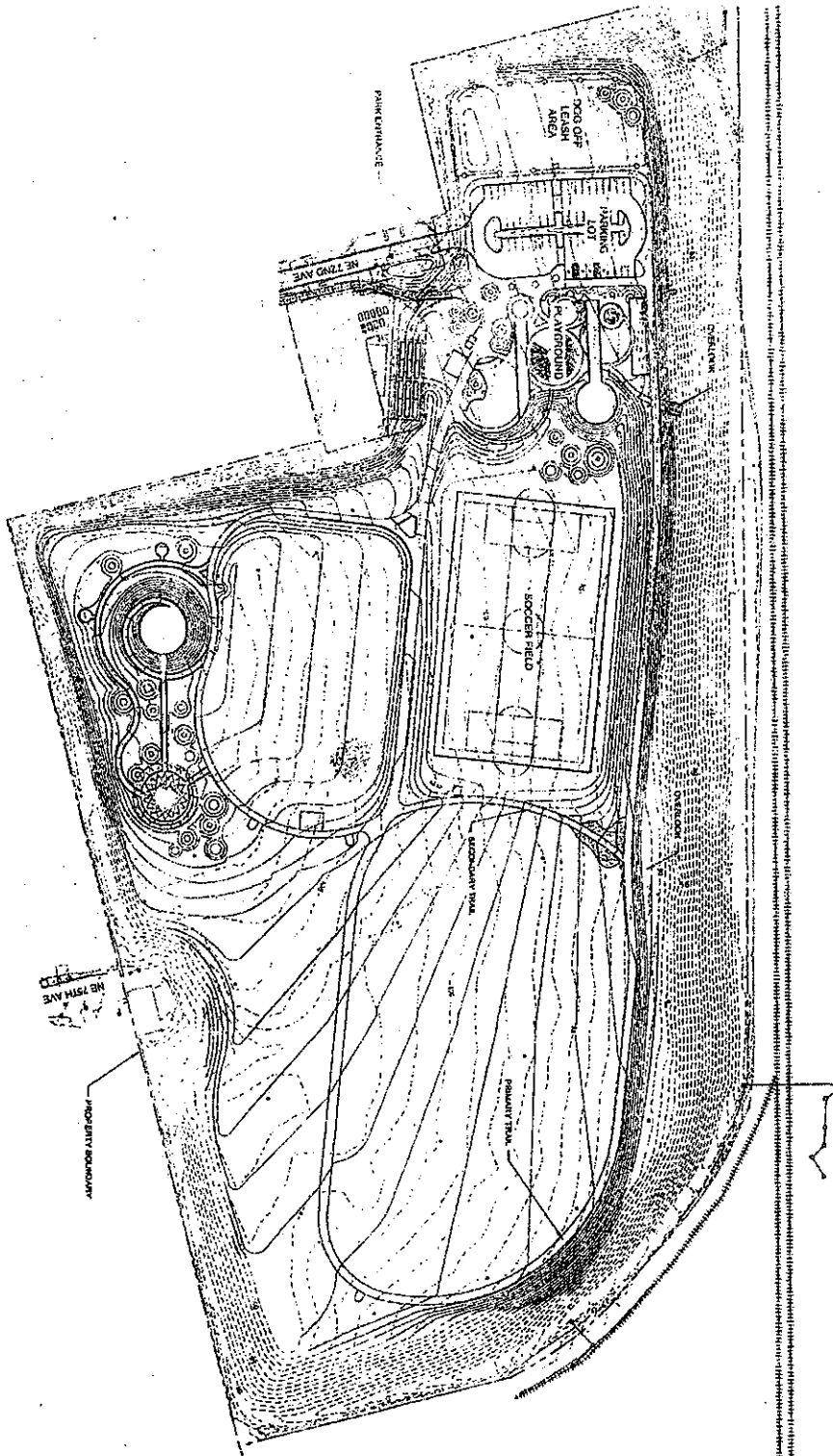
# ZONING

 Site  
 Also Owned



This site lies within the:  
NORTH CULLY PLAN DISTRICT

File No. LU 15-108152 MS,AD  
 1/4 Section 2437,2438  
 Scale 1 inch = 267 feet  
 State Id 1N2E17DC 300  
 Exhibit B (May 29, 2015)



PLAN - PHASE 1  
SCALE: 1"=30' (25'x34" SHEET)

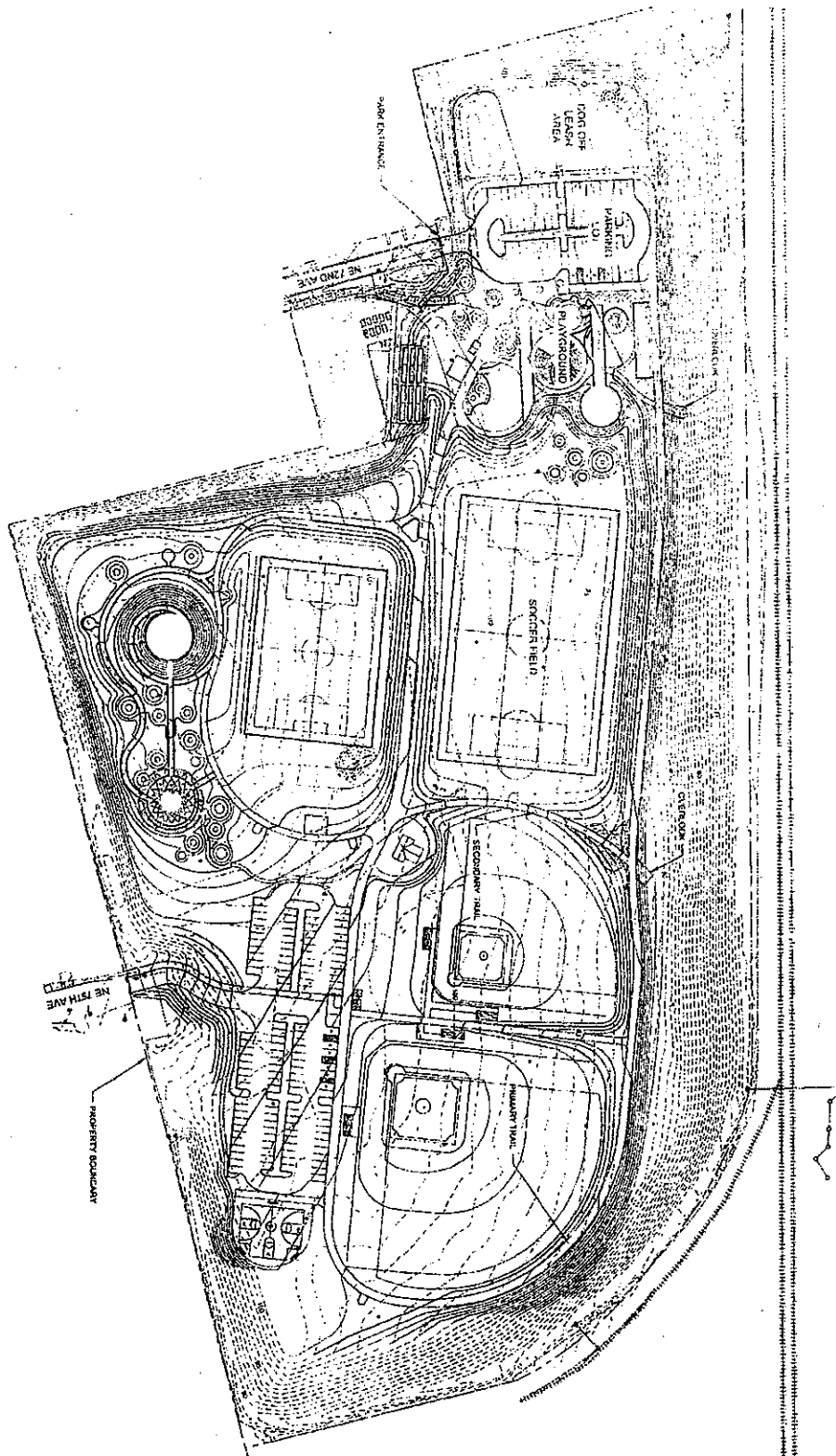



LA00	PORTLAND PARKS & RECREATION TRAVIS RUTLAND 3000 NE 15TH AVE PORTLAND, OR 97232 503-444-1234	ES&S ENGINEERING & SURVEYING 1000 NE 15TH AVE PORTLAND, OR 97232 503-444-1234	Portland Parks & Recreation
			PROJECT MANAGER: TRAVIS RUTLAND 503-444-1234
			LAYOUT PLAN
			CULLY PARK IMPROVEMENTS - PHASE 1
1X OF 1X	DATE: 07/10/14	DRAWN BY: _____	SECTION: _____

LN 15-108152 MS AD  
EX-C-1

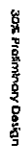
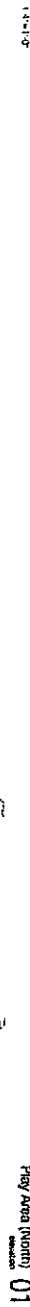


30% Preliminary Design

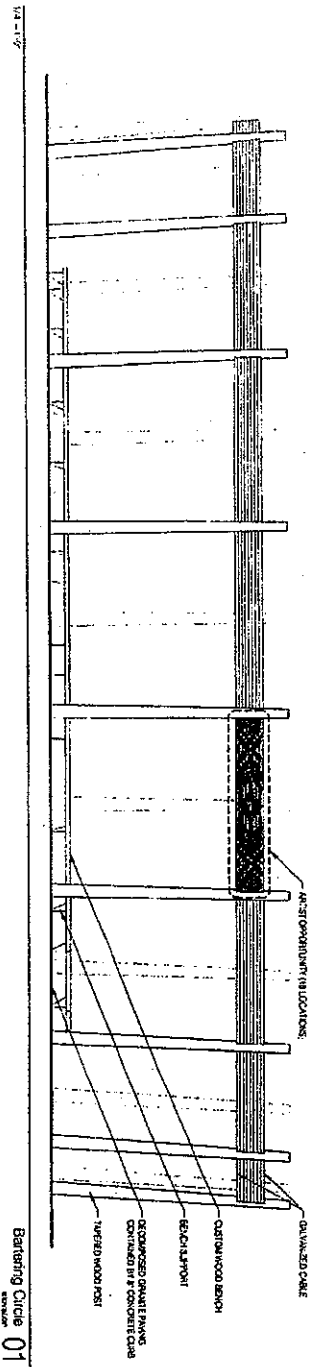


 <b>PORTLAND PARKS &amp; RECREATION</b> Parks & Recreation 1000 NE Oregon Street, Suite 100 Portland, Oregon 97232 Phone: 503-823-7500	<b>Portland Parks &amp; Recreation</b> PROJECT MANAGER: TRAVIS RAYNE, 503 823-7500		
	<b>LAYOUT PLAN</b> <b>CULLY PARK IMPROVEMENTS - PHASE 1</b>		
	Portland, Oregon		
	DATE: 5/26/2014	DRAWN BY:	SECTION:

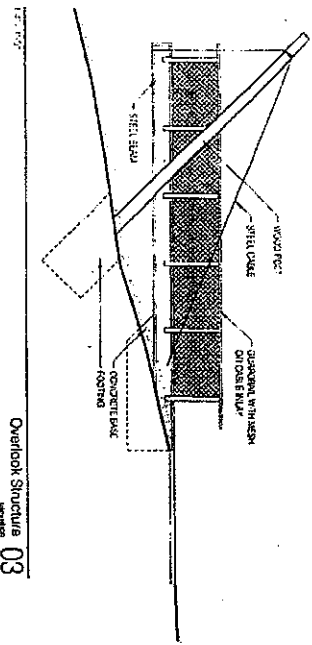
LU 15-108152 MS AD  
EX. C. 2



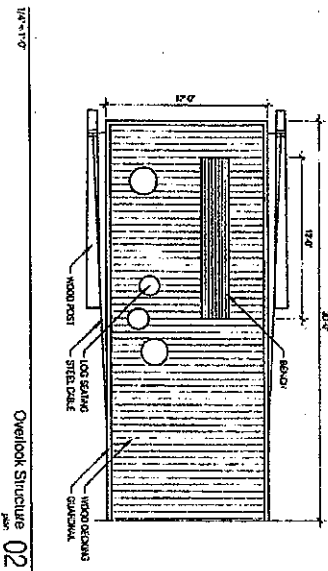
LU 15-108152 MS AD  
EXC. 3



Bartering Circle 01



Overlook Structure 03



Overlook Structure 02

	<b>PORTLAND PARKS &amp; RECREATION</b> 1000 NE Oregon Street, Portland, OR 97232		
	<b>PROJECT MANAGER: TRAVIS RUTALA 503-423-7629</b> <b>SITE DETAILS</b> <b>CULLY PARK IMPROVEMENTS - PHASE 1</b>		
	DATE: 08/01/14 DRAWN BY: _____ SECTION: NORTH		
	REVISIONS NO. DESCRIPTION BY DATE		
<b>LD02</b> XX OF XX	30% Preliminary Design		

LW 15-108152 MS AD  
EX. C.4



PLANT SCHEDULE - ENTIRE PARK					SCHED. FOUNDATION		SPECIES		NOTES	
PLANT	QUANTITY	UNIT	DESCRIPTION	LOCATION	FOUNDATION	SPECIES	PLANT	PLANT	NOTES	NOTES
<b>TREES</b>										
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<b>STORMWATER BASIN PLANT LIST</b>		<b>NATIVE PRAIRIE PLANT LIST</b>	
TREES	GRASSES	TREES	GRASSES
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PORTLAND PARKS & RECREATION  
PROJECT MANAGER: TRAVIS RUTLAND, 503-422-7329

**PLANT SCHEDULE**  
CULLY PARK IMPROVEMENTS - PHASE 1  
Portland, Oregon

DATE: 07/01/2014 DRAWN BY: SECTION:

**STORMWATER BASIN PLANT LIST**

**TREES**

1. Acer glabrum - tree maple

2. Cornus alba - dogwood

3. Cornus canadensis - dogwood

4. Cornus rugosa - dogwood

5. Cornus stolonifera - dogwood

6. Cornus stricta - dogwood

7. Cornus alternifolia -



Lu 15-108152 MS, AD  
Exh. C. 15.a

**NOTE: SEE SHEET LP01 FOR COMPLETE PLANTING LEGEND.**




[illegible]

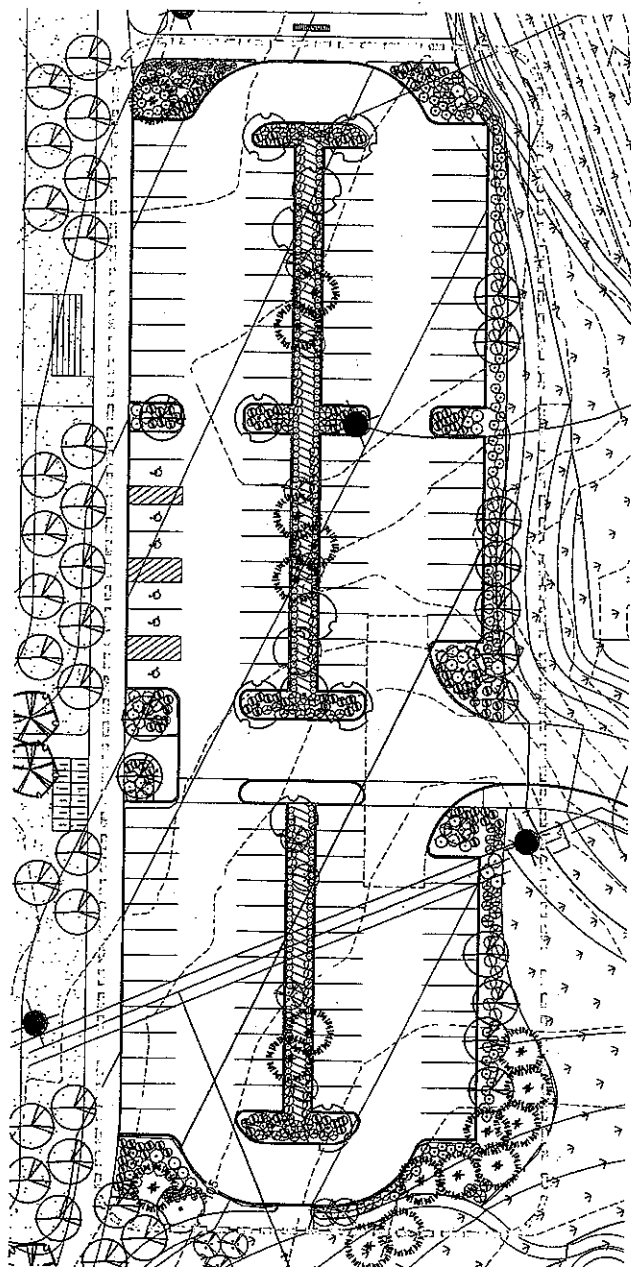
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30% Preliminary Design

NORTH



LU 15-108152 ms, AD  
Exh. C.15.6



125 SPACES	
6 ACCESSIBLE SPACES	
INTERIOR LANDSCAPING =10,600 S.F.	
INTERIOR AND PERIMETER LANDSCAPING	
LARGE TREES	0
MEDIUM TREES	0
SMALL TREES	44
SHRUBS	681

08-05-15 A09:53 RCVD

PLAN  
SCALE: 1" = 1'-0"

CITY OF PORTLAND  
HEARINGS OFFICE  
Exhibit # H-13b  
Case # 4150015  
Bureau Case # 15-108152 MS AD