



# Port of Portland

Box 3529 Portland, Oregon 97208  
503/231-5000  
TWX: 910-464-6151

November 26, 1986

Mayor J. E. Clark  
Commissioner Dick Bogle  
Commissioner Mike Lindberg

Commissioner Mildred Schwab  
Commissioner Margaret Strachan

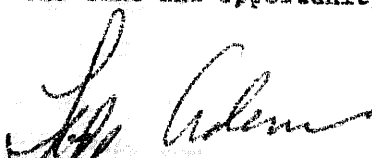
## PORTLAND INTERNATIONAL AIRPORT NOISE IMPACT ZONE

The Port of Portland supports the proposed revisions to Chapter 33.640, the Portland International Airport Noise Impact Zone, and the adoption of Comprehensive Plan Policy 8.16. The revisions have been subject to extensive review during an eight-month development process involving the City, the Port, neighborhood residents, Department of Environmental Quality, and the City Planning Commission. The conceptual basis for the recommendations was accepted by the City Council at its October 10 meeting, and we urge your passage of the proposed ordinance and plan policy as drafted.

The proposed ordinance will enable Portland International Airport to fulfill its role as a major transportation and economic resource by minimizing incompatibilities between the airport and adjacent residential areas. The proposed revisions address the Port's concerns while providing fair, equitable treatment for existing residents of the area.

The Port Commission will consider a resolution on December 11 confirming the understanding reached with the community during the negotiation process. In addition, the Port remains committed to implementing the PDX Noise Abatement Plan, including the recommendation to seek federal funding for a noise insulation program for existing residences within the aircraft noise impact area.

I wish to express the Port's appreciation to all those who participated in this effort and remained committed to making the process work. Also, I would like to thank the City Council for their patience in giving us the time and opportunity to resolve our differences.

  
Lloyd Anderson  
Executive Director

011463



# Department of Environmental Quality

522 S.W. FIFTH AVENUE, BOX 1760, PORTLAND, OREGON 97207 PHONE: (503) 229-5696

November 25, 1985

Mayor Clark and Members of the Council  
City of Portland  
City Hall  
Portland, OR 97204

RECEIVED  
NOV 26 1985

MAYOR'S OFFICE  
Re: Noise Impact Overlay Zone

Dear Mayor and Commissioners:

On October 10, 1985, I appeared before you to discuss our concerns about recommended amendments to the City's Noise Impact Overlay Zone ordinance that addresses noise impacts caused by aircraft using Portland International Airport (PDX). Since an effective overlay zone is required by the PDX Noise Abatement Plan approved by the Environmental Quality Commission (EQC), I hope you are able to address our concerns.

In general we believe all but one major provision of the recommended amendments are consistent with the EQC ordered abatement plan. The exception is the proposal to allow high density residential development on land zoned for commercial use within the 1983 Ldn 65 decibel PDX noise impact zone. The zone and plan designation of this land is C2-General Commercial. A wide range of commercial development options are available within this designation. However, the City of Portland Code also allows high density residential development, R1 and greater, on C2 zoned land. This residential development option is not consistent with the PDX Noise Abatement Plan and EQC order approving the plan.

The enclosed comments address issues raised during the October 10 hearing. Hopefully, these comments will assist your decision on this important matter. If you have any questions or comments, please call me at 229-5300.

Sincerely,

A handwritten signature in dark ink, appearing to read "Fred Hansen".

Fred Hansen  
Director

FH:s  
AS1881.A  
Enclosure

## DEQ Comments

## Portland Noise Overlay Zone

Chronology

Issues have been raised as to why DEQ did not require noise compatible land use zoning in the noise impacted areas prior to this time. The following chronology shows that appropriate actions have been taken as information, rules, and orders dictated:

November 1979	DEQ Statewide Airport Rules Adopted
October 1980	Portland Noise Overlay Zone Adopted
May 1981	Portland Comprehensive Plan Acknowledged by LCDC
June 1982	Port of Portland initiated development of PDX Noise Abatement Plan
August 1983	EQC Approval of PDX Noise Abatement Plan
April 1984	Multnomah County Approval of Noise Overlay Zone
March 8, 1985	Consistent with PDX Noise Abatement Plan
	DEQ Recommended Changes to Draft Amendments of Portland's Noise Overlay Zone in Order to Make Them
March 12, 1985	Consistent with the PDX Noise Abatement Plan
	Portland Planning Commission Hearing on Proposed Amendment of Overlay Zone
March-October, 1985	DEQ Worked with Affected Parties in an Attempt to Reach a Compromise Agreement
October 10, 1985	Portland City Council Hearing on Proposed Airport Noise Overlay Zone Amendments

Until the adoption of the PDX Noise Abatement Plan, which was developed pursuant to DEQ's airport regulations (OAR 340-35-045), DEQ was not in a regulatory position to require appropriate land use zoning actions be taken. As the abatement program is an EQC order, DEQ now has regulatory authority to require its implementation.

The EQC approved the following land use control in its order as described in its report dated August 19, 1984, and Attachment B of that report Portland International Airport Noise Abatement Plan--Summary Report--June 1983:

"That no new residential construction within the 65 Ldn contour be allowed unless currently permitted under existing residential zoning." (page 13 of Summary Report)

The EQC order approved the recommendation that the existing City of Portland Airport Noise Overlay Zone ordinance "be amended so that the references to 1977 Ldn 68 and Ldn 65 be changed to the 1983 Ldn 65 contour. This will require that existing prohibitions on residential development presently tied to the 1977 Ldn 68 contour be revised to the 1983 Ldn 65 contour." (page 13 of Summary Report). Review of the current Noise Overlay Zone ordinance shows the above amendments would resolve the issue of residential development in Commercial zones within the Ldn 65 contour. Section 33.69.030(1) of the ordinance currently prohibits "new residential uses, including single family houses, mobile homes, rowhouses, duplexes, apartments, condominiums, residential care centers and houseboats" within the area encompassed by the 1977 Ldn 68 or higher noise contour. Exceptions to this prohibition allow new residential development "where such uses are located in any currently zoned area of R10, R20, FF or County Residential." Clearly, the current ordinance does not allow residential uses within the impacted zone, Ldn 68, on lands zoned commercial. The EQC order also does not allow residential uses on commercially zoned land. The only major impact the EQC order has on the current ordinance is the need for an amendment that would delete the references to the 1977 Ldn 68 contour and add reference to the 1983 Ldn 65 contour as developed in the 1983 PDX Noise Abatement Plan.

#### Statewide Land Use Planning Goal Conflicts

A noise abatement plan was developed by the Port of Portland for Portland International Airport pursuant to DEQ's Noise Control Regulations for Airports, OAR 340-35-045. As required by this rule the abatement plan includes land use control measures. One of these measures is the prohibition of new residences within the Ldn 65 dBA contour except in "existing residential zones." The abatement plan was approved by order of the Environmental Quality Commission on August 19, 1983. Amendments to the existing Portland Noise Overlay Zone are necessary to bring this ordinance into consistency with the EQC order.

Without amendments to make the Noise Overlay Zone consistent with the DEQ rule and the EQC order, DEQ believes the ordinance is in conflict with the Oregon Land Conservation and Development Commission's Statewide Planning Goals 2 and 6.

Goal 2 (Land Use Planning) requires actions of the City to be coordinated with DEQ rules and programs. The City's planning staff participated in the development of the PDX Noise Abatement Plan and was fully aware of its requirement to place residential development restrictions on non-residentially zoned land within the impacted areas. However, planning staff failed in its recommendations to the Planning Commission to adequately portray the need and requirement to place proper zoning restrictions within the noise impacted area.

Goal 6 (Air, Water and Land Resources Quality) requires the City to assure that future development will not threaten to violate State environmental quality statutes, rules and standards. Planning guidelines of Goal 6

recommend buffer and separation between conflicting uses, such as excessive aircraft noise zones and noise sensitive residential development. Goal 6 implementation guidelines recommend programs that manage land development in a manner that provides for a quality environment that is consistent with State environmental quality statutes, rules, standards and implementation plans. The City is therefore responsible to develop an adequate implementation process, via the Noise Overlay Zone ordinance, to ensure the conflicts between aircraft noise and residential uses are resolved in a manner consistent with DEQ rules and the EQC order on the PDX Noise Abatement Plan.

### Sewers

The representative for several land owners claimed at the October 10, 1985 hearing that existing sewers in the C2 zoned area between the 1977 Ldn 68 and the 1983 Ldn 65 contours are adequate to serve high density residential development. City of Portland Department of Environmental Services, on October 10, 1985, informed DEQ that these sewers were planned and sized to accommodate flows from commercial development. Alternatively, the existing sewer lines could accommodate approximately 500 people in residential development. We therefore believe high density residential development in this area is not compatible with the existing capacity of the sewer system.

### Insulation Requirements

The sound insulation requirements of the Noise Overlay Zone will provide only minimal protection of interior residential activities such as sleep and communication. The ordinance requires insulation to provide an average interior noise level of Ldn 45 decibels. As the Ldn noise descriptor is a yearly average of all noise, including quiet periods and noisy aircraft overflights, it does not ensure the interior of the home is 45 decibels at all times. Many commercial aircraft on departure from PDX will produce in excess of 90 decibels as measured at the Ldn 65 noise contour in the Bridgeton-Faloma area. Insulation required at this area would reduce exterior noise by 20 decibels (Ldn 65 minus Ldn 45 equals 20 decibels). Thus, an overflight measuring 90 decibels outside, will produce 70 decibels interior when all windows and doors of the home are closed. This level of interior noise exposure is in excess of DEQ criteria to protect the public from health effects and annoyance from noise. DEQ standards for stationary noise sources are designed to limit interior residential noise to a maximum level of 65 decibels during the day and 50 decibels at nighttime (10 p.m. - 7 a.m.) when windows are open, and 55 and 40 decibels, respectively, when windows and doors are closed. We believe that DEQ criteria will protect the range of sensitivities of the public from the adverse impacts of noise. Therefore, without significant improvements in the insulation criteria, DEQ does not accept this measure as adequate mitigation to warrant residential development in this area of aircraft noise exposure.

In addition to the impact of noise on interior activities, exterior noise levels in this area will preclude rightful enjoyment of many outdoor activities. During aircraft overflights, most communication activities

will be disrupted. Such disruptions also result in annoyance and stress. Patios and common areas in any multifamily developments within the Ldn 65 contour will not be suitable for normal activities and enjoyment.

#### Disclosure

The proposed ordinance would require disclosure to those constructing new homes within the 1983 Ldn 65 contour that the area is impacted by aircraft noise. However, renters of apartments and homes would not be provided disclosure as only the applicant for the building permit, most often the builder, would sign the disclosure. Although the disclosure would be filed with County Records, DEQ believes such disclosure has very limited mitigation benefit and thus provides no justification to allow high density residential development within the commercial zones of the impacted area. As most residents of high density housing are renters and condominium owners, it is unlikely they would receive disclosure of noise impacts. Naturally, the cost to owners and renters is significant to relocate to compatible housing after it is discovered that the level of noise exposure precludes full enjoyment of the home and its amenities.

#### Potential Densities

The Portland Planning Bureau conducted an analysis of potential development on the Commercial, C2, zoned land located between the 1977 Ldn 68 and 1983 Ldn 65 contours. When the analysis assumes the C2 zoned land will be developed at residential R1 density, it was estimated that the number of housing units could range from 3,786 to 4,655 residences. The City also estimated that the potential population in this area could range from 9,086 to as many as 11,172 people. It should be noted that the current estimate of the number of people residing within the Ldn 65 PDX noise contour is 2,600 people. Therefore, full development of the C2 property at R1 residential density could increase by four-fold the current number of residents exposed.

#### Hayden Island Noise Conflicts

On August 30, 1985 the Environmental Quality Commission received a petition signed by 255 residents objecting to excessive aircraft noise generated by westerly departures from Portland International Airport. The petitioners represent the populated areas of Hayden Island, the Columbia Slough and areas of Portland adjacent to the Slough. Examination of noise contour maps show much of this area is subjected to noise levels of between Ldn 65 and 70. Unfortunately, there is very little the EQC can do to further reduce aircraft noise impacts in this area to satisfy the demands of the petitioners.

DEQ also believes many of the existing homes in the area represented by the petitioners are presently insulated to meet the current Interior Ldn 45 criteria contained in the Noise Overlay Zone ordinance. A study conducted by DEQ staff at a Hayden Island condominium constructed in 1973 found this home met the Ldn 45 decibel criterion for sound insulation. As most homes

on Hayden Island have similar constructions, DEQ maintains that the interior sound insulation criteria will not achieve compatibility for homes in high noise impact zones. DEQ does concur that some mobile homes and houseboats currently located in this noise impacted area may not meet the interior criteria. However, our conclusion remains consistent in that residential uses are not compatible within areas exposed to noise levels exceeding Ldn 65 decibels.

AS1881

## EAST COLUMBIA NEIGHBORHOOD ASSOC.

C/O Martha Johnston  
9509 N.E. 13th  
Portland, OR 97211  
November, 27, 1985

Dear Mayor Clark & Members of Council:

The East Columbia Neighborhood Association has participated in recent discussions with the Bureau of Planning and the Port of Portland on revisions to the City of Portland Noise Overlay Zone. We appreciate the time and energy represented by the final "compromise" proposal and wish to offer our support.

We are relieved that property can finally be developed to densities allowed in the Comprehensive Plan without objections from the Port. However, we still question the noise easement which waives property owners' right to action against the Port for noise related problems. We feel the concept hasn't been adequately tested and there appears to be no clear direction from the courts as to its validity. We also feel the level of compensation - in which the Port will assume the cost of an accoustical engineer to review future building plans - is at best minimal.

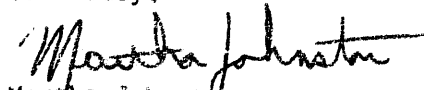
In our opinion, the Port is getting the best of the deal on this "compromise" revision, but since we don't wish to jeopardize our right to develop the residentially zoned land in question, we are willing to accept the compromise.

At present, we have not seen a draft of the Port Resolution supporting this compromise. We would like to review this before final Council approval of this Ordinance.

We further wish to note and urge the City Council to consider investing in noise monitoring equipment so that a property owner having a question about compliance with established Ldn contours can approach someone other than the Port to test noise levels. It is now impossible for either the City or the State to monitor noise levels independently and we have no data to document noise levels other than that supplied by the Port.

Thank you for your consideration.

Sincerely,

  
Martha Johnston  
Chairperson



## ADDITION TO COMPREHENSIVE PLAN POLICIES

## Policy 8.16 Portland International Airport Noise Impact Area

Ensure compatible land use designations and development within the noise impacted area of the Portland International Airport while providing public notice of the level of aircraft noise and mitigating the potential impact of that noise within the area.

## Objectives:

1. Promote land use compatibility within the noise impact area by prohibiting new residential development in areas within the 1977 Ldn 68 or higher noise contour and by limiting the maximum residential zoning and Comprehensive Plan Map designations to R10 in R-designated areas and R1 in C-zoned areas located between the 1983 Ldn 65 and the 1977 Ldn 68 noise contours.
2. Minimize the potential impact of aircraft noise on those living and working within the noise impact area by requiring sound insulation to achieve a day/night average interior noise level of 45 dBA for most structures.
3. Provide documentation of the level of aircraft noise to developers of residential property within the noise impact area and require their acknowledgment and acceptance of that level of aircraft noise through the completion of a noise disclosure statement and the dedication of a noise easement to the Port of Portland prior to construction.

(Policy 8.16 Aggregate Resources) \*\*\* (renumber to Policy 8.17)

(Policy 8.17 Aggregate Mining Impacts) \*\*\* (renumber to Policy 8.18)

(Policy 8.18 Reclamation of Aggregate Sites) \*\*\* (renumber to Policy 8.19)

CHAPTER 33.640  
PORTLAND INTERNATIONAL AIRPORT  
NOISE IMPACT ZONE

- 33.640.010 Purpose
- 33.640.020 Short Name
- 33.640.030 Application of the N Zone
- 33.640.040 Regulations
- 33.640.050 Determinations and Appeal
- 33.640.060 Review and Modification

33.640.010 PURPOSE

This chapter establishes supplemental development regulations for the noise impacted area in the vicinity of the Portland International Airport in order to ensure compatible land use designations and development within the area, to provide public notice of the level of aircraft noise, and to mitigate the potential impact of that noise within the area.

33.640.020 SHORT NAME

The Portland International Airport Noise Impact Zone shall also be called the PDX Noise Zone.

33.640.030 APPLICATION OF THE PDX NOISE ZONE

A. PDX Noise Zone Boundary and Contour Locations

The boundary of the PDX Noise Zone shall coincide with the location of the 1983 Ldn 65 noise contour as established by the 1983 Portland International Airport Noise Abatement Plan. Where a noise contour is referenced as a determinant of the PDX Noise Zone regulations, the 1983 noise contours shall be used except where the 1977 Ldn 68 noise contour is specifically referenced in the regulation.

B. PDX Noise Zone Maps

1. The PDX Noise Zone Maps establish the boundaries of the PDX Noise Zone and the location of the noise contours within that zone. The PDX Noise Zone Maps shall consist of quarter-section "Official Zoning Maps" superimposed with the location of the 1983 Ldn 65 noise contour boundary, the location of each successively higher 1983 Ldn noise contour at a one Ldn increment, and the location of the 1977 Ldn 68 noise contour.
2. All 1983 noise contour locations shall be those established by the 1983 Portland International Airport Noise Abatement Plan. the 1977 Ldn 68 noise contour location shall be that established by the Port of Portland.

### C. Newly Annexed Areas

The PDX Noise Zone shall be applied to areas annexed to the City which are located within the 1983 Ldn 65 or higher noise contour as part of the annexation rezoning of the areas.

### 33.640.040 REGULATIONS

#### A. Prohibition on New Residential Uses

The development of all new residential uses, including single family and multi-family dwellings, manufactured housing, mobile homes, houseboats, and residential institutions shall be prohibited within the 1977 Ldn 68 or higher noise contour except where such uses are located in any area zoned or designated on the Comprehensive Plan Map as R10, R20, FF, or County Residential as of January 1, 1981.

#### B. Restriction on Density of New Residential Uses

1. For property located between the 1983 Ldn 65 and the 1977 Ldn 68 noise contours, the maximum residential zoning permitted in areas currently designated R and Comprehensive Plan Map designations shall be R10.
2. For property located between the 1983 Ldn 65 and the 1977 Ldn 68 noise contours, the maximum density of residential uses permitted in areas currently zoned C shall be R1.

#### C. Noise Insulation

1. All new, replacement, or reconstructed structures within the Noise Impact Zone shall be constructed with sound insulation or other means to achieve a day/night average interior noise level of 45 dBA except where such structures are used for manufacturing and production or warehouse and distribution uses as specified in 33.111 or for non-residential agricultural uses. For purposes of this section, reconstruction is defined to mean construction having a cost exceeding 75 percent of the preconstruction value as determined by the true cash value of improvements given in the current County assessment roll.
2. An Oregon registered engineer knowledgeable in acoustical engineering shall certify that the building plans comply with the performance standard for sound insulation prior to issuance of a building permit.
3. The City, in consultation with the Department of Environmental Quality and the Port of Portland, shall provide a list of at least three registered engineers knowledgeable in acoustical engineering. At the property owner's request, the Port of Portland shall be responsible for the certification of compliance with the performance standard for sound insulation, at no cost to the property owner, when the certification is performed by an engineer on the City list. The property owner shall also have the option to retain any registered engineer knowledgeable in acoustical engineering, at the property owner's expense.

#### D. Noise Disclosure Statement

Prior to the issuance of a building permit for new residential construction within the 1983 Ldn 65 or higher noise contour, the property owner shall sign a noise disclosure statement, on forms provided by the City, acknowledging that the property is located within the 1983 Ldn noise contour shown on the PDX Noise Zone Maps, which shall be recorded in the appropriate County records.

#### E. Noise Easement

Prior to the issuance of a building permit for new residential construction or reconstruction as defined in C. above within the PDX Noise Zone, the property owner shall dedicate a noise easement to the Port of Portland, on forms provided by the City, authorizing aircraft noise impact over the grantor's property at levels established by the 1983 Ldn noise contour. Any increase of Ldn noise level above that stated on the easement will not void nor be protected by such easement.

### 33.640.050 DETERMINATIONS AND APPEAL

#### A. Determinations

1. The Bureau of Planning will be responsible for determining whether property is within the PDX Noise Zone and the specific Ldn noise contour within which the property is located.
2. For those lots or parcels partially within the 1977 Ldn 68 noise contour and subject to the regulations of 33.640.040 A. and B., the building site shall be determined by scale from the PDX Noise Zone Maps. If a residential building site remains outside the 1977 Ldn 68 noise contour, including required side and rear yards, a residential building permit may be issued on the property located outside the 1977 Ldn 68 noise contour.
3. The quarter-section PDX Noise Zone Maps shall be used as the reference maps for such determinations.

#### B. Appeal

Any property owner within the PDX Noise Zone may appeal to the Planning Director the location of the noise contour lines shown on the PDX Noise Zone Maps as it applies to their property. The burden is on the applicant to demonstrate that the noise contour line displayed on the maps does not conform with the location of the 1983 Ldn noise contours as established by the PIA Noise Abatement Plan and, where applicable, the 1977 Ldn 68 noise contour. If such demonstration is made, the Director shall authorize the revision of the PDX Noise Zone Maps. A decision by the Director is appealable to the Planning Commission.

## 33.640.060 REVIEW AND MODIFICATION

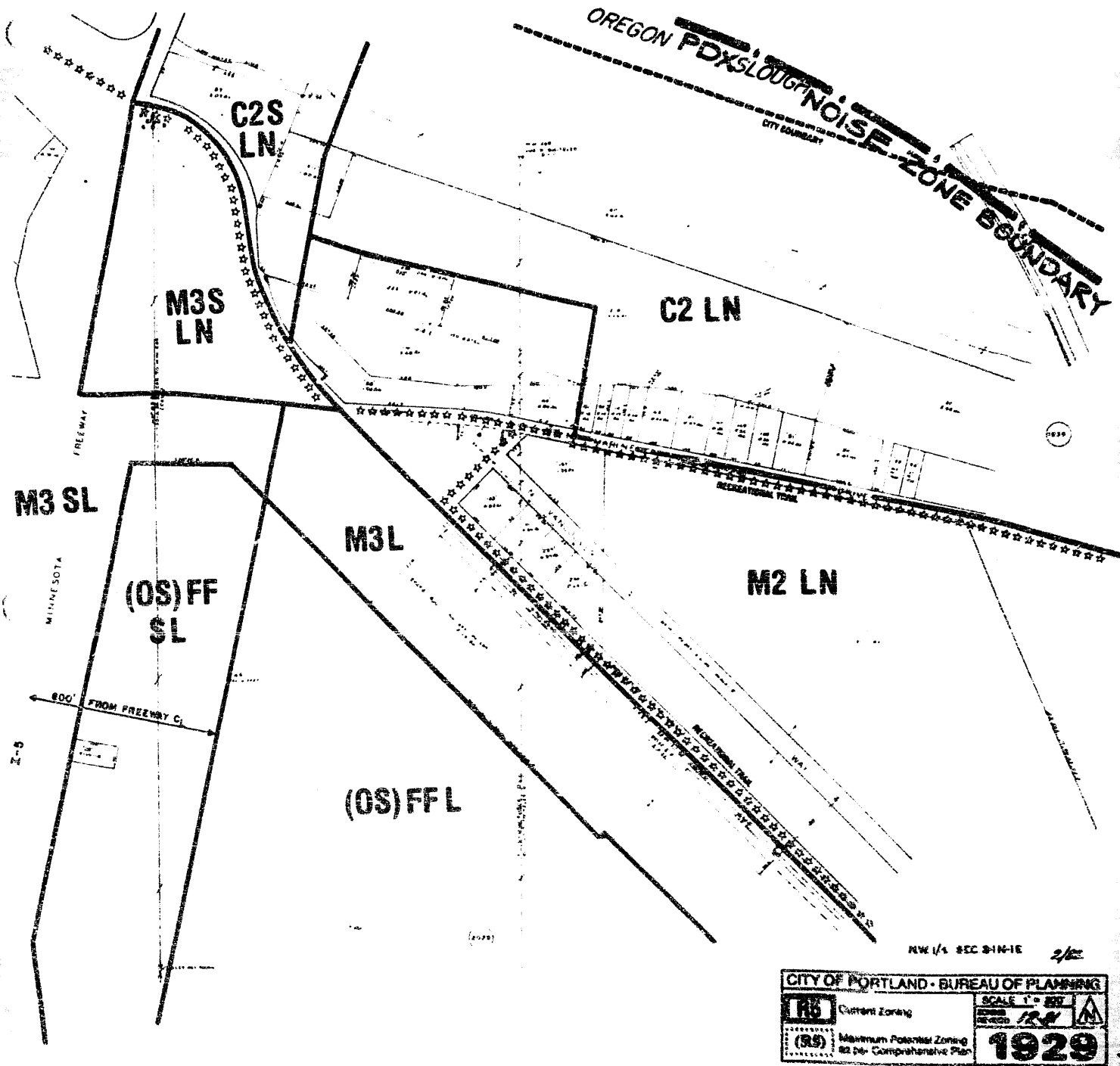
## A. Review Required

The location of the Ldn noise contour lines and other provisions of this chapter shall not be subject to amendment for a period of five years from the date of their adoption. At the conclusion of that period, there shall be a review and hearing by the Planning Commission on the location of the PDX Noise Zone based on examination of the most current and projected future Ldn 65 noise contours provided by the Port of Portland. The review shall be initiated no later than September 30, 1990.

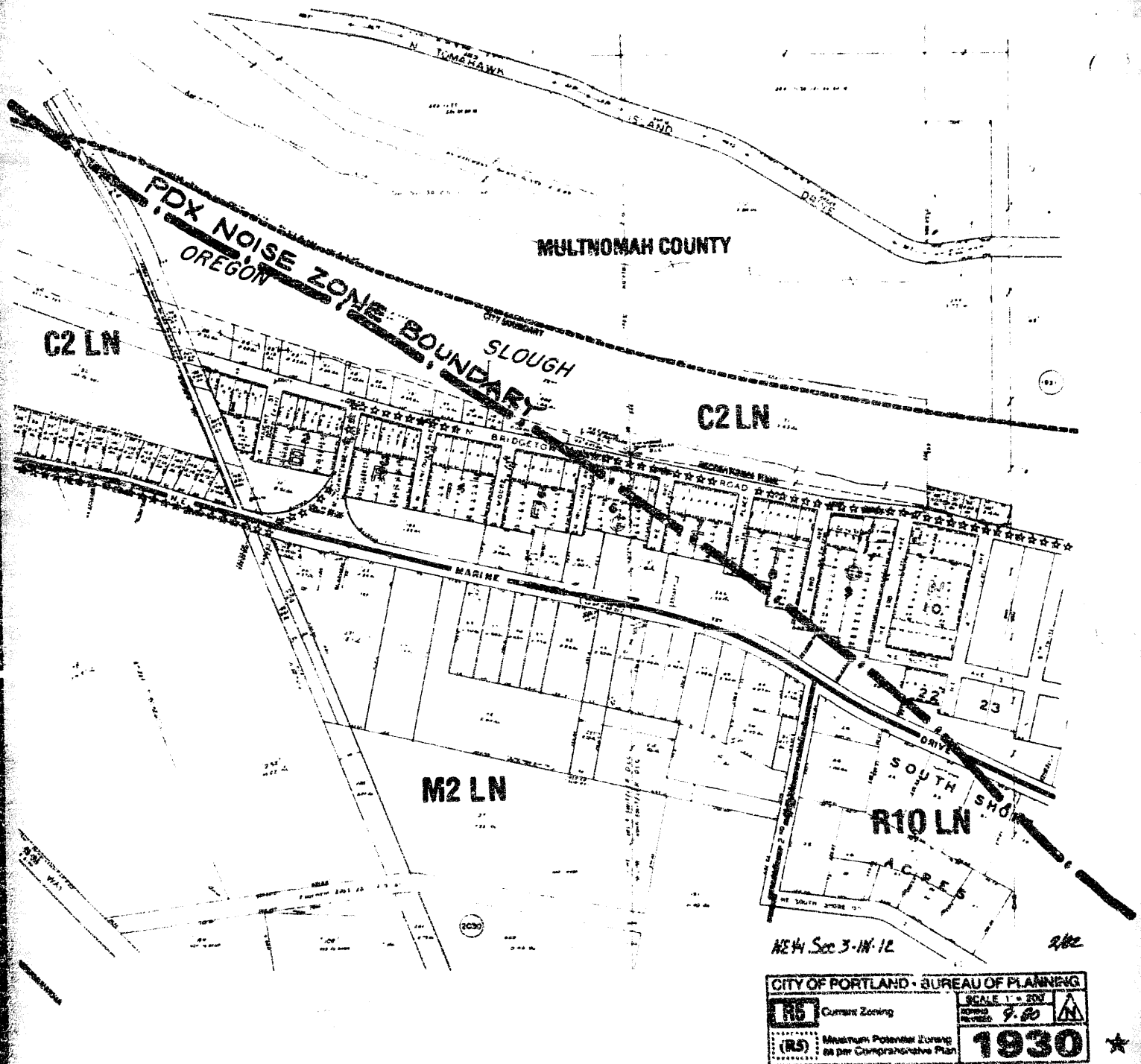
## B. Notification

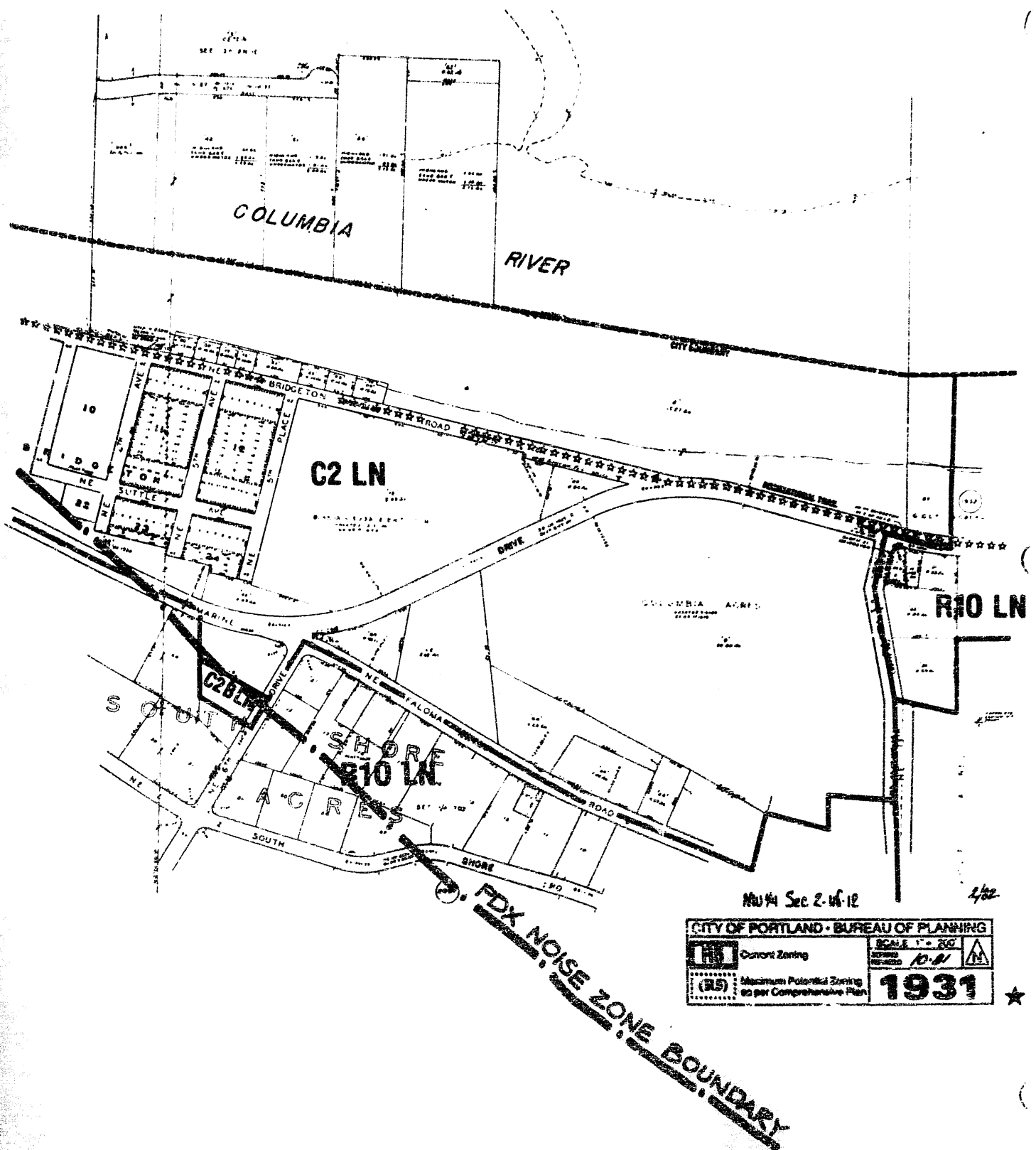
There shall be mailed notice to all affected property owners prior to the Planning Commission hearing regarding any proposed amendment to this chapter.

JWC:mh  
11-15-85  
061

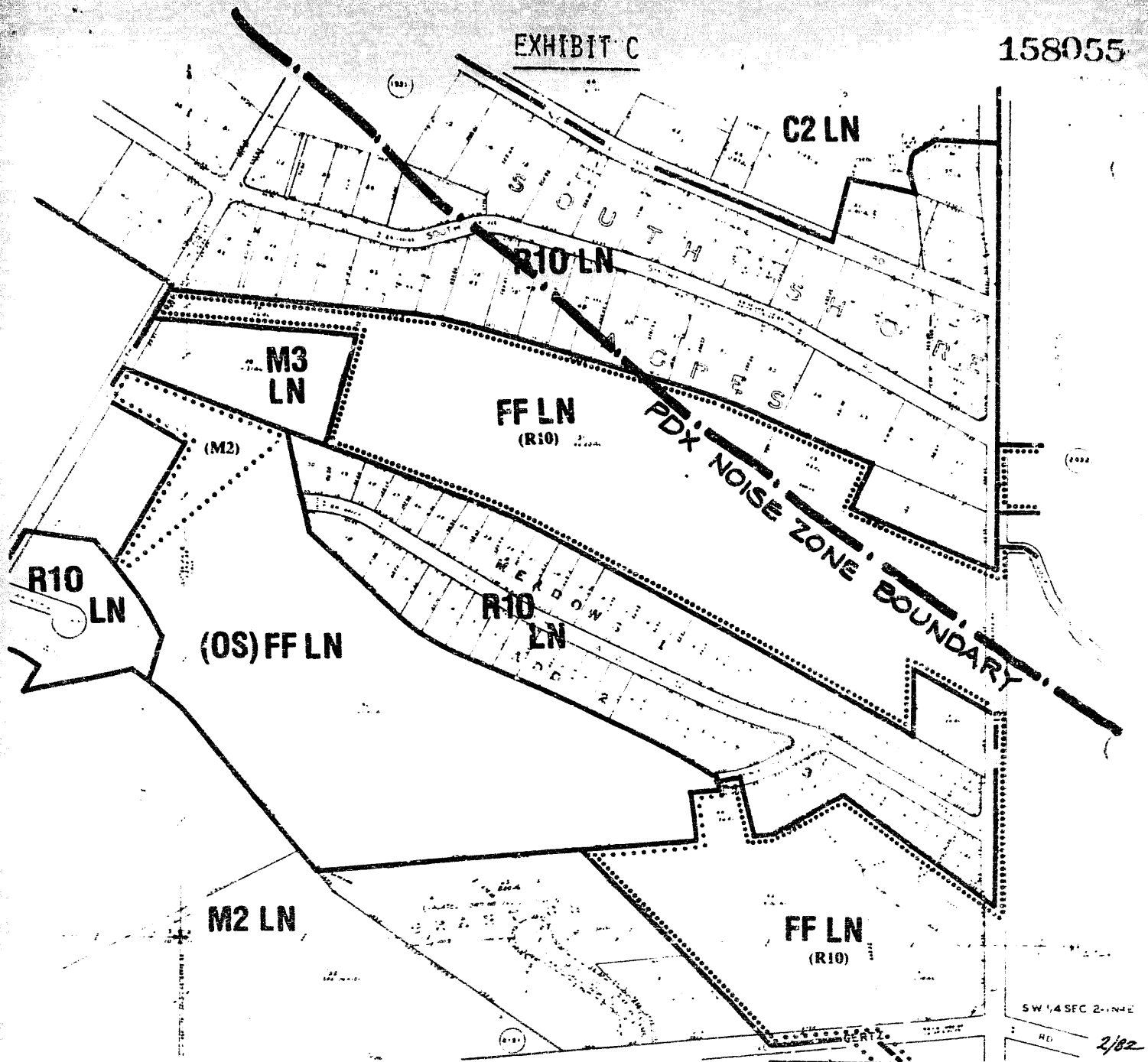


CITY OF PORTLAND - BUREAU OF PLANNING	
<b>R5</b>	Current Zoning
<b>(OS)</b>	Maximum Potential Zoning as per Comprehensive Plan
SCALE 1" = 800' 1929	





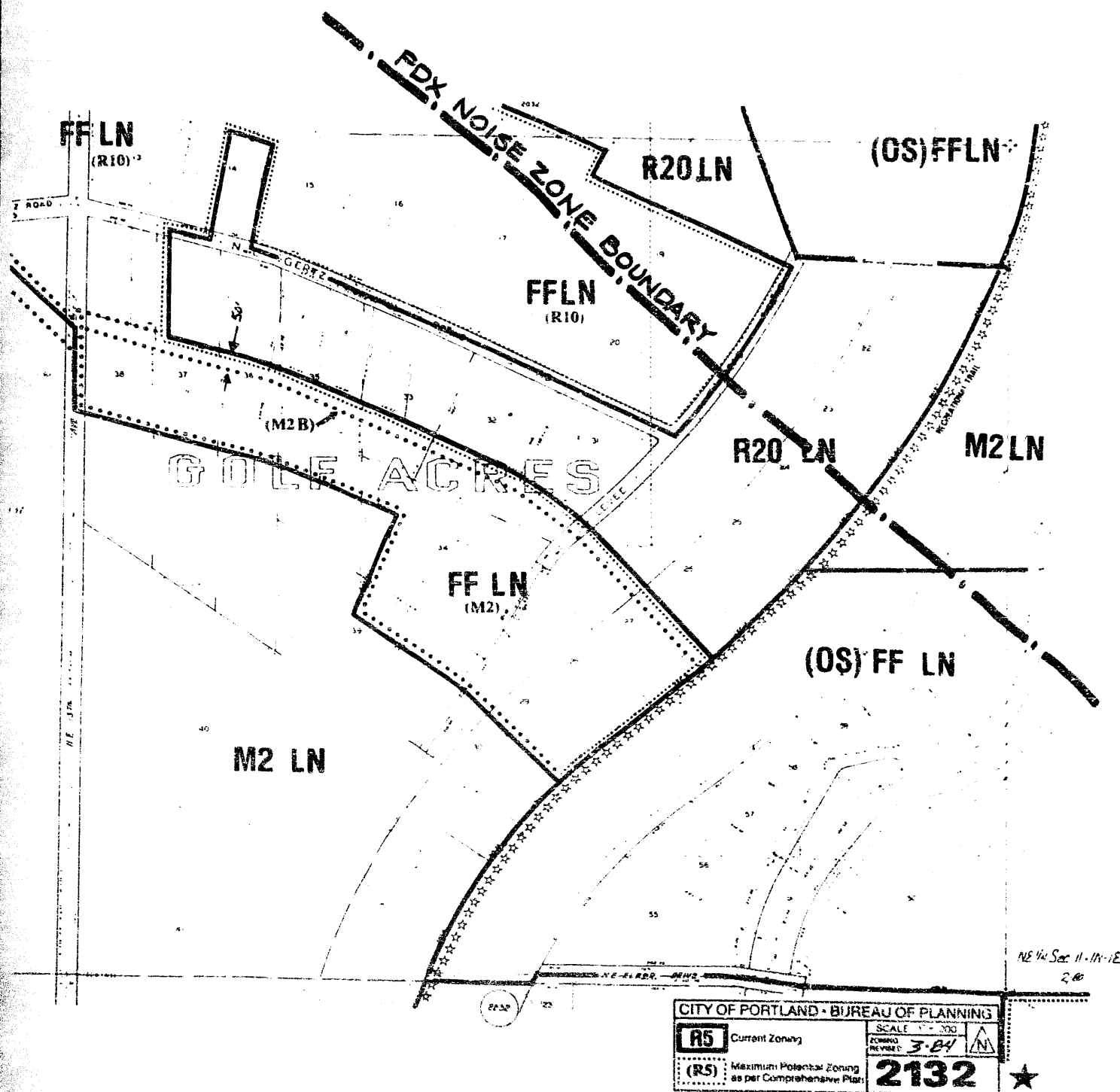


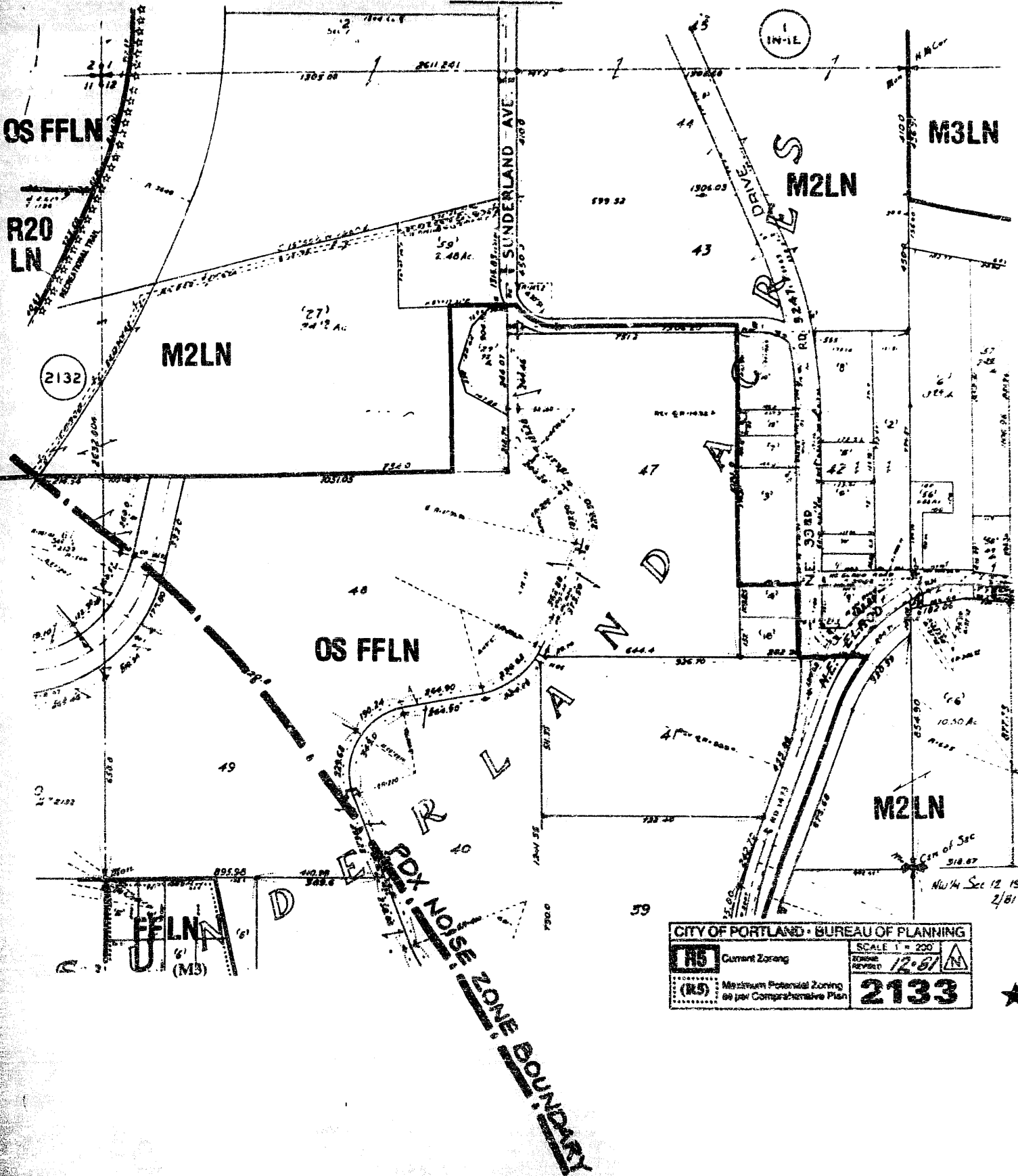


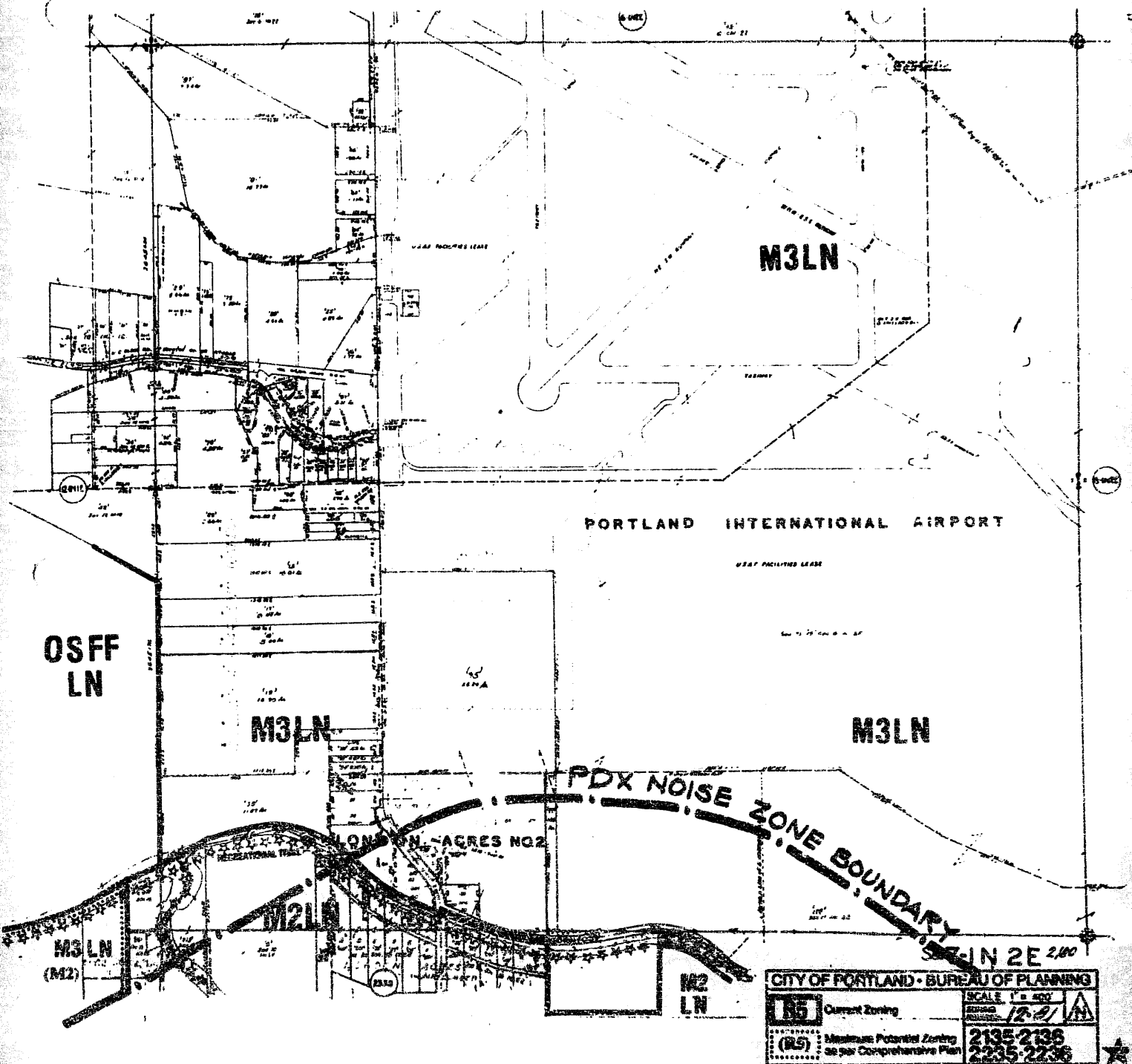
CITY OF PORTLAND • BUREAU OF PLANNING	
<div style="border: 1px solid black; padding: 2px;"> <b>R5</b> Current Zoning         </div> <div style="border: 1px solid black; padding: 2px;"> <b>(R5)</b> Maximum Potential Zoning as per Comprehensive Plan         </div>	<div style="border: 1px solid black; padding: 2px;">           SCALE 1" = 200'            3-84  <b>2031</b> </div>

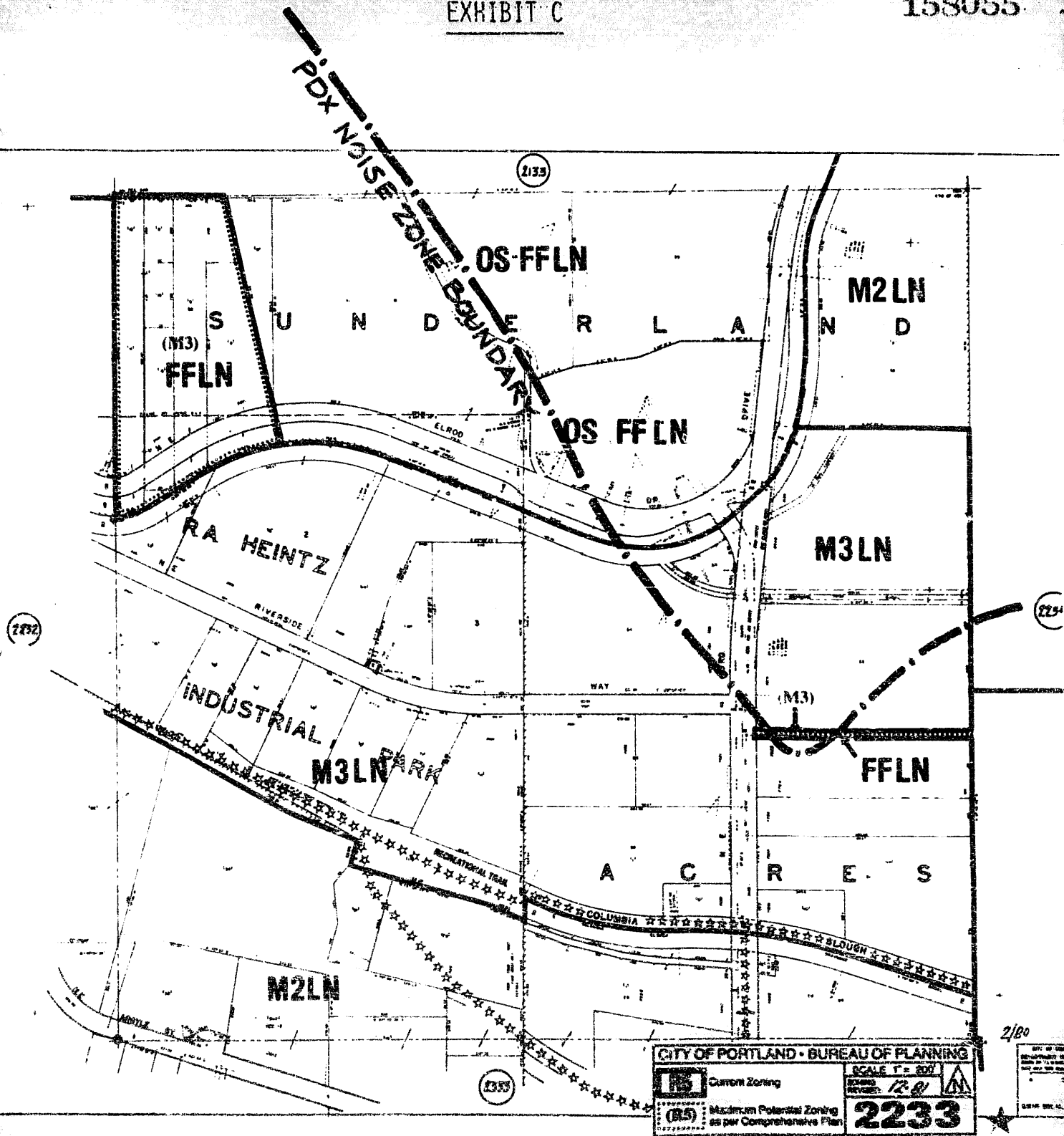






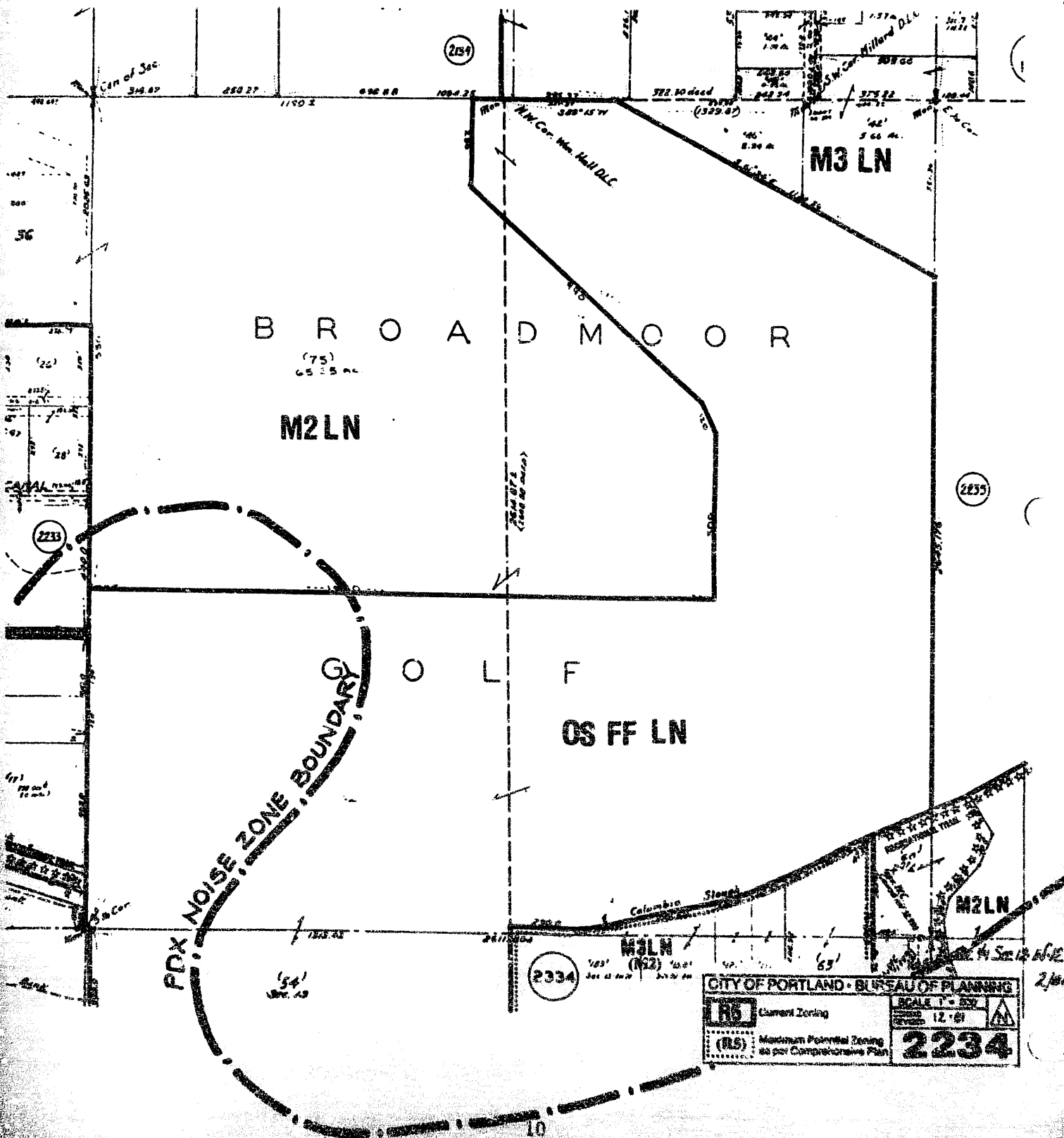


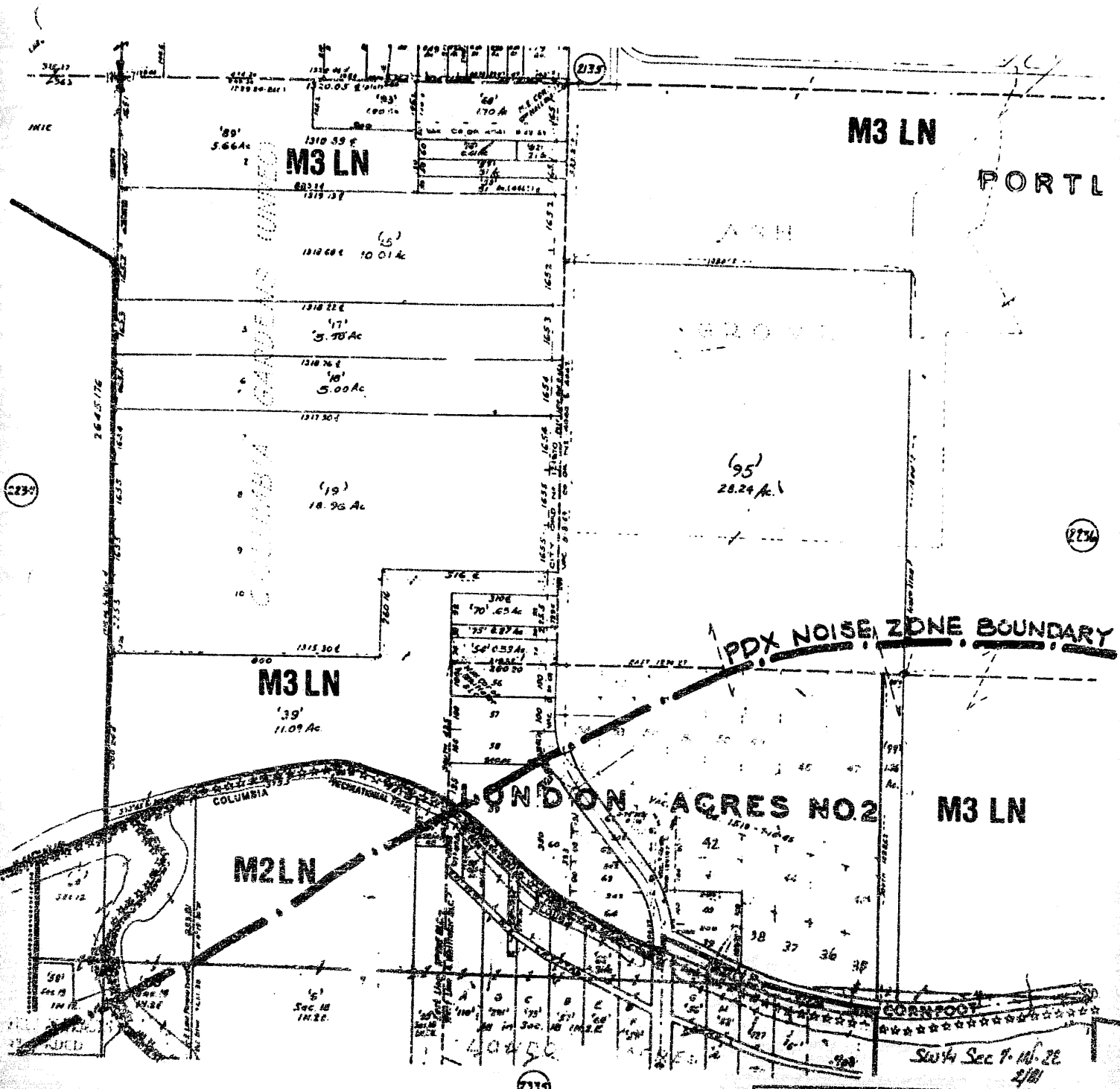




CITY OF PORTLAND • BUREAU OF PLANNING	
<div style="border: 1px solid black; padding: 2px;"> </div> <p>Current Zoning</p>	<div style="border: 1px solid black; padding: 2px;"> </div> <p>Maximum Potential Zoning as per Comprehensive Plan</p>
<p><b>2233</b></p>	

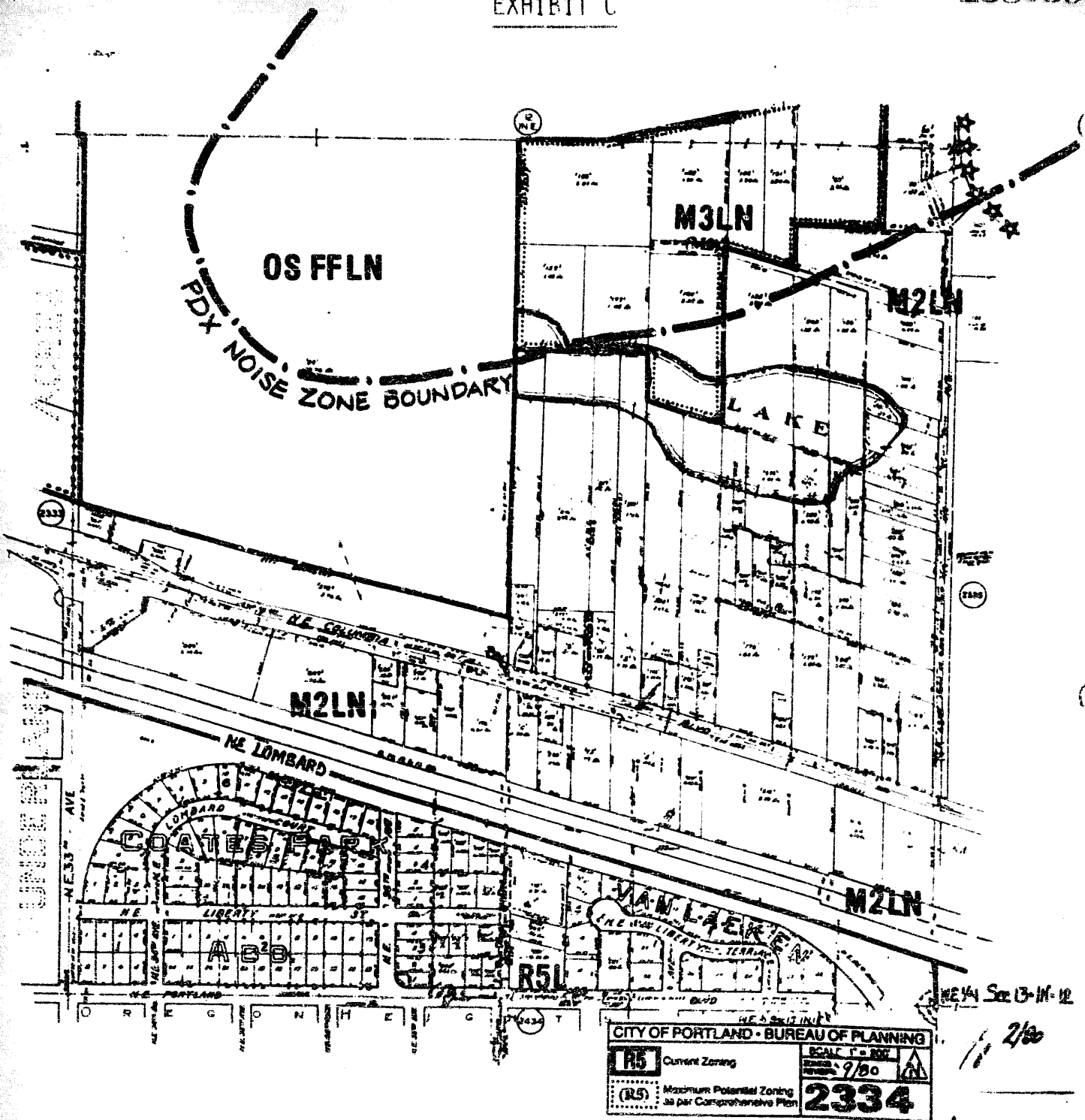
SW 14 SW 12 N. R. 1 E



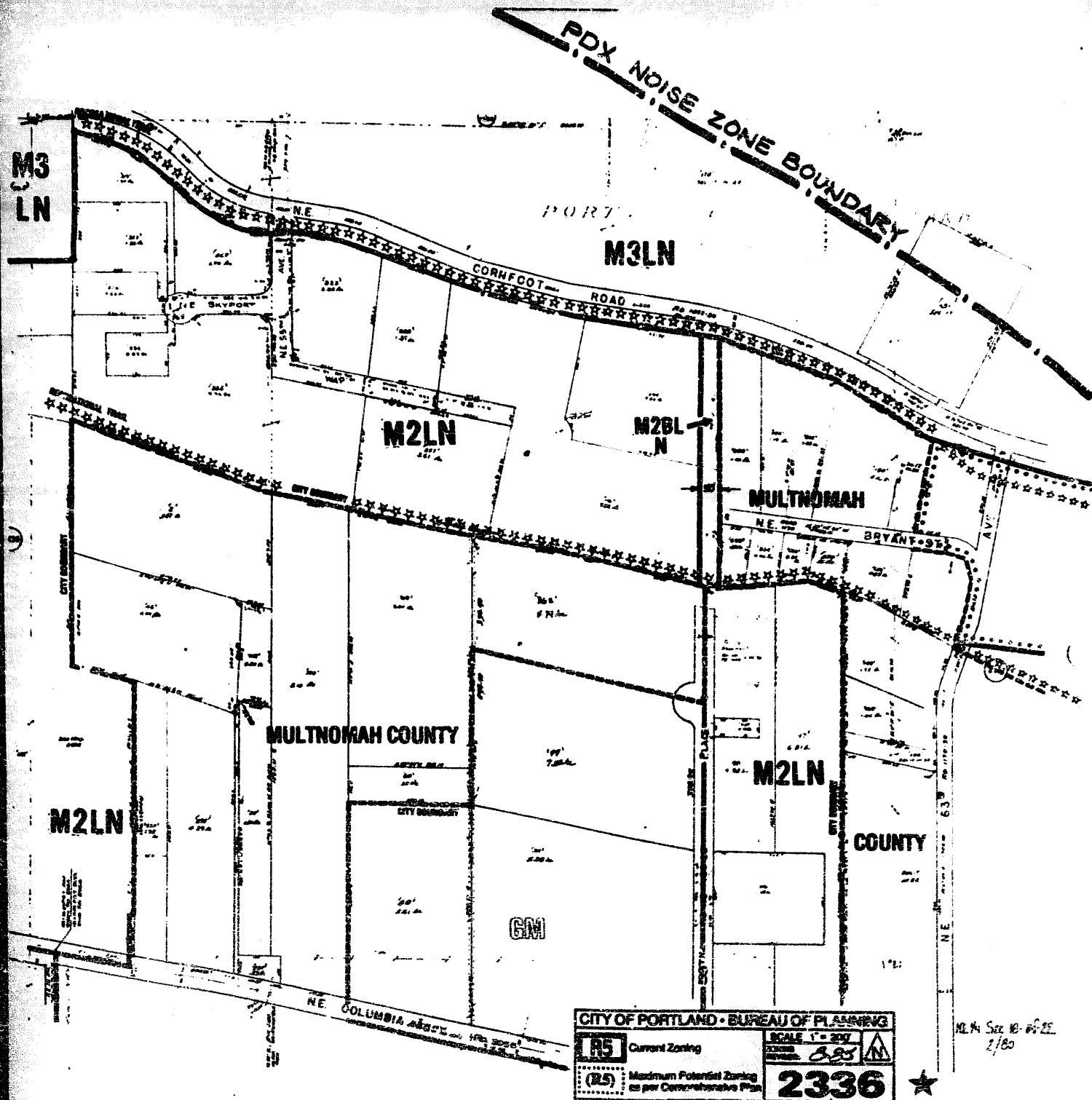


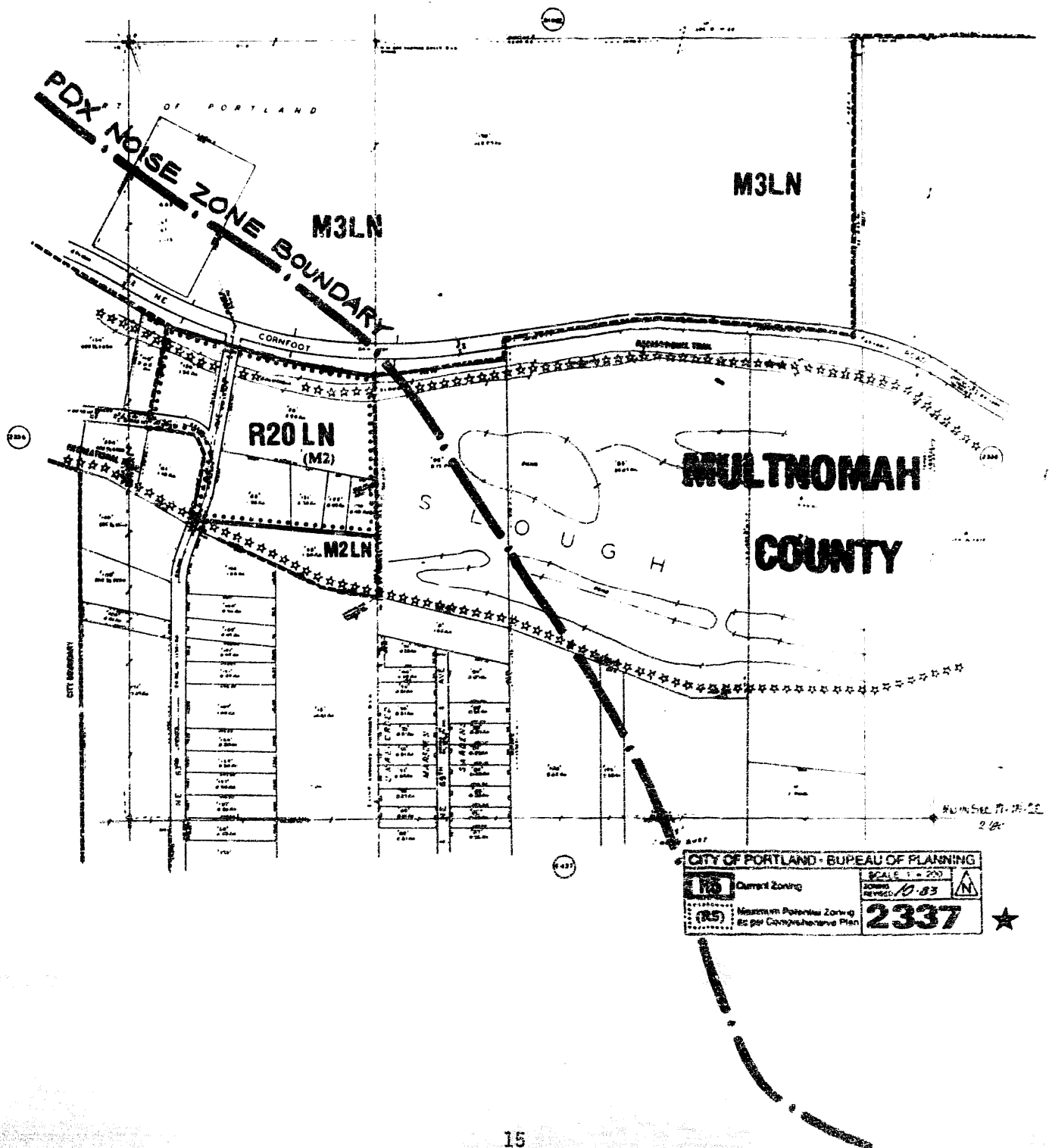
CITY OF PORTLAND - BUREAU OF PLANNING	
<b>R5</b> Current Zoning	SCALE 1" = 300'
<b>(R5)</b> Minimum Potential Zoning as per Comprehensive Plan	ADOPTED 12-1-61
	<b>2235</b>

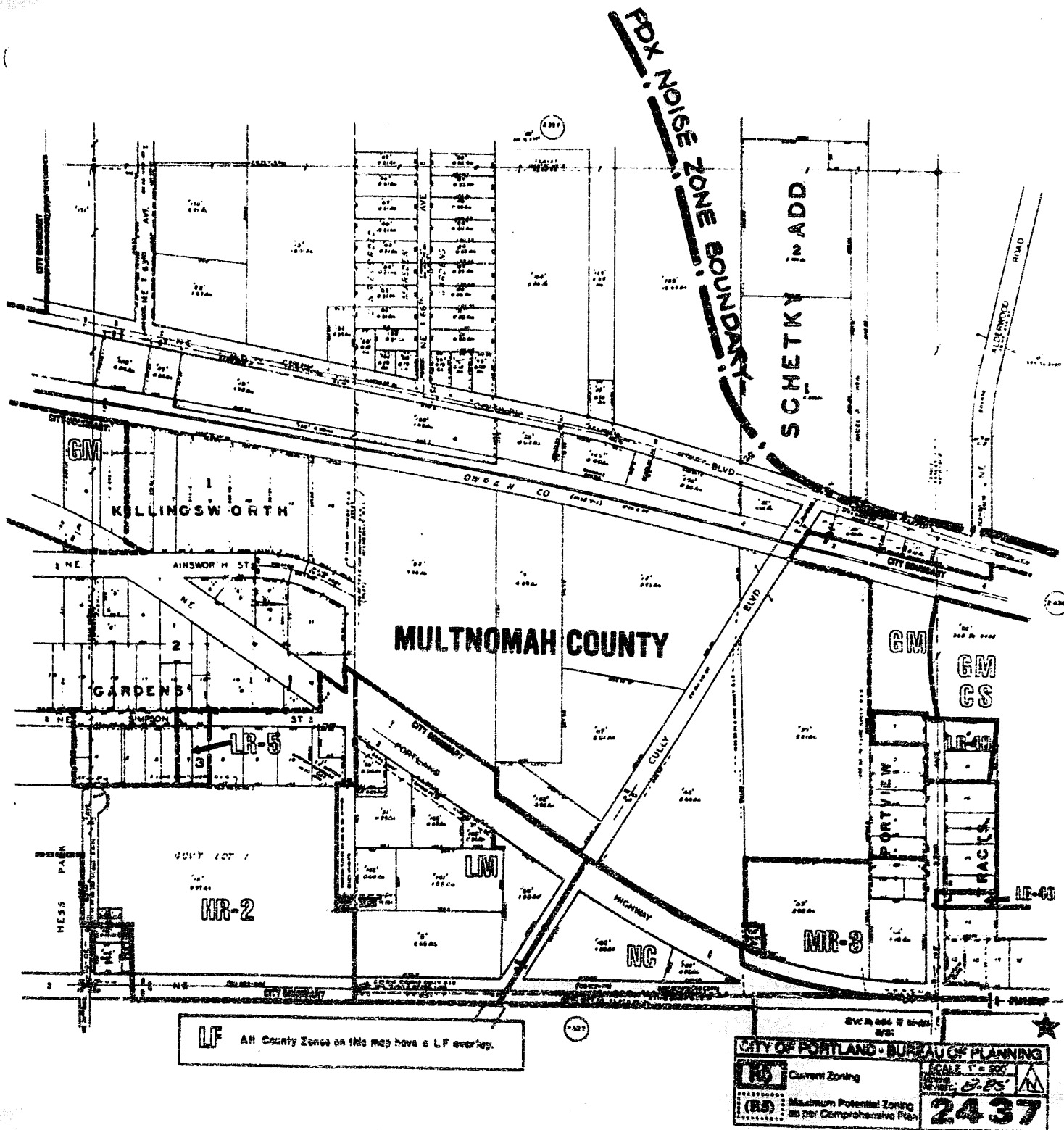


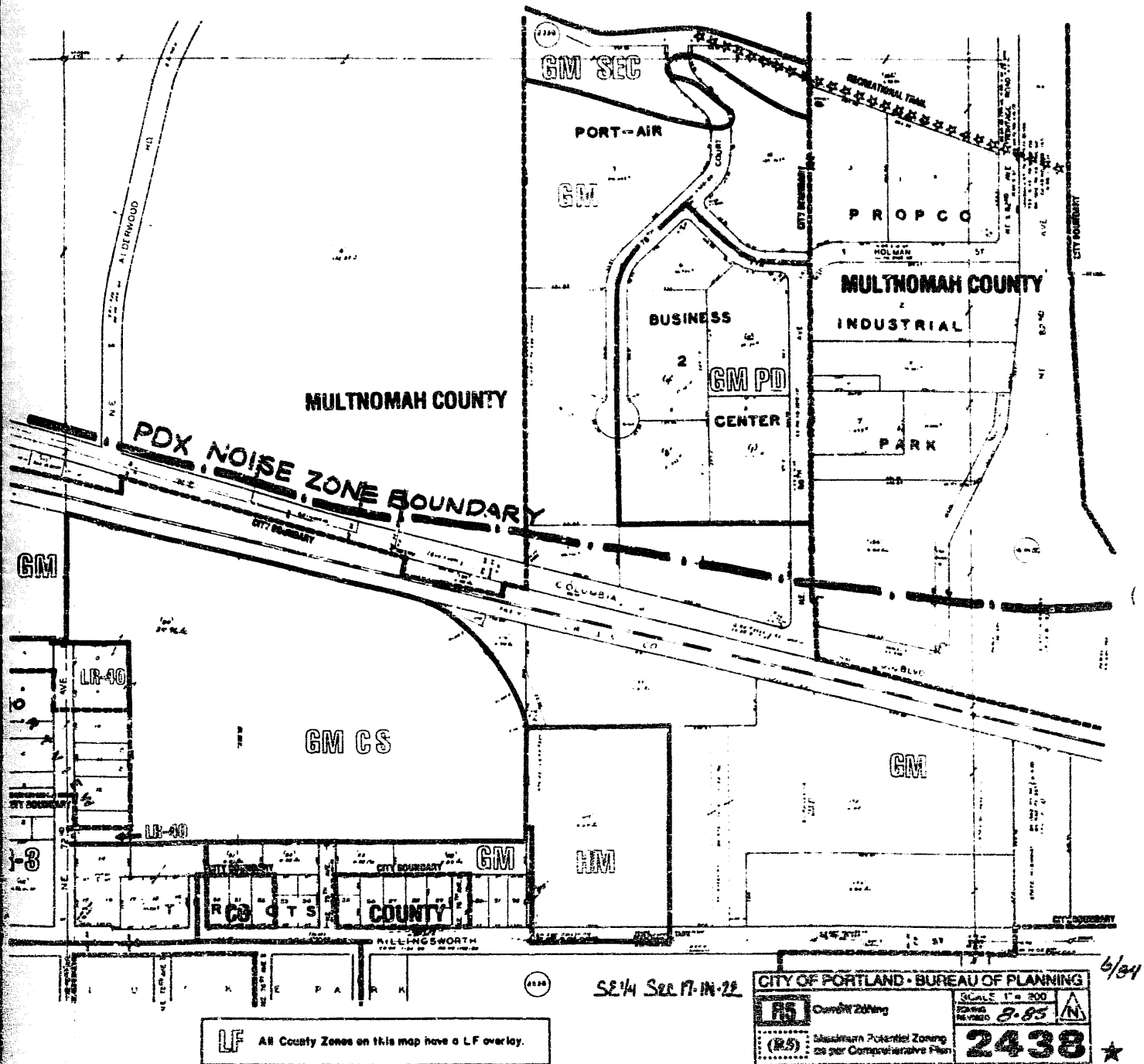


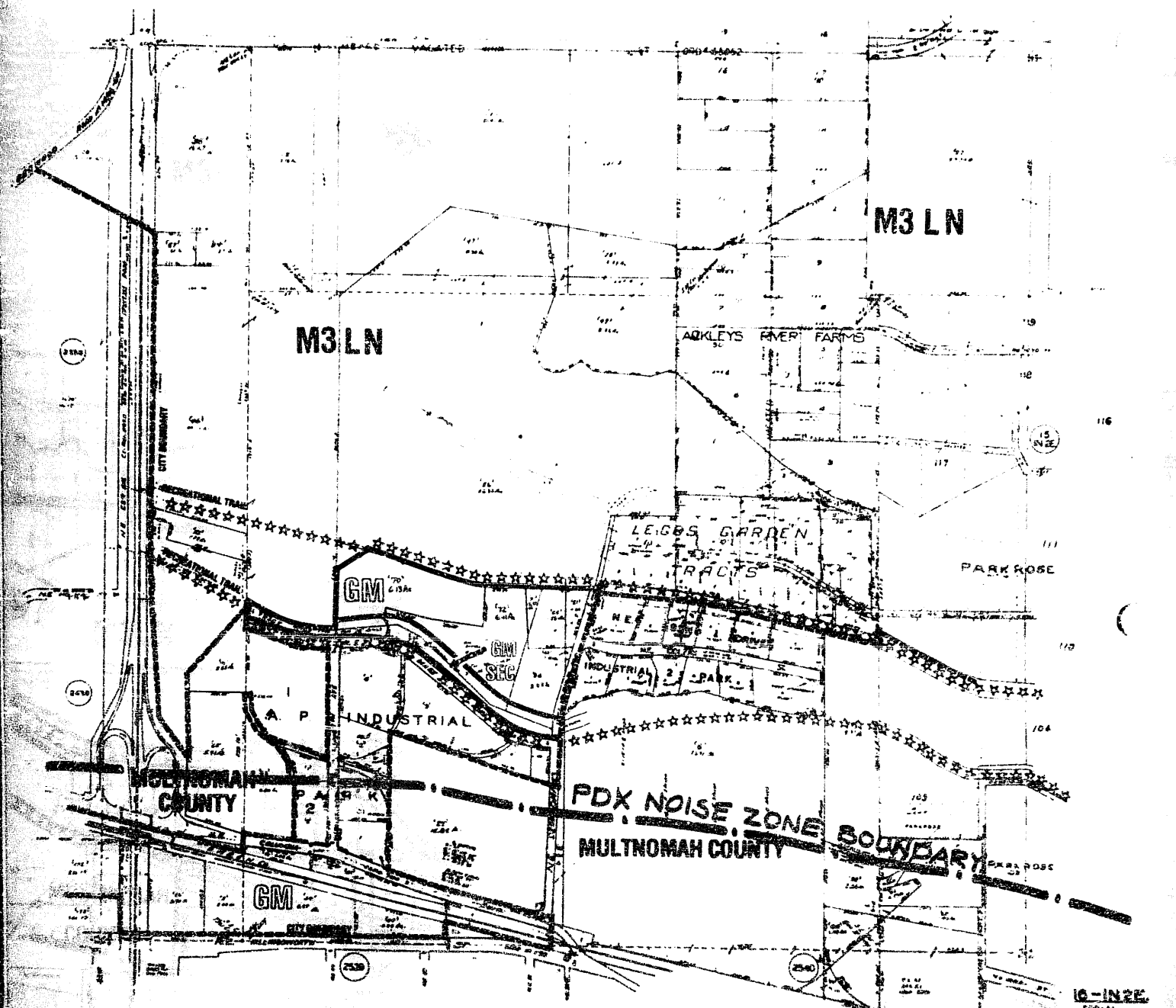












CITY OF PORTLAND • BUREAU OF PLANNING	
<b>R5</b> Current Zoning	SCALE 1" = 200'
<b>(R5)</b> Maximum Potential Zoning as per Comprehensive Plan	2339-2340 2439-2440

10-122E  
10/84

NOISE DISCLOSURE STATEMENT

Chapter 33.640 states that, as a condition for issuance of a building permit for new residential construction or reconstruction within the 1983 Ldn 65 noise contour as set forth in the Portland International Airport Noise Abatement Plan, the applicant shall sign and record a Noise Disclosure Statement in the following form:

Disclosure Statement

The tract of land is situated at [address], and is more particularly described below:

\_\_\_\_\_  
[legal description]  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The property lies within the PDX Noise Zone as depicted on the official zoning map for the City of Portland. The owner of such land and any potential purchaser are hereby notified that this land may be subject to noise impact resulting from aircraft on the approach and departure routes to and from Portland International Airport and is subject to noise levels that may be considered objectionable. By recording this document in the Book of Multnomah County Records, all future purchasers are hereby notified that this above described parcel is within the City of Portland PDX Noise Zone.



This noise disclosure in no way inhibits the property owner from developing his/her property in a manner consistent with the City of Portland Comprehensive Plan, and specifically for residential use where such use is permitted by the Comprehensive Plan and implementing ordinances.

The undersigned owner(s) of said land hereby certify(ies) that (he/she/they) (has/have) read and understand(s) the above disclosure statement and acknowledge(s) the pre-existence of the above-named airport and the potential for noise impact.

\_\_\_\_\_  
(Signed) Owner

STATE OF OREGON            )  
                                  ) ss.  
County of Multnomah    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 198\_\_,  
before me personally appeared \_\_\_\_\_  
who being duly sworn, did say that he/she has read the  
Disclosure Statement, fully understands the content of the  
Statement, and that the signing of this instrument is a  
voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand  
and affixed my official seal the day and year first in this  
certificate written.

\_\_\_\_\_  
Notary Public for Oregon  
My commission expires: \_\_\_\_\_

AIRCRAFT NOISE EASEMENT

THIS AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, between \_\_\_\_\_, hereinafter referred to as "Grantor," and THE PORT OF PORTLAND, a municipal corporation of the State of Oregon, hereinafter referred to as "Grantee,"

1. For the consideration listed in Paragraph 2, below, the receipt and sufficiency of which is hereby acknowledged, the Grantor does hereby grant to the Grantee, its successors and assigns, to have and to hold a perpetual easement for aircraft noise impact at the \_\_\_\_\_ Ldn noise level as established by the official 1983 Ldn contour map on file with the City of Portland, and as set forth in the Portland International Airport Noise Abatement Plan, until Portland International Airport shall be abandoned or shall cease to be used for public airport purposes, over the following described parcel of land situated in the County of Multnomah, State of Oregon, as follows:

\_\_\_\_\_  
[legal description]  
\_\_\_\_\_  
\_\_\_\_\_

2. Consideration for the mutual promises contained herein includes but is not limited to the following:

- (a) The right to construct or reconstruct (as defined in Portland City Code Chapter 33.640) the subject property for residential use.

EXHIBIT E

- (b) Grantee promises to be responsible for the costs of acoustical inspection and certification of building plans as set forth in Chapter 33.640 of the Portland City Code.
- (c) Grantee promises to pay the recording fees of this document.
- (d) Resolution \_\_\_\_\_ from the Port Commission for the Port of Portland.

3. This Aircraft Noise Easement shall encompass the right, in the airspace above the surface of the Grantor's property having the same boundaries as the above-described property and extending from the surface upwards to the limits of the atmosphere of the earth, to cause in said airspace a maximum of the Ldn noise level as set forth in Paragraph 1 of this Easement and as established by the 1983 Ldn contour map as set forth in the Portland International Airport Noise Abatement Plan. An official Ldn contour map is on file in the City Permit Center.

4. Grantors, for themselves, their heirs, administrators, executors, successors, and assigns, do hereby fully waive, remise, and release any right or cause of action which they may now have or which they may have in the future against Grantee, its successors and assigns, due to noise, and all other effects of any noise impacts at or below the annual average Ldn level set forth in Paragraph 1 that may be caused or may have been caused by the operation of aircraft landing at, or taking off

EXHIBIT E

from, or operating at or on said Portland International Airport. If the permitted annual average Ldn level can be shown to have exceeded that specified in this instrument, this Easement shall remain valid and effective for that Ldn level set forth in Paragraph 1, but the exceeded Ldn level shall not be protected by this Easement.

5. The granting of this Easement shall establish the Grantor's right to construct or reconstruct (as defined in Portland City Code Chapter 33.640) for residential use the above-described parcel of land for residential use in accordance with all applicable laws. The Grantor's execution and offering of said Easement is sufficient to fulfill the requirements for the issuing of a building permit if all zoning and other legal requirements have been met.

6. In the event any covenant, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained.

7. It is understood and agreed that these covenants and agreements shall run with Grantor's land and shall be recorded, and the covenants and agreements shall be binding upon, heirs, administrators, executors, successors and assigns of the Grantor.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

STATE OF OREGON           )  
                                  ) ss.  
County of Multnomah )

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,  
before me personally appeared \_\_\_\_\_  
who being duly sworn, did say that he/she is the owner of the  
premises described in this instrument and the individual acknowl-  
edged to me that he/she has read the Aircraft Noise Easement,  
fully understands its content, and has acknowledged that the  
signing of the Aircraft Noise Easement is a voluntary act and  
deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand  
and affixed my official seal the day and year first in this  
certificate written.

\_\_\_\_\_  
Notary Public for Oregon  
My commission expires:\_\_\_\_\_

NOISE EASEMENT INDEMNITY AGREEMENT  
BETWEEN  
THE CITY OF PORTLAND AND THE PORT OF PORTLAND

THIS AGREEMENT, made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 1985, by and between THE PORT OF PORTLAND (hereinafter referred to as "Port"), and THE CITY OF PORTLAND, a home rule political subdivision of the State of Oregon (hereinafter referred to as "City").

WHEREAS, the City is proposing an Ordinance amending Portland City Code Chapter 33.69, retitled Chapter 33.640 (hereinafter referred to as "PDX Noise Zone Ordinance"), the provisions of which would impose certain conditions to insure compatible land use designations for a noise impacted area in the vicinity of the Portland International Airport; and

WHEREAS, the PDX Noise Zone Ordinance requires that property owners grant a noise easement to the Port if they desire to construct or reconstruct residential dwelling units (as defined in Chapter 33.640); and

WHEREAS, there are substantial public benefits by adoption of the PDX Noise Zone Ordinance, including the protection of local residents and businesses, the continuation of the economic benefits of safe and convenient air transportation and the orderly development of surrounding land area in the vicinity of Portland International Airport; and

WHEREAS, City and Port wish to identify responsibilities in the event that the noise easement provision of the proposed Ordinance is legally challenged;

EXHIBIT F

NOW, THEREFORE, in consideration of those mutual promises and the terms and conditions set forth herein, the parties agree as follows:

The Port will assume and take responsibility for the legal defense and all consequential costs associated with the resolution of any claim or litigation arising out of or related to the noise easement portions of Portland Ordinance No. \_\_\_\_\_ and shall pay any actual damages awarded by any court or any sums to be paid in settlement.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly appointed officers on \_\_\_\_\_, 19\_\_.

CITY OF PORTLAND

THE PORT OF PORTLAND

\_\_\_\_\_  
Mayor J. E. Bud Clark

\_\_\_\_\_  
Lloyd Anderson  
Executive Director

APPROVED AS TO FORM

APPROVED AS TO FORM

\_\_\_\_\_  
Jeffrey L. Rogers  
City Counsel

\_\_\_\_\_  
M. Brian Playfair  
House Counsel

ORDINANCE NO.

158055

An Ordinance amending Ordinance No. 150580 adopting a Comprehensive Plan for the City of Portland by adding a new Policy 8.16 Portland International Airport Noise Impact Area; amending Title 33, Planning and Zoning, of the Municipal Code of the City of Portland by amending the definition of "Ldn Day/Night Sound Level" and by replacing the existing Chapter 33.69 N Noise Impact with a new Chapter 33.640 Portland International Airport Noise Impact Zone; adopting the boundary of the zone and certain forms as required by Chapter 33.640; and authorizing the City to enter into a Noise Easement Indemnity Agreement with the Port of Portland.

The City of Portland ordains:

Section 1. The Council finds:

1. In 1972, City Council adopted Ordinance No. 135555 establishing City zoning for recently-annexed area north of Columbia Blvd. between N. Portland Road and the Peninsula Drainage Canal and establishing certain building requirements and notices to the Port of Portland due to the proximity of the area to the Portland International Airport.
2. In October 1980, City Council adopted Ordinance No. 150569 adding a new Chapter 33.69 N Noise Impact to Title 33, Planning and Zoning. The purpose of the zone is to restrict the development of noise sensitive uses within the significant noise impact area of the Portland International Airport.
3. In October 1980, City Council also adopted Ordinance No. 150580 adopting a Comprehensive Plan for the City of Portland, including Goals, Policies, and a Plan Map. The Comprehensive Plan and its implementing Ordinances, including Ordinance No 150569, were submitted to the Oregon Land Conservation and Development Commission and received Acknowledgment of Compliance by the Commission in May 1981.
4. Section 33.69.060 Review and Modification of Chapter 33.69 requires a Planning Commission review and hearing on the N Noise Impact Zone at least every five years. The first review of the N Zone was required to begin not later than September 30, 1983 and was initiated by the Bureau of Planning in July 1983.
5. On March 12 and April 9, 1985, the Planning Commission held public hearings on the update of the N Zone, including amendments to Title 33, Planning and Zoning, and the addition of a new Comprehensive Plan Policy 8.16 Noise Impact Area.
6. At the June 13, 1985 City Council hearing on the Planning Commission recommendations, representatives from the Port of Portland, East Columbia Neighborhood Association and affected property owners requested that the hearing be postponed to allow additional time for negotiations related to the recommended regulations.



7. Representatives of the Port of Portland, East Columbia Neighborhood Association and affected property owners met between June and October 1985 to complete negotiations leading to agreement on the elements of a compromise proposal for submission to City Council.
8. On October 8, 1985, the Planning Commission reviewed the elements of the compromise proposal and amended its April 9, 1985 recommendation on the Update of the N Zone to show support for the elements of the compromise proposal with the conditions that the Port of Portland Commission adopt the Resolution called for in the compromise proposal and that the Port of Portland continue its efforts to secure federal and state funding of low-interest insulation loans to property owners within the N Zone.
9. On October 10, 1985, the City Council held a public hearing on the update of the N Zone and received testimony on the elements of the compromise proposal. Based on that testimony, the Council amended the Planning Commission's April report and recommendation to reflect the Commission's October 8, 1985 action and directed Bureau of Planning staff to submit implementing Ordinances for adoption.
10. Based on the City Council direction, representatives of the Port of Portland, East Columbia Neighborhood Association, affected property owners and staff of the State Department of Environmental Quality, City Attorney's Office and Bureau of Planning reviewed draft language for those elements of the compromise proposal implemented by this Ordinance and attached hereto as Exhibits.
11. The location of the N Zone boundary is revised to coincide with the location of the 1983 Ldn 65 noise contour as established by the Port of Portland in the 1983 Portland International Airport Noise Abatement Plan. The Ldn 65 has been established by federal and state agencies as causing potential adverse psychological or physiological effects. Location of the N Zone boundary at the 1983 Ldn 65 is also consistent with Multnomah County's noise overlay zone.
12. Use of the 1983 Ldn noise contours within the N Zone to establish the level of noise for specific property allows a consistent standard of measurement to be applied throughout the N Zone.
13. Prohibiting new residential uses at the 1977 Ldn 68 noise contour for property which is not zoned or designated on the Comprehensive Plan Map as R10, R20, FF or County Residential promotes land use compatibility within the noise impact area by eliminating new residential development in mixed use areas in close proximity to the airport.
14. Limiting maximum residential zoning and Comprehensive Plan Map designations to R10 in R-designated areas and R1 in C-zoned areas located between the 1983 Ldn 65 and the 1977 Ldn 68 noise contours further promotes land use compatibility by restricting the density of new residential development while retaining residential development opportunity for the property owners.

15. Requiring that most structures within the N Zone contain sound insulation to achieve a day/night average interior noise level of 45 dBA minimizes the potential impact of aircraft noise on those living and working within the N Zone. The 45 dBA standard is that recommended by federal and state agencies.
16. Requiring that the property owner sign a noise disclosure statement prior to the issuance of a building permit for new residential construction provides notice and documentation that the property is located within the N Zone boundary.
17. Requiring that the property owner dedicate a noise easement to the Port of Portland prior to the issuance of a building permit for new residential construction or reconstruction ensures the acknowledgment and acceptance by the property owner of the level of aircraft noise established by the 1983 Ldn noise contour. The noise easement is granted for consideration as specified in the easement document at the 1983 Ldn level for the property as shown on the City's Noise Zone Maps and specified in the easement document.
18. The execution of a noise easement indemnity agreement between the City of Portland and the Port of Portland specifies that the Port of Portland will assume and take responsibility for the legal defense and other costs associated with any legal action related to the noise easement requirements of the N Zone.
19. Freezing the location of the N Zone and the noise contours within that zone at the 1983 Ldn level for a period of five years from adoption of this Ordinance provides certainty to all parties as to the development options and requirements of the N Zone.
20. The addition of a new Comprehensive Plan Policy 8.16, Portland International Airport Noise Impact Area, will provide a stronger link between the Comprehensive Plan's policy framework and its implementation through the Zoning Code.
21. The amendment of the Title 33 definition of "Ldn, Day/Night Sound Level" provides a more accurate definition of that term.
22. The addition of the new Comprehensive Plan Policy 8.16 and the amendments to Title 33, Planning and Zoning to revise the definition of "Ldn Day/Night Sound Level" in Chapter 33.12 and to replace the existing Chapter 33.69 N Noise Impact with a new Chapter 33.640 Portland International Airport Noise Impact Zone are in conformance with Portland's Comprehensive Plan and the Statewide Planning Goals.
23. These amendments are particularly supportive of Statewide Planning Goal 6, Air, Water and Land Resources Quality, by protecting local residents and businesses through establishing restrictions on new residential development and requirements for sound insulation where development is permitted within the N Zone boundary. They are also supportive of Statewide Planning Goal 12, Transportation, by promoting land use compatibility within the noise impacted area of the Portland International Airport which supports continuation of the economic benefits of safe and convenient air transportation.

24. It is in the public interest that the new Comprehensive Plan Policy 8.16 Portland International Airport Noise Impact Area and the amendments to Title 33, Planning and Zoning, to amend the definition of "Ldn Day/Night Sound Level" in Chapter 33.12 and to replace the existing Chapter 33.69 N Noise Impact with a new Chapter 33.640 Portland International Airport to implement the findings of the N Noise Impact Zone review required by Section 33.69.060.

NOW, THEREFORE, the Council directs:

- a. Ordinance No. 150580 adopting a Comprehensive Plan is hereby amended by the addition of a new Policy 8.16 Portland International Airport Noise Impact Area and the renumbering of the existing Policies 8.16 through 8.18 to 8.17 through 8.19 as shown in Exhibit A, attached to this Ordinance and incorporated herein by this reference.
- b. Title 33, Planning and Zoning, of the Municipal Code of the City of Portland, Oregon is hereby amended by an amendment to Section 33.12.436 to read as follows:

33.12.436 Ldn, Day/Night Sound Level. The "Ldn, Day/Night Sound Level," in decibels, is the 24 hour average sound level, from midnight to midnight, obtained after adding 10 decibels to sound levels in the night from midnight to 7 a.m. and from 10 p.m. to midnight (0000 to 0700 and 2200 to 2400), and then averaged day-to-day over a 12-month period.
- c. Title 33, Planning and Zoning, of the Municipal Code of the City of Portland, Oregon is hereby amended by the deletion of Chapter 33.69 N Noise Impact and the addition of a new Chapter 33.640 Portland International Airport Noise Impact Zone as shown in Exhibit B, attached to this Ordinance and incorporated herein by this reference.
- d. The Official Zoning Maps of the City of Portland shall be revised to show the location of the Portland International Airport Noise Impact Zone at the 1983 Ldn 65 noise contour as shown on the maps in Exhibit C, attached to this Ordinance and incorporated herein by this reference.
- e. The Noise Impact Maps referenced in Chapter 33.640 shall be prepared based on the location of the 1983 Ldn 65 and higher noise contours and the 1977 Ldn 68 noise contour as established by the Port of Portland.
- f. The Noise Disclosure Statement referenced in Chapter 33.640 shall be in the form shown in Exhibit D, attached to this Ordinance and incorporated herein by this reference.
- g. The Noise Easement referenced in Chapter 33.640 shall be in the form shown in Exhibit E, attached to this Ordinance and incorporated herein by this reference.

**ORDINANCE No.**

- h. The Mayor, on behalf of the City Council is hereby authorized to enter into the Noise Easement Indemnity Agreement between the City of Portland and the Port of Portland as shown in Exhibit F, attached to this Ordinance and incorporated herein by this reference.
- i. This Ordinance shall be effective January 1, 1986 or upon the date of adoption by the Port of Portland Commission of the Resolution related to residential densities specified in City Council Resolution No. 33990, if such Port of Portland Commission resolution is adopted later than January 1, 1986.

Passed by the Council, DEC 12 1985

Commissioner Margaret D. Strachan  
Jan Childs:mh  
November 21, 1985

**Jewel Lansing**

Auditor of the City of Portland

By *Doka E. Chesser*  
Deputy

INTRODUCED BY

Commissioner Margaret D. Strachan

NOTED BY THE COMMISSIONER

Affairs

Finance and

Administration

Safety

Utilities

Works

BUREAU APPROVAL

Bureau

Planning

Prepared By:

Date:

Jan Childs

11/21/85

Budget Impact Review:

☐ Completed☒ Not required

Bureau Head:

Michael Harrison, Acting Director

CALENDAR

Consent

Regular ☒

NOTED BY:

City Attorney

K. Sedlmayr

City Auditor

City Engineer

Calendar No. ~~22993~~ 22779

## ORDINANCE No. 158155

## Title

An Ordinance amending Ordinance No. 150580 adopting a Comprehensive Plan for the City of Portland by adding a new Policy 8.16 Portland International Airport Noise Impact Area; amending Title 33, Planning and Zoning of the Municipal Code of the City of Portland by amending the definition of "Ldn Day/Night Sound Level" and by replacing the existing Chapter 33.69 N Noise Impact with a new Chapter 33.640 Portland International Airport Noise Impact Zone; adopting the boundary of the zone and certain forms as required by Chapter 33.640; and authorizing the City to enter into a Noise Easement Indemnity Agreement with the Port of Portland.

NOV 27 1985

PASSED TO SECOND READING DEC 12 1985

THE COMMISSIONERS VOTED  
AS FOLLOWS:

	Yeas	Nays
BOGLE	✓	
LINDBERG	✓	
SCHWAB	✓	
STRACHAN	✓	
CLARK	✓	

## FOUR-FIFTHS CALENDAR

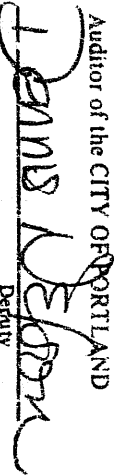
BOGLE	
LINDBERG	
SCHWAB	
STRACHAN	
CLARK	

Filed NOV 22 1985

JEWEL LANSING

Auditor of the CITY OF PORTLAND

By



Deputy