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MEMO

DATE: January 13, 2009
TO: Planning Commission
FROM: Sallie Edmunds
SUBJECT: Report of River Plan / North Reach Comments

As requested, a report of the written and oral comments received as of December 31, 2008 is attached for your information. The comments are organized by the topics listed below and include the name of the commentor along with any organization represented. A list of the commentors is included at the end of the report.

Base Zone
Conservation or Protection Overlay Zone
Contaminated Sites
EG2 Regulations
Floodplains
Greenway Trail
Industrial-Residential Interface
Infrastructure Investments
Interjurisdictional Permitting
Natural Resources Inventory
Other
Other Code Issues
Other Watershed Health
Prime Industrial Land/Comp Plan Amendments
River Environmental Overlay Zone
River Plan Process
River Restoration Program
Stormwater
Working Harbor Viability

This report will be updated with testimony received from today's hearing. A final report with responses to each comment will be provided to Planning Commission prior to the February 24, 2009 meeting.

The River Team has already begun responding to some of the comments and looks forward to providing a more detailed report next month.

Report of River Plan / North Reach Comments (as of 12/31/2008)

Topic: Base Zone

Commentor: Kinder Morgan, BP, NuStar - Phil Grillo
Comment: Support focus of redevelopment in Linnton within existing commercially-zoned areas - We have always supported the desire of Linnton residents to improve their commercial center, and have continually expressed our desire to see those efforts focused on the existing commercially-zoned areas in Linnton, rather than on the industrially-zoned areas along the

Commentor: University of Portland
Comment: McCormick and Baxter Zone Change - UP urges the Planning Commission to add a zone change for the McCormick & Baxter property (M&B) to the River Plan draft. UP hopes to purchase M&B by the end of 2009 and potentially could begin using it for campus recreational uses during 2010. Until the City changes M&B from industrial to employment zoning, UP cannot use or even plan for use of the property. College uses are prohibited in the IH zone. With the changes adopted by RICAP 4, a quasi-judicial zone change is prohibited. The River Plan is a broad legislative look at the future of the North Reach and, as such, is a uniquely appropriate vehicle for implementing the vision for M&B that the City reached long ago.

Topic: Conservation or protection overlay zones

Commentor: Bureau of Development Services
Comment: For vacant properties, has there been consideration of providing an appropriately sized area on the lot for future development? Providing a developable area outside the environmental zone would allow us through a land use review to more consistently protect resources when there is the alternative for them to build on the site outside environmental zones. This is of critical importance in areas where "p" overlay zoning is proposed on all or the majority of a vacant lot. It puts the City in a very vulnerable position in regard to Measure 49 claims, generates public ill-will toward land use planning, and provides owners no viable alternative for the use of their land.

Commentor: Bureau of Development Services
Comment: We are concerned that some of the "c" and "p" overlay zoning is placed over individual trees and their canopies which extend over the roofs of houses and these trees are not entirely contiguous to larger forested areas. As a general rule, we have found that if tree canopies are used to determine overlay zones, care should be taken when such canopies extend over the top of development, including houses. These areas experience high edge effect and therefore, generally have lower functional values. Several of these sites with this zoning application are identified in the bullets listed below.

Map 2223: The bluffs above McCormick/Baxter and Triangle Park have received the "p" overlay even though the wildlife habitat model did not rank them as having high or medium resource value. Through this section, there is a break in the tree canopy, with much denser tree canopy to the north and south. A review of this section in Garth using the 2007 Color-Infrared aerial photo reveals an area devoid of vegetation. The NRI identifies the SHA as having perching habitat, as a connectivity corridor, scattered trees, with steep topography. We would like to discuss this mapping at this site.

Commentor: University of Portland - Megan Walseth
Comment: UP asks that the p zone be pulled back from the building locations in UP's campus concept plan, which is attached. (Two of the impacted buildings locations result from p zoning that was not proposed in the initial draft.) The three areas where the proposed p zoning overlays impact planned buildings represent approximately one acre. Those areas will retain c zoning and, thus, will continue to be subject to intense environmental review.

Commentor: Bureau of Development Services
Comment: Map 2223/2323: We are concerned about the amount of "p" overlay on properties along the bluff for several reasons. First, the previous ESEE's for Site WR10 recommend limiting development rather than strictly limiting. This appears to place the most restrictive overlay zone in areas that are already disturbed and that will most likely be disturbed. The "p" overlay zone may be appropriate for the bluff, but may not be warranted on the more level portions of the properties at the top of the bluff. Second, the documents cited in support of this mapping change are too general. The residential areas should be more closely examined in the ESEE and have stronger documentation provided as to why the existing "c" zone is not currently or would not provide adequate protection. Finally, placing "p" overlay zones in those areas will surely result in property owners unknowingly violating the regulations and also creating a corridor of nonconforming development within the

Commentor: Bureau of Development Services
Comment: We are concerned that some of the "c" and "p" overlay zoning is placed over individual trees and their canopies which extend over the roofs of houses and these trees are not entirely contiguous to larger forested areas. As a general rule, we have found that if tree canopies are used to determine overlay zones, care should be taken when such canopies extend over the top of development, including houses. These areas experience high edge effect and therefore, generally have lower functional values. Several of these sites with this zoning application are identified in the bullets listed below.

Map 2527/2528: Protection overlay is placed over development on several lots - R168146, R119603, & R211486. The "p" overlay seems to be placed over isolated trees and canopy that extends over homes. When you view aerial photos more closely, there is a cleared area between the one tree on the lot on R168146 and the forested area in the adjacent park. Again, the most prudent approach may be to consider existing development while protecting resources and remove overlays from those areas.

Commentor: John Soares - 9539 N Decatur Street
Comment: In the proposed zoning maps that the EG2 zone is being proposed with a conservation overlay. I think the conservation zone line is arbitrarily drawn and it runs right through my house. I am concerned that it will prevent my future use of the land, even my landscaping. I want to move the line just a little bit to the edge of the Woods at my NW property line. There are a couple of trees where the canopy overhangs my house, but the deep woods start about 15 feet from my property line.

Report of River Plan / North Reach Comments (as of 12/31/2008)

Commentor: Bureau of Development Services

Comment: Map 2018/2019: On R288424, a drainageway appears to be piped upstream and downstream of the property, thus indicating low functional value. In addition, this area is not designated as having a high relative value in the ranking, is not an SHA, and has a vegetation classification as shrubland. Based on the identified low functional values, why apply the "p" overlay? A "c" overlay may be the appropriate designation to be placed on this property, or more specific language must be added to justify the application of "p" overlay in the NRI and

Commentor: Bureau of Development Services

Comment: Map 2020: On R323784 and R323786, the reason for placing the "p" overlay zone may require a more thorough explanation. If the reason is that it is forested habitat rather than woodland, specific discussion for this site in the NRI is needed. Also for the existing residential development within the EG2 zone at N. Reno Ave and N. Decatur St, the c-zone boundary appears it was intended to be drawn to provide transition area at the back of the lots. The boundary shifts to the east at the SE end and would apply resource area over the back yards of these existing houses where there is little to no vegetation existing. Is this the intention?

Commentor: Robert Stuepenagel - 5940 N Willamette Lane

Comment: I do oppose the proposed boundary of the conservation zone. Now it's at the bottom of the bluff below Willamette Lane, and it is proposed to be moved to the top of the bluff to Willamette Lane itself. This will greatly restrict the allowed uses in this area. I feel the boundary should be at the bottom of the bluff where it currently exists.

Commentor: Bureau of Development Services

Comment: Map 2528: We are concerned about the removal of conservation zoning across R168154, R117075, R117076, R117077, and R117078. These lots are heavily forested with slopes greater than 20%. They have been identified in the past as having resources worth preservation, and given the methodology used in this study, appear to warrant an overlay zone. Why is the "c" overlay being removed?

Commentor: Bureau of Development Services

Comment: Map 2250: A stream is daylighted for about 25 feet, the NRI indicates medium functional value, no SHA, but a "p" overlay is applied. Again a "c" overlay may be more appropriate.

Commentor: Bureau of Development Services

Comment: We are concerned that some of the "c" and "p" overlay zoning is placed over individual trees and their canopies which extend over the roofs of houses and these trees are not entirely contiguous to larger forested areas. As a general rule, we have found that if tree canopies are used to determine overlay zones, care should be taken when such canopies extend over the top of development, including houses. These areas experience high edge effect and therefore, generally have lower functional values. Several of these sites with this zoning application are identified in the bullets listed below.

Many of the jogs and points in the proposed overlay zone boundaries are extremely fine and BDS is very concerned that this will cause serious mapping and surveying problems for applicants and staff. We recommend that the mapping protocols identified on Page 111 be modified to refine and simplify the resulting boundaries. Canopy boundaries should be followed for establishing overlay zone boundaries but it may be best if a more generalized approach is followed, rather than following the outlines too closely. We note that zone boundaries are being drawn around individual trees that are not surrounded by other trees on two or even three sides and do not support this approach. Please view Maps 1719, 1819, 1820, 1918, 1919, 2019, 2120, 212, 2221, 2322, 2325, 2426, 2524, 2525, 2526, 2626, 2728 for irregular jogs in e-zone boundaries. Please view maps 2324 for irregular jogs in c-zone boundaries.

Commentor: Ray Piltz

Comment: I am a property owner at 7444 N Willamette and I am representing four different neighbors. My neighbors are concerned about the inability to do any building on the back of the property due to this conservation zone. So far we haven't been able to find out how close we can come to that and nobody seems to have an answer. I bought this property because of the view. Now I don't know which way to go and I sure don't want to build 40 feet back from the property line because then we would have no view! I don't know who to see about this and so far don't have any answers. If someone could let us know, I could convey it to the other property owners.

Commentor: Kathleen Anderson - Property Owner

Comment: I have an undeveloped piece of land and have an active land division application in. I would like to know if I will be able to develop my land after the division is complete. The environmental protection zone that's proposed just pops right onto the property out of the green zone, whereas it goes along the bottom of the other properties. Why does it pop right up there instead of just going up on a green zone?

Commentor: Friends of Cathedral Park - Barbara Quinn

Comment: We strongly support the group Friends of Baltimore woods and their advocacy for the preservation and restoration of Baltimore woods connectivity corridor as native Oregon oak habitat, wildlife connectivity corridor, trail amenity, upland deciduous watershed, restoration opportunity and buffer between the residential neighborhood and adjacent industrial noise and lights. We would like to see consistency in zoning and overlays in the entire Baltimore woods corridor supporting its recognition in the NRI as a special habitat area due to native Oregon

Commentor: Friends of Baltimore Woods

Comment: The Baltimore Woods area contains important upland deciduous habitat including more than 30 increasingly rare Oregon white oaks. This habitat acts as a link between the continuous habitat along the Willamette Greenway to the south and Smith and Bybee wetlands to the north. Preserving this habitat is critical to maintaining connectivity for wildlife, especially birds, as the Woods are located within the Pacific Flyway. The Friends hope to not only preserve existing habitat but to work with neighbors to improve native habitat in their backyards. Thank you for confirming the importance of the Baltimore Woods and for indicating your intention to work with neighbors to improve native habitat in their backyards.

Commentor: Bureau of Development Services

Comment: Map 2222: Properties R324176 & R324108 are zoned for 6 & 3 units, respectively. Placing 85-90% of these sites into p-zoning provides conflicting signals to the property owners. Similar situations where apparently conflicting signals are sent have created serious regulatory

Report of River Plan / North Reach Comments (as of 12/31/2008)

problems and could also result in Measure 49 claims that the city would have difficulty withstanding. You should be aware that we are currently in discussions with the owner of R324176 to divide her land and a land use review has been submitted for creation of 2 lots (LU 08-

Commentor: Bureau of Development Services
Comment: 33.860.010. A-E should be bullets, not lettered items.

Chapter 33.860 The title, "Comprehensive Natural Resource Plans" does not seem to describe the purpose of this plan which is to allow "multiple development actions occurring over time" that happen to be inconveniently located in the environmental zones.

Section A. Does this also include sites that would have Greenway Review? If not, it should be explained why it was not included in the commentary.

Topic: Contaminated Sites

Commentor: Department of Environmental Quality - Keith Johnson
Comment: The plan should note role of stormwater in ongoing clean-up activities. DEQ Cleanup program understands the importance of using a cross-program approach and DEQ would like to see BDS and the City recognize the same.

Commentor: Bureau of Development Services
Comment: Consider exempting cleanup projects in Greenway Overlay zones, and apply the standards from the North Reach to them, too. (by reference).

Topic: EG2 Regulations

Commentor: Corey Larner General Contract, Springwater Development LLC
Comment: I have one piece in the EG2 - an improved conditional use for row houses in the final plat stage - and want to verify those rights will be vested.

Commentor: Bureau of Development Services
Comment: 33.583.290.D. There is an approved LUR 97-015233 CU SU for a large property within the Subdistrict B area. An SD permit was submitted in 2008 and the final plat is under review. This property should be removed from Subdistrict B. Another property is split-zoned between the R5 and EG2, and the lot would partially be within Subdistrict B. To address these issues, does it makes sense to "connect" the two portions of Subdistrict A to include these lots but jog around tax lot R243960 to keep it within Subdistrict B?

33.583.290.D - Make sure that all of the properties outside of subarea A are appropriate (i.e. approved subdivision or same ownership in abutting residential zone)

Commentor: Friends of Cathedral Park - Barbara Quinn
Comment: We support the extension of the St. Johns plan district to include the Baltimore woods corridor between Cathedral and Pier Park, and we support the change in conditional use in the EG2 zone in that area being modified to allow only low density residential or no residential since the area is heavily affected by 24 hour train loading and whistles, lights and odors.

Topic: Floodplains

Commentor: Audubon Society - Bob Sallinger
Comment: In September, 2008 NOAA Fisheries issued a biological opinion regarding floodplain development in Puget Sound, that determined that FEMA's current approach to issuing floodplain insurance is causing illegal take of listed salmonid species. We encourage the City to be proactive and analyze the North Reach Plan for consistency with the NOAA Fisheries Puget Sound Biological Opinion. Staff is in the process of compiling the analysis requested.

Commentor: Department of Environmental Quality - Keith Johnson
Comment: Has there been any re-evaluation of the impacts of the recent Puget Sound FEMA floodplain - NOAA BiOp, which would potentially put additional restrictions on development and encourage Stormwater Low Impact Development? DEQ would expect that fall-out from the ESA driven decision could ultimately effect Columbia and Willamette systems.

Topic: Greenway Trail

Commentor: Paul Maresh
Comment: The North Portland Greenway Trail is an important piece of transportation infrastructure that will connect the North Portland Peninsula, Portland's Gateway to Nature, to the rest of the Metro region and the Willamette Valley. We want a streamside alignment, not one blocks away from the River. A streamside alignment is an important educational opportunity for our youth to understand the importance of Portland's Working Waterfront and the importance of preserving the wondrous ecology of the riparian environment.

Commentor: Kinder Morgan, Working Waterfront - Rob Mathers
Comment: In certain areas, River Plan proposes to allow incompatible-use that invites conflict, increases safety-risk, and places the public in harm's way.

Report of River Plan / North Reach Comments (as of 12/31/2008)

Commentor: Portland Freight Committee - Corky Collier, Gary

Comment: All working harbor businesses are already heavily regulated by a number of federal, state, and local agencies. One of the primary thrusts of the draft is to create new City regulation where staff thinks federal and state regulation is inadequate. The cost of this overlapping regulation as proposed is substantial and the benefits doubtful. While the draft proposes broad new powers and fees for the City, it inadequately treats federal security concerns as reflected in the Maritime Transportation Security Act (MTSA). We recommend that the City accommodate industry's need to comply with MTSA and operate safely.

Commentor: Kim Elliot

Comment: We strongly support npGreenway's proposal for the multiuse trail along the east bank of the Willamette River.

Commentor: Portland and Western Railroad - Paul Zalec

Comment: Of great importance and concern is the non-related rail access to our railroad right of way. Specifically the line segments between Willbridge (Linnton) and north, what we call the "A" Line. The proposed location of trails and putting citizens in close proximity to active rail lines is not a good idea. Recently the U.S. Department of Homeland Security issued their Final Rule. This rule will establish security requirements for freight railroads. One of many security actions recommended is Access Control Security Practices focusing proactive community safety and security outreach and trespasser abatement programs in areas adjacent to company-designated critical infrastructure to reduce the likelihood of unauthorized individuals on company property and to enhance public awareness of the importance of reporting suspicious activity. In addition, activity along the waterfront is also regulated by the Maritime Security Act which prohibits access except for the pre-approved.

The proposed zone changes in the North Reach Plan are troubling in that no considerations are given to the negative impact on the transportation services we provide the working harbor. In our view any zoning code changes should be consistent with the working harbor transportation requirements and consistent with the State's direction for a sound, safe, efficient and economical transportation network. It is critical that the railroads be able to continue to operate safely and efficiently to continue to serve our customers in the working harbor and the communities along our routes.

With all do respect we request that the PC redraw the pedestrian trail to outside the boundaries of the railroad right of way and the Working Waterfront.

Commentor: Sally Hood

Comment: In September 2007, I bought a row house on North Decatur Street in North Portland. One of the main reasons I bought this house is because of its privacy. Thus, my primary concern about the River Plan is the location of the trail that is currently under consideration behind my house and the access to the trail. If the trail is immediately behind the row houses, my deck and all windows facing the river will no longer have the privacy that I currently enjoy. If there is access to the trail at Reno Street and Decatur Street (not thorough fares and not full width streets), not only will privacy be an issue, but also noise and parking congestion.

[Ms. Hood also asked several questions related to the exact location of the trail and the implications of River Plan proposals in the industrial-residential interface.]

Commentor: BNSF Railway Company - Terry Finn

Comment: We want to express our concern about the plan's anticipation of bike and pedestrian trails near heavy rail and truck activity in an area where transportation, trade and general business activities are so critical to city and state economies. Of particular concern is the plan's depiction of a bike or pedestrian trail sharing BNSF's Willamette River rail bridge with our very active rail lines. Safety and liability concerns can increase dramatically when pedestrians, bicycles or even general vehicles cross or run closely parallel to rail lines. Mixed use within the North Reach can have little effect other than to reduce transportation efficiency and introduce jarring incompatibilities that compromise safety and economic development. We also note that we are unaware of any discussion of this idea between City and BNSF representatives or of any contacts made concerning this issue. For these reasons, BNSF opposes the incursion of such uses and specifically opposes the plan's juxtaposition of a bike/pedestrian trail with our rail tracks on the Willamette River bridge.

Commentor: Cesar del Rosario

Comment: The multiuse trail along the east bank of the Willamette River will provide a traffic free/safe route to Swan Island and downtown Portland for alternative modes of transportation (i.e., bikers, walkers) as well as access to the natural habitat along the Willamette River. This trail will provide North Portland with increased access to jobs, a connection to nature and a place to recreate. Thus there are economic, environmental and health benefits this trail will provide directly to North Portland and the interconnected community. I strongly support npGreenway's proposal for the multi use trail along the east bank of the Willamette River.

Commentor: Friends of Baltimore Woods

Comment: The Friends and their partners hope to create a link in the regional trail system. The Friends' preferred trail alignment along Decatur Street, which the City supports, will connect with the NP Greenway trail and the 40 mile Loop, creating a continuous bike and pedestrian trail that stretches from downtown to Smith and Bybee wetlands. The "Baltimore Woods" section of this trail from Cathedral Park to Pier Park will offer opportunities for residents and visitors to experience the unique habitat along the trail as well as the industrial activities along the river.

Commentor: Bureau of Development Services

Comment: 33.272.020.A. In the second sentence, not sure what the phrase "...determined to be logically related.." means. Seems we would be applying the standards solely to determine rough proportionality, not rough proportionality and when "logically related". Potentially delete phrase "logically related."

Commentor: Bureau of Development Services

Comment: 33.440.350. Why aren't these moved to the 800s?

Report of River Plan / North Reach Comments (as of 12/31/2008)

- Commentor:** Paul Maresh
Comment: Staff has endured a lot of pressure from one or two governmental agencies and a small vocal minority of commercial property owners to remove the trail from zoning maps in riparian areas. Therefore, and apparently for budgetary reasons, there does not appear to be a commitment to acquire portions of the trail or designate the eventual trail in locations within proximity to the river (e.g. between River Ave. and Swan Island). Although a feasibility study is proposed, it appears that implementation is not possible except through a zone change.
- I urge the Planning Commission to put the greenway trail on the map along the N River St. alignment to N Channel and along the Waud Bluff shoreline, continuing along the shoreline through the Triangle Park, McCormick and Baxter and Willamette Cove properties, to Cathedral Park and along the Baltimore Woods alignment preferred by Friends of Baltimore Woods.
- Commentor:** npGreenway
Comment: Proposed language for alignment principle #5, Volume 1A page 39 -
- If conditions in the North Reach change over time and the City policies regarding preserving land for river-dependent activities change, then the possibility of a riverfront trail in the North Reach shall be revisited.
- Commentor:** James Male
Comment: I strongly support npGreenway's proposal for the multiuse trail along the east bank of the Willamette River.
- Commentor:** Todd Roll
Comment: I strongly support npGreenway's proposal for the multiuse trail along the east bank of the Willamette River.
- Commentor:** Friends of Baltimore Woods - Sumner Sharpe
Comment: The neighbors are concerned about protecting the woods from Baltimore to Catlin. Our study is for a habitat and trail connection from Cathedral Park to Pier Park. We want to protect existing habitat, but also encourage new habitat restoration and enhancement on privately owned property. Our report will be available to the City in January. We have been meeting with property owners about restoration opportunities on their sites as well as the trail alignment, and there may be different possibilities [from the alignment suggested in the River Plan] based on the discussions. We want to know how detailed the trail alignment line is on the map. We want to make sure to leave the door open to solve the problem because we're already working with property owners to get easements and we need flexibility to make it work. We have seen maps with two possible alignments and there could be a third. We want to make sure the flexibility to slightly modify the
- Commentor:** Friends of Cathedral Park - Barbara Quinn
Comment: We strongly support the goals of the group npGreenway in advocating for the Willamette Greenway Trail and ask that trail alignments be placed in or adjacent to greenway areas rather than on-street whenever possible to enhance the trail. We would also like to be part of the solution for combining habitat areas with the trail in a way that allows both and creates educational opportunities on the importance of restoration and stewardship of one of our last remaining urban greenways.
- Commentor:** 40-Mile Loop Land Trust
Comment: The 40-Mile Loop Land Trust recommends that you fully support North Portland Greenway Trail Planning. This important gap in the 40-Mile Loop would provide a multipurpose recreational trail and transportation connection linking North Portland neighborhoods, Swan Island employment center, North Portland Business Districts and St Johns Town Center to Kelley Point via the Willamette Greenway trail's tie-in to the Eastbank esplanade and the rest of our regional trail system for walkers and bike riders. It is important to provide off-street multi-use trails for recreational experience, children's safety, alternative access, and health for citizens of the region.
- Commentor:** Friends of Baltimore Woods - Jim Barnas
Comment: I invite everyone to come out to look at the site and see where the trail would go on the northern part of the Baltimore Woods corridor. I want to emphasize the buffer and habitat connectivity corridor aspects - that allow that corridor to connect to Smith & Bybee and Kelley Point and the Oak/Madrone escarpment. Property owners should realize that the buffer and habitat will add value to their properties and they will want to participate much more.
- Commentor:** Port of Portland - Susie Lahsene
Comment: A primary concern for the Port with the River Plan proposal is that there is a lack of recognition of the limitations imposed by the maritime security act and TSA to address safety and security of the waterfront. This issue with the code spells continued uncertainty for business, additional time and cost for development, which will substantially dampen further investment.
- Commentor:** npGreenway
Comment: Proposed language for section 33.272.070, Hours of Use, in Volume 1B -
- The trail and access paths must be open to the public 24 hours a day.
- Commentor:** Jack Newlevant
Comment: I strongly support npGreenway's proposal for the multiuse trail along the east bank of the Willamette River.
- Commentor:** Paul Maresh
Comment: Requested adjustment to Volume 1B -
Strike paragraph 5 under section 33.272.090. It is antithetical to the concept of establishing a public commons to cede control of a portion of the commons to a private militia.

Report of River Plan / North Reach Comments (as of 12/31/2008)

Commentor: Kinder Morgan, BP, NuStar - Phil Grillo

Comment: Critical Infrastructure Protection (CIP) -

The location of public trails and "restoration sites" directly adjacent to critical infrastructure significantly threatens these critical facilities. These draft policy choices do not take into account the need for Critical Infrastructure Protection and should therefore be rejected.

Objection to the location of a public trail through prime industrial land and critical infrastructure in Linnton -

Maps 8 and 9 in Volume 1A propose that a public trail cross the Portland and Western Railroad (PWRR) line at two locations in Linnton, looping through IH-zoned industrial land, then along the riverfront, adjacent to the Kinder Morgan energy facility in Linnton. This trail would require the creation of two at-grade pedestrian and bike crossings of the busy PWRR through Linnton that would be extremely dangerous. Furthermore, several large petroleum tanks and other storage and distribution facilities are located within a few feet of these proposed public trails. This trail location violates several comprehensive plan policies that are designed to reduce land use conflicts. These trails are also inconsistent with the federal and state protections required for critical infrastructure and prime industrial land.

Support focus of redevelopment in Linnton within existing commercially-zoned areas -

The location of trails shown in the current draft of the River Plan is not the product of a collaborative effort and is unacceptable to us. We believe that any discussion of Linnton's redevelopment should start with a critical examination of its existing commercial area, and that efforts should initially be focused there, not on trying to create a trail system through the industrial area where critical infrastructure and prime industrial land needs to be protected.

Commentor: University of Portland - Megan Walseth

Comment:

The River Plan contemplates that the greenway trail will go around the base of Waud bluff, within the narrow strip between the railroad tracks and the water, on a boardwalk structure. (See Volume 1A, page 77). UP supports the City's design and construction of a boardwalk trail, but requests that the Plan be amended to clarify that this feat of engineering is not expected to be undertaken as a condition of UP campus development. Combined with a proposed "rough proportionality" formula that does not account for trail construction costs (Volume 1B, pages 82-86), this designation would undoubtedly become the subject of a legal challenge.

Commentor: npGreenway

Comment:

Proposed alternative language for alignment principle #2, Volume 1A page 39 -

Where the land is being preserved for river-dependent industrial uses, a trail along the riverfront is generally not feasible at this time due in part to current security and safety issues. River Renaissance recognizes that transportation options enhance the economic viability of river-dependent industrial uses. Therefore the City of Portland Transportation and Planning Bureaus will endeavor to resolve safety and security issues in a way that benefits both property owners and potential users.

Commentor: npGreenway

Comment:

npGreenway strongly supports working with Metro to include all segments of the planned trail alignment in the Regional Trail Plan.

Commentor: npGreenway

Comment:

npGreenway strongly supports all of the access projects listed on page 65 of Volume 1A.

Commentor: npGreenway

Comment:

npGreenway strongly supports conducting feasibility studies to evaluate rail-with-trail proposals adjacent to the BNSF Railroad Bridge and connecting Lower Albina with Swan Island.

Commentor: Swan Island Transportation Management Association - Lenny Anderson

Comment:

The goal of the Swan Island TMA is to move freight on and off of Swan Island, and we do this by increasing the transportation options for employees. Trails are an important piece of providing access to work. We're going to be a knowledge-driven economy in the future. I hope you take an expansive view as you consider this proposal.

Commentor: npGreenway

Comment:

npGreenway strongly supports including all segments of the near-term Greenway trail alignment shown in Volume 1A on Map 2 (proposed overlay zones), on the Parks and Recreation Trail Maps, and the Transportation System Plan, Bicycle Master Plan, and Pedestrian Plan as soon as possible.

Commentor: npGreenway

Comment:

npGreenway strongly supports adoption of the Greenway Trail alignment as shown in Volume 1A, page 124, with the following changes -
---Use the Baltimore Woods alignment as shown on Attachment 1
---Construction of the multipurpose trail above the Big Pipe that is to be located immediately to the eastside of the Lagoon, then along the Lagoon to Ensign Ave., then easterly to Basin Ave. on Swan Island instead of that shown exclusively show on Basin Avenue.

Commentor: Piedmont Neighborhood Association - Janis McDonald

Comment:

We support the vision of npGreenway for the North Portland Willamette Greenway Trail and ask for your support. The multi-purpose trail has the potential to become a central component of the region's multi-modal transportation infrastructure, serving thousands of cyclist and pedestrian commuters and recreational users. We urge that the North Portland Greenway Trail be put on official zoning and comprehensive plan maps, and that land acquisition and development decisions be made in support of the trail.

Commentor: Bureau of Development Services

Comment:

33.272.020.B & D. Why not apply the exception to the South Waterfront sites when a cleanup project is under review? The trail easement has been a major issue with these sites and recently the City Attorney expressed concern about the legality of the code. Why not take this opportunity to address this issue?

Report of River Plan / North Reach Comments (as of 12/31/2008)

Commentor: Paul Maresh
Comment: Proposed changes to the alignment principles listed on page 39 of Volume 1A -

--- Principle 2 should read, "Where the land is being preserved for river-dependent industrial uses, a trail along the riverfront is generally not feasible at this time due in part to current security and safety issues. River Renaissance recognizes that transportation options enhance the economic viability of river-dependent industrial uses. Therefore the City of Portland Transportation and Planning Bureaus will endeavor to resolve safety and security issues in a way that benefits both property owners and potential users".
--- Principle 5 should read, "If conditions ... North Reach shall be revisited".

Commentor: Paul Maresh
Comment: Requested adjustment to Volume 1B -
Section 33.272.070 should read, "The trail and access paths shall be open to the public twenty four hours of the day" because shift workers need access to and from their jobs all hours of the day.

Commentor: npGreenway
Comment: npGreenway is concerned that the zoning map does not include the designated trail between River Ave and Swan Island (the Comprehensive Plan shows a trail location). Although a feasibility study is proposed, it appears that no implementation is possible except through a zone change that would 'permit' the trail. npGreenway feels the trail should be included on the map together with specific language that would enable the City, or other body, to work with the property owners to acquire the property necessary for the multipurpose trail.

Topic: Industrial-Residential Interface

Commentor: Friends of Cathedral Park - Barbara Quinn
Comment: We support the proposed noise impact zone for part of the Cathedral Park neighborhood which would require residential developers to address industrial noise problems by adding insulation.

Commentor: City of Portland Noise Control Office - Paul Van Orden
Comment: Regarding the industrial noise impact area concept, any goal to increase housing density near one of Portland's few remaining industrial heavy regions will inherently bring environmental and enforcement challenges. Noise impacts in this area are translating into increased citizen complaints. The recommendations in the River Plan (relative to noise impact zone) proactively deal with what we predict will be an increase in the number of noise complaints if noise issues are not considered during the early stages of planning and development within what is termed the industrial noise impact zone.

Commentor: Bureau of Development Services
Comment: 33.583.300.A-D. This section needs to be relettered.

33.583.300. Under Noise insulation required, why have a day/night standard. Wouldn't the building have to meet the stricter requirement overall?

Commentor: Portland Noise Review Board - Kerrie Standlee
Comment: The Board wants to commend staff for including a proposal for an industrial noise impact zone. We recommend this be adopted.

Commentor: Friends of Baltimore Woods
Comment: The Cathedral Park neighborhood is a riverfront community located alongside an active industrial harbor. A permanent vegetated buffer between industrial activities on the river and the residential neighborhood would reduce conflicts over noise and lights between industry and neighbors, improving relations in the residential-industrial interface.

Topic: Interjurisdictional Permitting

Commentor: NuStar Energy - Brian Perleberg
Comment: The River Plan creates a disincentive to develop new or maintain existing infrastructure by proposing this 1% mitigation fee, which reduces the competitiveness of the Portland harbor. This is a duplication of existing environmental regulation already administered by the state and federal agencies. If we want to just maintain our existing infrastructure, we have to go to the City at the very end to get a Greenway permit.

Commentor: Kinder Morgan, Working Waterfront - Rob Mathers
Comment: In certain instances, River Plan proposes to add a layer of regulation that's not warranted and not consistent with state and federal requirements.

Commentor: Schnitzer Steel - Steve Pfeiffer
Comment: The City has a policy choice when it comes to below OHW and situations where these provisions would be substantive requirements for a DEQ remediation. We believe there are extraordinary review requirements, if not some of the most extraordinary in play already below OHW. Do you need to go there and add another layer? Consider whether this policy is worth the additional cost, delay, and risk of an applicant electing not to go forward with the process. Given the magnitude of what's required at the state and federal level, it will make an applicant very nervous to walk into a situation where the city believes something more is required. Your policy choice is what substantive criteria should you put in play in addition to those that DEQ (with their technical staff) will implement. They may be at odds with DEQ's mission, they may not be. The other choice you can make as a substantive standard is simply exempt solely in the case of DEQ remediation under the statute - greenway obligation or greenway requirements where DEQ is in the lead.

Report of River Plan / North Reach Comments (as of 12/31/2008)

- Commentor:** NW Industrial Neighborhood Association
Comment: We are already heavily regulated. If we want to build in or near the river, we work with the Corps of Engineers, DEQ, Division of State Lands, and others. Their approval processes are rigorous and require us to implement best management practices. This draft code represents a piling on of regulations and will only add additional time and cost to the permitting process.
- Commentor:** Portland Freight Committee - Corky Collier, Gary
Comment: All working harbor businesses are already heavily regulated by a number of federal, state and local agencies. One of the primary thrusts of the draft is to create new City regulation where staff thinks federal and state regulation is inadequate. The cost of this overlapping regulation as proposed is substantial and the benefits doubtful.
- Commentor:** Audubon Society - Bob Sallinger
Comment: For all of the reasons cited in the River Plan (Volume 1A; Page 54), Audubon strongly supports retaining review below ordinary high water.
- Commentor:** Schnitzer Steel, Working Waterfront - Ann Gardner
Comment: The City review requirements are troubling. The same project [60,000 sf dock case study] will be submitted to the Army Corps of Engineers and Division of State Lands and then reviewed by DEQ, ODF&W, the tribes, and NMFS. In addition to federal and state application and time costs, our cost to mitigate under NMFS regulations might be about \$200,000 - \$400,000.
- The proposed City code does not identify the species of concern and it does not ask for a biological assessment. The justification for this fee [mitigation fee] is not articulated herein and does not appear to be scientifically based. We respectfully request that the Planning Commission carefully examine the chilling affect that the duplicative review process will have on the working harbor.
- Commentor:** Port of Portland - Susie Lahsene
Comment: A primary concern the Port has with the River Plan proposal is that the Plan includes an additional layer of regulations that the city will add by moving their purview below OHW, which is currently addressed by both federal and state regulations. This issue with the code spells continued uncertainty for business, additional time and cost for development, which will substantially dampen further investment. The below OHW issue is a concern of both duplicate and conflicting requirements and also the level of emphasis. I don't see how the City's proposed regulations surrounding the review will add value to the process other than simply additional regulation that doesn't have the same kind of
- Commentor:** Department of Environmental Quality - Keith Johnson
Comment: DEQ is also an important regulatory authority at the river's edge. DEQ reviews, conditions, and certifies 404 permitted activities to insure that water quality objectives of the State of Oregon are properly met.
- Topic:** **Natural Resources Inventory**
- Commentor:** Bureau of Development Services
Comment: BDS must be able to determine from the written report why one SHA has "c" overlay and one has "p" overlay and more specific and detailed information for those sites is needed. Otherwise, if property owners submit for Zone Boundary Modification requests, without specific information we will not be able to defend the zoning placed on the property.
- Commentor:** Bureau of Development Services
Comment: One of the key concerns raised by several BDS environmental planners is that the Special Habitat Areas automatically are ranked high, thus receiving the protection overlay. BDS has identified certain specific properties where a reconsideration of such designations may be warranted and we look forward to reviewing these sites with your staff.
- Commentor:** Audubon Society - Bob Sallinger
Comment: Audubon supports adoption of the Natural Resource Inventory for the North Reach as written. This is a critical step towards Metro Title 13 compliance. We believe the City has done an outstanding job developing and refining the inventory and establishing a process for challenging any designations that may not be accurate.
Thank you for your support of the Natural Resource Inventory
- Commentor:** Schnitzer Steel - Mathew Cusma
Comment: The document is the point of beginning for determining the level of mitigation that would be required should development be proposed within a resource area. It is essential that we confirm the accuracy of the [Natural Resource] inventory as more site-specific and detailed information becomes available. This groundtruthing can and should be part of the permitting process. We want the opportunity to correct the NRI at the time of permitting using information about the current condition on the ground at the time of development.
- Commentor:** Schnitzer Steel - Steve Pfeiffer
Comment: The NRI does a good job at trying to provide some sense of what the natural resource functions and values are, but it has limitations. We have suggested that we provide a mechanism specifically in the code for groundtruthing of that inventory as applied. We're simply suggesting that you include in the code (as in many other cases) the groundtruthing option that says: When additional information of a more detailed nature is provided by a qualified consultant in the course of a river review, that information can be utilized and should be utilized instead of the broader information.
- Commentor:** Bureau of Development Services
Comment: The ESEE and the NRI must perform an effective job of distinguishing between those situations where the conservation "c" overlay and the protection "p" overlay is applied within specific resource sites. That foundation and specificity is needed for BDS to effectively and consistently implement these overlays for every site area. It is unclear within some of the resource sites why some areas are "c" overlay

Report of River Plan / North Reach Comments (as of 12/31/2008)

and others "p" overlay. It would be helpful for the general public if there were a conclusion section that clearly explained what the significant resources are and the mapping decisions rather than just describing the rankings.

Commentor: Department of Environmental Quality - Keith Johnson

Comment: The inventories provide useful snapshots of uses and habitats. Some types of information are not presented consistently throughout this section of the report. For example, many of the site inventories provide good information regarding the types or extent of contamination on sites. Others provide very little information. Some of the Site Descriptions contain this information and some don't.

Commentor: Bureau of Development Services

Comment: A general concern about the "e" overlay is the lack of description in the NRI to support the jogs and specific placement of the boundaries. Therefore, we recommend that the jogs be smoothed out to simplify implementation. If the jogs need to remain, a statement could be added to the resource site description indicating the "e" overlay is intended to jog around existing development or roughly follow the boundary of the 100-year flood plain.

Commentor: Department of Environmental Quality - Keith Johnson

Comment: According to Table 2, p. 16, the secondary functions are not really considered in the relative ranking of riparian corridor values. This not intuitive, and this section of the report is not very transparent, but really should be made clearer since it serves as a basis for land use and protection decisions. From a water quality perspective and according to the Clean Water Act, interior and smaller wetlands are afforded most of the same protections given to larger river-adjacent wetlands. Isolated wetlands provide high value refuges to wildlife.

Commentor: Bureau of Development Services

Comment: Placing the "p" overlay on developed residential properties with the intention of allowing additional development through exemptions is problematic from an implementation perspective. Exemptions do not allow staff to work with property owners in an effort to avoid, minimize and mitigate for any impacts to resources and do not protect resources and values as effectively as the use of standards because exempting a project eliminates BDS' opportunity for working with the applicant to explore alternatives or limit the disturbance area. Also, the "p" overlay implies there are significant natural resources on a site. If the site is already developed, how can there be significant natural resources there? An alternative approach, given the developed nature of some of these properties, may be to place a "c" overlay on the developed or disturbed areas instead, and allow alterations to development through the use of standards or land use review if standards are

Topic: Other

Commentor: Bureau of Development Services

Comment: 33.860.020. Even though "natural resource overlay zones" is defined here, should it also be added to 33.910? Is this review intended to apply to environmental zones for areas in the Columbia South Shore Plan District and Cascade Station Plan District? If so is it intended to use the criteria of 33.430 even though both have very different programs?

33.860.020.A-D. Add E (because the commentary on pg. 148 says these are the areas where the CNRP should be applied.

D. River Environmental; and

E. Located within university or large industrial facilities with properties that span multiple overlay zones.

Commentor: Peter Finley Fry, David Gold, Ken Unkeles

Comment: We own the old Portland Woolen Mills/Columbia Sportswear Headquarters, now known as Cathedral Park Place, north of the St. Johns Bridge. The building is being redeveloped to create affordable small industrial spaces for production, distribution, and warehousing. The spaces are not being used for mini-storage, yet BDS has interpreted the Zoning Code to call these small industrial spaces as mini-storage. The Plan District prohibits mini-storage. A plan district can only be reopened by the City of Portland. In the River Plan / North Reach, the plan district [St. Johns] has been reopened. The City has the authority to make this small, but important clarification. There is no one opposed to it. Our ability to provide many small and start up industrial businesses affordable industrial space is being stopped by the City of Portland

Commentor: Bureau of Development Services

Comment: The City has identified an impressive compilation of work, although the plan does not give a sense of priority to the large list of potential actions.

Commentor: NW Industrial Neighborhood Association

Comment: NINA has testified on more than one occasion on the importance of improving the zoning code so as to encourage job creating investment AND enhance the natural resources in a meaningful way. Unfortunately, the draft plan does not accomplish the intended goals.

The River Plan includes an extensive list of investments that will improve conditions for industry, includes a new zoning code that is clearer and more streamlined, and provides in lieu fee options for certain natural resource requirements that will result in meaningful protection and

Commentor: Bureau of Development Services

Comment: Our fluvial geomorphology background planners like using a default unless someone wants to go through River Review and provide data to change our minds. Say, the 100-year flood elevation. Or 50 feet inland from ordinary high water. Or 1 foot above the 100-year flood elevation. Or forget about the top of bank entirely. Use one of the other data that we have...

33.930.150 Measuring Top of Bank

It may be that a refined top of bank measurement should be excluded until the LIDAR mapping is completed given the short projected interim and potential non-conforming development resulting from likely disparity between the current proposed methodology and the LIDAR results.

The proposed definition/measurement method must take context into consideration. The top of bank as defined will most often be some form

Report of River Plan / North Reach Comments (as of 12/31/2008)

of depositional/erosional feature. Therefore top of bank on one site should generally have some locational relationship to top of bank on abutting and cross-channel sites. There should be some requirement to provide contextual top of bank as well as site top of bank information to avoid unexplained disparities in top of bank measurements between nearby sites. As proposed, this definition/method does not resolve the cited issue of problematic measurement when a shoreline is variable. Some guidance must be provided as to the location of this measurement. One suggestion is to require the measurement at short intervals (10-foot increments?) to model top of bank along a site

Commentor: Bureau of Development Services

Comment: A general response from staff indicates that using available LIDAR data to map top of bank in the future would provide the best means of ensuring a 'reasonable' top of bank for the Willamette River. Suggestions include providing a TOB determination process if a property owner wants to dispute the mapped location of TOB on their property. BDS would like to recommend further exploring this mapping option with the progression of the Central and South Reaches of the River Plan.

Commentor: Audubon Society - Bob Sallinger

Comment: A significant issue daylighted by the North Reach process was the lack of enforcement to date on the existing greenway code. While the proposed plan does provide a system of penalties to address violations of environmental codes, it fails to address the underlying issue of enforcement. We would recommend that the City include a section that outlines challenges and solutions pertaining to the issue of enforcement and highlight enforcement as a key element in achieving success for this plan.

Commentor: Audubon Society - Bob Sallinger

Comment: We are concerned about the complete elimination of setbacks in areas zoned "River Industrial". We believe the setbacks currently serve two purposes: they ensure that areas closest to the river are reserved for river-dependant and river-related uses, and they ensure that materials that might degrade the river and activities and structures that might reduce the aesthetic qualities of the river are set back from the river's edge except where immediate access to the river is necessary.

Commentor: Bureau of Development Services

Comment: Definition of Top of Bank. Remove all instances of "(measured horizontally)" and amend 33.930.030.A, if needed. It is not necessary to include this in multiple places in the Code.

Commentor: Bureau of Development Services

Comment: 33.860.250. Overlay Zone Map Refinement. Refers to "four situations stated below." Only 3 situations are described, A - C.

Commentor: Bureau of Development Services

Comment: 33.860.200.F.4. This criterion only applies to work in the c-zone so the inclusion of the p-zone should be deleted. It should state if development is proposed in the conservation zone is proposed that is not covered/addressed by F.4, then the application must meet the approval criteria of 33.430.250.E.

33.860.200.F.5. The reference to conservation zone should be removed. This criterion only applies to development p-zone that is not covered/addressed by F.1.

Commentor: Bureau of Development Services

Comment: 33.860.050.A.3. Development that has been added to the site since the original resource plan was approved. Wouldn't this be a violation? If a resource plan was approved, and development was added, it would either be in conformance or be a violation. Or should this Amendment read: "Proposed development to be added to the site that was not included in the original resource plan"?

33.860.050.A.4. Changes to conditions of approval as a trigger for a type 3 needs to be re-thought. Using this is a threshold will pretty much ensure that any amendment is a type 3. If the amendment is to change a planting density, does that really need a public hearing?

Commentor: Bureau of Development Services

Comment: 33.930.150.D Include the picture from the commentary as a figure in the code. Also, use a dashed line to identify t.o.b. as it runs through structures, specifically the building shown on the bank. Make sure to include illustration of Top of Bank as a Figure in the Code.

Topic: Other Watershed Health

Commentor: Department of Environmental Quality - Keith Johnson

Comment: What is the definition of significant wetlands, riparian areas, water bodies, and uplands? How is this determined--in ranking?

Commentor: Department of Environmental Quality - Keith Johnson

Comment: Key Code Amendment Recommendations: The purpose and effect of changing the overlays is not clear - eliminating the greenway setback from the top of the bank (from the i-overlay) that currently applies to all development that is not river-dependent or river-related. Would this result in fewer setbacks since the p-overlay would limit protections to the areas that need the highest protections, only?

Commentor: Audubon Society - Bob Sallinger

Comment: The Plan provides significant new protections for trees within areas that are covered by environmental zoning, but fails to address tree protection outside environmental zones. While we believe this omission is appropriate while the City continues to develop comprehensive protections for tree canopy citywide, protection of tree canopy in the North Reach is essential. A place holder should be inserted to allow for incorporation of tree protection on lands that were not designated as e-zones once the City completes work in its tree code revisions. Staff proposes the following amendment to the document related to the tree project: INSERT AMENDMENT HERE

Report of River Plan / North Reach Comments (as of 12/31/2008)

- Commentor:** Department of Environmental Quality - Keith Johnson
Comment: Again no TMDL/water quality issues discussed under "State and Regional" issues. A significant commitment in the form of a TMDL Implementation Plan, which has a large stormwater effort identified in this reach, should at least be called out as part of the plan.
- Commentor:** Department of Environmental Quality - Keith Johnson
Comment: The set of general measures and indicators is good. DEQ would like to see targets for indicators and some sense of how the analysis (statistical tests) will be performed. For example, an increase of 1% in acres of floodplain enhanced meets the goal of "an increase," but may do nothing to restore functionality.
- Commentor:** Department of Environmental Quality - Keith Johnson
Comment: DEQ questions the use of the term "Inspire" industrial Low Impact Development. The next set of MS4/1200 permits will expect more than inspiration for industrial stormwater. The City may want to have a more robust program described than what the plan outlines here.
- Commentor:** Department of Environmental Quality - Keith Johnson
Comment: It would be helpful to include a summary of statistics for number of acres/stream mile frontage, etc., that are zoned e, c, or p. This would help in talking about targets in restoration of the "inventory." The inventory implies that the City is counting beans and it was not easy for us to track actual numbers of "beans" the city is or will be counting.
- Commentor:** Department of Environmental Quality - Keith Johnson
Comment: Accounting system - is the City recreating the wheel with this? Metro has REIN and could be integrated into city efforts.
- Commentor:** Department of Environmental Quality - Keith Johnson
Comment: According to the Trustees Council (blue insert) "additional restoration, replacement, and rehabilitation of natural resources will ultimately be necessary." This mostly regards the Portland Harbor cleanup-up site. Similarly, how and when will damaged areas such as those with long-term vegetation deficits be restored?
- Commentor:** Department of Environmental Quality - Keith Johnson
Comment: DEQ encourages the City to include herbicides in IPM/Policy 19 Standards.

Topic: Prime Industrial Land/Comp Plan Amendments

- Commentor:** Linnton Neighborhood Association
Comment: Section 33.810.020 in Volume 1B forecloses quasi-judicial Comprehensive Plan Amendments in Prime Industrial Areas. In our opinion this section fails to achieve the appropriate balance between the need for predictability and the need for flexibility. We are concerned that the elimination of quasi-judicial amendments will eliminate a substantial part of the flexibility that is essential to an effective plan. This is particularly true since the plan does not provide for either periodic review of the industrial zoning designations or assessment of the continued validity of the industrial zoning of particular sites. This restriction on quasi-judicial changes will lock the City into practices which may become counterproductive as those changes occur.
- Commentor:** Kinder Morgan, BP, NuStar - Phil Grillo
Comment: Identification and protection of Prime Industrial Land - Under new administrative rules that implement Statewide Planning Goal 9 Prime Industrial Land that must be inventoried and protected. In Linnton, approximately 35 acres of industrial land, zoned IH, has been excluded from the "Prime Industrial Land Retention Area" boundary shown on Map 4, without any relevant explanation. This is the areas in Linnton that the Portland City Council recently voted not to rezone from industrial to residential use. This 35-acre industrially-zoned area in Linnton meets the definition of "Prime Industrial Land" and as a matter of law must be identified and protected as such. We therefore ask that you amend the Plan to show this land as Prime Industrial

Topic: River Environmental Overlay Zone

- Commentor:** Bureau of Development Services
Comment: River Restoration Fund. This may be moot at this point, but has BOP created a form that BDS will use to calculate the fee? For our own needs, we will need to make TRACS changes to accommodate potential info fields and fees.
- Commentor:** Audubon Society - Bob Sallinger
Comment: We are concerned that the City has eliminated review in situations where existing bulkheads are replaced with no more than 5 feet of incursion into the river. These exemptions could have significant cumulative impacts on the river's ecology over time.
- Commentor:** Audubon Society - Bob Sallinger
Comment: We believe the fee calculator was set too low and will not adequately cover the full costs of mitigating for impacts in the environmental zone. Industry should pay the full costs of impacting natural resources within environmental zones regardless of whether those costs are high. Devaluing the costs of mitigating for impacts does not incentivize property owners away from the most critical habitat areas.
- Commentor:** Bureau of Development Services
Comment: Why is there no general planting standard for the river setback? This departure from the greenway chapter should be addressed in the commentary. Why not require replanting in the setback and provide the option of the fee in lieu of.

Report of River Plan / North Reach Comments (as of 12/31/2008)

- Commentor:** Bureau of Development Services
Comment: The commentary indicates a that a two year monitoring program be utilized for the new code included in this draft. Who is the lead bureau on the program and has the additional staff time been considered as part of the fiscal impact analysis. Will both BOP and BDS be briefing Planning Commission together, how often, and would code revisions be part of a future RICAP or a separate code update process? IS this part of the action agenda? Let's coordinate and organize this effort.
- Commentor:** Bureau of Development Services
Comment: Should the Purpose of the chapter include a sentence about providing substantive guidance for removal or remediation of hazardous substances at part of contributing to a healthy river and watershed?
- Commentor:** Schnitzer Steel, Working Waterfront - Ann Gardner
Comment: We prepared a case study of a new 60,000 sf dock to illustrate our concerns about the natural resource mitigation fee. The example is based on preliminary engineering and cost estimates and we think it will help put the concerns of many working harbor businesses within perspective.
- The construction of a new 60,00 sf dock in the Willamette River could trigger roughly \$1.1 to \$1.35 million in additional fees, ostensibly to mitigate for lost natural resource values. This estimate was developed using the fee calculator on page 172 of Volume 1B, and confirmed with City staff. This fee is excessive and could prevent this job creating, energy efficient project from moving forward.
- The proposed City code does not identify the species of concern and it does not ask for a biological assessment. The justification for this fee [mitigation fee] is not articulated herein and does not appear to be scientifically based. We respectfully request that the Planning
- Commentor:** Bureau of Development Services
Comment: 33.475.450.B.1.a.3 and b.4. The proposed code says disturbance area must not occur within 30 feet from a stream, wetland, or water body. Please clarify exactly is the 30 feet measured from – TOB, OHW? It should probably be the same as what was listed in 7.b(3) on page 45 which lists 30 feet from TOB.
- 33.475.450.B.1.d. Even if disturbance occurred riverward of TOB, an applicant could still choose Option 1?
- 33.475.450.B.1.e. What if no trees were removed, but disturbance occurred riverward of TOB, the applicant could still use 33.730.140?
- Commentor:** Bureau of Development Services
Comment: 33.475.430.B.1.b. The Fee Calculator currently indicates that the replacement s.f. of the bulkhead is the measure of how the fee will be calculated. Is this intended to be the plan view s.f. replaced, the plan view area plus the vertical area facing the river or other? The standard indicates length of replacement bulkhead as the limiting factor, should the fee be calculated based on the same type of measurement?
- 33.475.430.B.1.b. Is BOP preparing a form for BDS to use that implements the fee calculator? Again, for our purposes TRACS programming changes will be needed to potentially include an info field and fees. Who administers/does the Fee Calculator for Off Site Mitigation? Please make clear in the commentary.
- Commentor:** Bureau of Development Services
Comment: 33.475.430.B.2. Standards for cargo conveyors. Cargo conveyors will almost always require support in the water, usually 3 or 4 piling, which would be exempt per 475.430.A.4.a, except that 475.430.B.2.c does not allow disturbance riverward of top of bank. Is that part of the proposal intended to go through River Review?
- 33.475.430.B.2 Standards for cargo conveyors
It may be helpful to have a maximum allowed disturbance area similar to the tree diameter removal cap in 33.430.140.J
- Commentor:** Bureau of Development Services
Comment: 33.475.430.B.2.d. Should the phrase, "Disturbance area returned to pre-existing condition" be included here? Or require the area to be part of the area used to meet the mitigation standard.
- Commentor:** Bureau of Development Services
Comment: 33.475.430.B.3.b, 4.b, 6.a. The code says disturbance area must be setback 30 feet from a stream, wetland, or water body. Please clarify exactly is the 30 feet measured from - TOB, OHW, edge of identified resource? It should probably be the same as what was listed in 7.b(3) on page 45 which lists 30 feet from TOB.
- Commentor:** Bureau of Development Services
Comment: 33.475.430.B.5.c. Will any development in the North Reach be able to use one outfall pipe 4" or less?
- Commentor:** Bureau of Development Services
Comment: B.1. What if there is not a BDS issued building permit for the project? There are several projects such as BES, PDOT, and federal projects that are self-permitting and would not necessarily be obtaining a permit through BDS. Should there be another option for projects that would not have BDS permits issued?
- Commentor:** Bureau of Development Services
Comment: 33.475.430.B.7a. This paragraph states the following standards apply to "resource enhancement projects...and to projects that relocate the top of bank." For clarity, shouldn't the title of this paragraph be, "Standards for resource enhancement and relocating the top of bank",

Report of River Plan / North Reach Comments (as of 12/31/2008)

unless relocating the top of bank is considered a resource enhancement?

- Commentor:** Bureau of Development Services
Comment: 33.475.210.F & .310.F. This section is a confusing section on a number of levels:
1) It refers to a chapter/standard that no longer applies and in coming years will be phased out of the zoning code; and
2) What is meant by "met the greenway setback"? If a building in the g* overlay was legally constructed 75' from t.o.b. can it now expand to 25'? That's what this language implies because the original bld "met" the greenway setback. What if the original Greenway setback required a 50 foot setback in the 'q' overlay?
I think F.2.b means expansions within the 50' river setback require a goal exception, but it doesn't say so. Or is this where the setback averaging is supposed to supply flexibility? This section is still confusing, could you revise some of the wording to be more specific and add some commentary to clarify the intent. (There were a lot of confused BDS responders to this section.)
- Commentor:** Bureau of Development Services
Comment: The numbering for 33.475.430.B.7.b needs to be corrected, there are two 2's.
- Commentor:** Bureau of Development Services
Comment: 33.475.430.B.7.b(4) - the (4) should be changed to (5) and change "90% coverage to a straight planting requirement based on a number of plants per sf.
- Commentor:** Bureau of Development Services
Comment: Why is required tree replacement starting at 4 inches in diameter instead of 6 inches? Please add commentary indicating why 4"? Why is this change necessary?
- Commentor:** Bureau of Development Services
Comment: With the upcoming Citywide Tree Project, should the tree numbers in this section be kept consistent with current sizes in the Zoning Code and be updated with the rest of the code when the code amendments are adopted for the CTP? This would simplify implementation and consistency of the code.
- Commentor:** Bureau of Development Services
Comment: 33.475.430.B.1.a(2). "The new bulkhead is replacing some or all of the existing bulkhead in the same footprint on the river bank." This in combination of the no more than 5 feet riverward of existing should ensure that a new bulkhead isn't built a few feet north or south of the original footprint.
- Commentor:** Bureau of Development Services
Comment: 33.475.430.B.9. This mitigation standard will put proposals into review just to avoid the required mitigation. Seldom will there be enough area on a site for a 1.5 to 1 mitigation area.
- Commentor:** Bureau of Development Services
Comment: 33.475.430.B.6 and commentary. The commentary indicates that these standards mirror the 33.430 chapter trail standards. This is misleading since the 33.430 standards limit length, width, vegetation clearance, viewing areas, and require the trail to be located within an easement or be located on public property. The code either should be expanded to actually mirror the 33.430 code requirements or the commentary needs to be amended to indicate where and why the differences between the two sections are necessary.
- Commentor:** Bureau of Development Services
Comment: 33.475.450.B.4. The review procedures list certain types of violations as a Type III, but Chapter 33.865 says River Reviews are processed as a Type II.
- Commentor:** Bureau of Development Services
Comment: Note in commentary that an advantage to having these standards is that it will inform the development of remedies. It is already noted that it is now hard to find out what's needed - add this positive outcome, too.
- Commentor:** Bureau of Development Services
Comment: 33.475.480. There is a lot of information packed into this first section. Maybe break this into two sections, with the first section titled, "General", and the second section, beginning with the sentence, "For purposes of this section, the regulations apply..." (see midway through second paragraph) titled "Where These Regulations Apply."
- 33.475.480. Note typo in line 6 of second paragraph. "They" should be "The."
- Commentor:** Bureau of Development Services
Comment: 33.475.480.A. The first sentence is a little clumsy, and may read better as "When there is significant alteration of the area riverward of the top of bank, the regulations of this paragraph apply."
- Tom Carter (consistent with feedback from NMFS, Mike Reed, DEQ and DSL) feels strongly that some cutoff amount of excavation and fill must be given as the dividing line between "significant" and "not significant." Otherwise, this will be very difficult to administer. 50 cubic yards would trigger a permit with DSL, right, so there's precedent for considering that "significant."
- Add word: repair and maintenance of storm water systems. Remove the following from minor bank alterations: sheet pile walls.

Report of River Plan / North Reach Comments (as of 12/31/2008)

- Commentor:** Bureau of Development Services
Comment: 33.475.480.B.1 Change the word "practical" to "practicable." Practicable means "able to be done." Practical means "suitable." Check other areas of document to catch all uses of the word practical.
- Commentor:** Bureau of Development Services
Comment: 33.475.483.E. Add to the end of the paragraph: or how they will not impede future river related or river dependant uses when the site is redeveloped.
- Commentor:** Bureau of Development Services
Comment: 33.475.500. Why aren't these approval criteria in the 800s? Now would also be an opportunity to move the Greenway Goal exception approval criteria in Chapter 33.440 to the 800s. Then one chapter will contain the Goal Exception criteria instead of repeating them in two sections of the zoning code. Why not move Greenway Goal Exception to 800's chapter and remove from River and Greenway chapters?
- Commentor:** Bureau of Development Services
Comment: 33.865.100.B.2.c. Delete the master plan from conditional use master plan.
- 33.865.100.B.2.e. I'm not sure about the "and is part of a resource enhancement project". This ties our hands in determining appropriate mitigation through the review process. Why does the replacement need to be done through a "resource enhancement project". Why wouldn't it just be called a mitigation plan for the proposed development? Since Resource Enhancement Projects are required to meet the Standards for Resource Enhancement of 33.475.430.B7, is it really the intent through this criterion that the applicant would have to meet the standards of B.7?
- 33.865.100.B.2.g(1) Why is this in the criteria rather than the commentary? Define "some" restoration work. Take the second sentence out and add to the commentary. Should this option be in the code before it can actually be used?
- 33.865.100.B.2.h. Is this really appropriate as a criterion? It seems that it may be better suited at the beginning of the chapter in a section for "other regulations" or "relationships to other state and federal requirements".
- Commentor:** Department of Environmental Quality - Keith Johnson
Comment: DEQ is concerned that the language in 33.475.480.C may not reflect the intent, reflected elsewhere in the Plan, that the regulations applied with some flexibility. 33.475.480 anticipates that the regulations in that section are intended to apply "to the extent feasible." Moreover, the regulations applicable to the River Industrial Overlay Zone acknowledge at least two instances when the use on sites with river frontage might not be river-dependent or river-related: 1 an existing nonconforming use; and 2 a use that is not river-dependent or river-related that has been approved through a River Review. The River Review regulations provide that "uses that are not river-dependent or river-related may locate on a site that fronts the river when the site is found to be unsuitable for river-dependent or river-related uses." The current commentary on 33.475.480.C and the text of that regulation do not seem to recognize the flexibility recognized elsewhere in the Plan, namely, the possibility that the site may be unsuitable for river-dependent or river-related uses or maintenance of that use may be infeasible.
- Presumably, an existing nonconforming use and a use that is not river-related or river-dependent but has been approved after River Review would both be uses allowed by the base zone or a conditional use. Thus, the "must" in the first sentence of 33.475.480.C may not be as problematic as it would seem on first blush. But the remainder of the text seems to ignore the possibility that the existing, approved, or most likely future use of a riverfront site might not be river-related or river-dependent for reasons that are wholly independent of the removal or remedial action.
- To that end, DEQ requests revisions to both the commentary and text of 33.475.480.C See suggested language included for consideration in
- Commentor:** Department of Environmental Quality - Keith Johnson
Comment: 33.485.480.D - The proposed restriction to flush mounted wells above the OHW mark is excessive and unreasonable. The definition of OHW is somewhat relative and high water often times exceeds that line. Flexibility for facilities and DEQ is needed to protect wells from flood damage, loss from being covered over with river sediments and site activities such as heavy vehicle traffic. DEQ and responsible parties need to be able to make the most practical decisions regarding well construction that meets the intended purpose and optimal functionality of any well at our cleanup sites. DEQ requests that the City remove this proposed restriction and instead make it only a suggestion or recommendation.
- In addition, DEQ is unsure about the meaning of the later part of this proposed code, because flush mounting (as opposed to above ground completions) would not pose a risk to boats. We expect that above ground completions that stick up and have protective ballards would pose a hazard to boats. The City commentary states that flush mounted monitoring wells are more consistent with the scenic goal of the Goal 15
- Commentor:** Department of Environmental Quality - Keith Johnson
Comment: It is not clear how the mitigation program will work, or what kinds of impacts can be mitigated. The example is for rip-rap, but other impacts, such as stormwater and LID should be discussed as well. DEQ suggests being more explicit about what environmental components are likely to be included in actual mitigation.
- Commentor:** Department of Environmental Quality - Keith Johnson
Comment: DEQ is concerned that "low priority" equates to "no actions will be taken at reducing impact," and options for softening or revegetating the hardened areas should be included. DEQ would also like to see how much is "low priority" - is it 10%, 25%, or 75% of the North Reach? The implication is that the City is "writing these areas off" - it would be nice to know the relative amount of riverscape in this category.

"The City will not apply the e-overlay to non-vegetated, hardened river banks in the North Reach." Evidently, these areas will be presented

Report of River Plan / North Reach Comments (as of 12/31/2008)

as areas with high economic development potential, only. Assuming many of these areas will remain un-developed over time, what are the long-term plans for restoring these damaged shorelines?

Commentor: Bureau of Environmental Services - Paul Ketcham

Comment: We paid particular attention to the watershed health section and the River Restoration Program. We support the Plan because it holds the promise to restore the natural functions and watershed values of the North Reach while promoting a robust river dependent industry. The e zone provides land owner flexibility and review standards that address the specific NRI resources. The new section of code that provides much needed direction for addressing the clean up of contaminated sites, standards and guidelines for more natural river bank treatments, and incorporating shallow water beaches and large wood structures in site cleanup. We strongly support the identification of 20 anchor sites and the River Restoration Program. Funding is critical to the plan. We support the environmental and conservation overlay zones proposed near the bluff and streams and wetlands on the east and west side of the River Plan boundaries.

Commentor: Bureau of Development Services

Comment: 33.475.430.B.8.c. Use the tree replacement table in Ch. 33.430. A one-to-one ratio, as required by this subsection, will require so many replacement trees that many sites would not be able to meet this requirement. It should be a bit more reasonable, such as the densities within Tree Replacement Table 430-3.

8.c. - This section is not feasible. Tree canopy factor information is not readily available, applicants do not always know the species of tree to be removed. Although there is some information in the Tree and Landscaping Manual, the canopy factor has not been a problem (or utilized) because of the list of Plants within the manual. Very difficult to administer.

33.475.430.B.8.c. The "have an easement or deed restriction sufficient to ensure the success of tree planting" language is not clear and objective as these standards are intended to be. Could we add language indicating the area will not be developed and that the plantings be maintained "in conformance with the requirements of Section 33.248.090, Mitigation and Replacement Plantings?"

Commentor: Bureau of Development Services

Comment: 33.475.100. Should second sentence read, "Primary uses that are not river dependent..."?

Commentor: Bureau of Development Services

Comment: 33.475.130.E. Instead of using a property resulting in more than one River overlay zone, could lot or lot of record be used instead? Property is not defined so it is unclear whether the intent is an ownership, site or lot / lot of record. (This has been a common issue with the 33.667 chapter.)

Commentor: Bureau of Development Services

Comment: 33.475.130.C. The lot dimension approval criteria could be clarified to read: "Lot dimension approval criteria must be met if standards of C.1 are not met." (LD Team comment)

Commentor: Bureau of Development Services

Comment: 33.475.430.A.4.d. This exemption needs more limits. Poles for security cameras should be landward of t.o.b. and have the same disturbance limits as 4.e. Also this exemption is in conflict with other tree removal standards, with the exemption referencing native trees over 6" in diameter, the rest of the chapter refers to 4".

Commentor: Bureau of Development Services

Comment: IG2 Minimum Landscape Area. Rather than outright promoting the River Restoration Fund, there should be some standards associated with this section that require on-site revegetation. If on-site revegetation is determined not feasible/possible (i.e., because of the location of existing development, riprap, or native plants/previous mitigation) then applicants should be directed to the River Restoration Fund.

Commentor: Bureau of Development Services

Comment: 33.475.430.B.7.a(2) - change "100 percent coverage within 5 years" to a straight planting requirement based on a # of planters per square feet. Coverage standards are extremely difficult and time consuming to implement as there is no clear way to determine whether coverage would be achieved. It does not allow for consistent or easy implementation.

7.a(2) Should there be a minimum planting level?

Typos:

b - add 's' to project

b(2) - change to no net fill

Remove the "as required by BES" portion of the standard, and leave the rock armoring around outfalls. If needed BDS can consult with BES if the armoring around the outfall is excessive.

Commentor: Bureau of Development Services

Comment: 33.475.130.E - do not use the word "property", change to site or ownership...depending on intent.

Commentor: Bureau of Development Services

Comment: 33.475.110.D. The reference to uses employing "100 or more people" will be tricky to implement. How can the applicant document, using Standard Evidence, the actual number of employees on the adoption date? Does BOP just want to map the few sites that they intend to provide this exception for? Identifying the sites would solve the, "How do we determine the # of employees on the effective date of the regulations?" question.

Report of River Plan / North Reach Comments (as of 12/31/2008)

- Commentor:** Bureau of Development Services
Comment: 33.475.130.B. Note the second to last sentence should read "Property Line Adjustments must meet..."
- Commentor:** Bureau of Development Services
Comment: 33.475.060.B. For clarity, the last sentence should read, "See Section 33.910.030 for more information on top of bank."
- Commentor:** Bureau of Development Services
Comment: C. Include actual dollar amount for L (cost to purchase plants) and update number in the code each Feb. 1, just as other dollar amounts in code. In lieu of which minimum landscape standard? This should refer to the code section or make it more clear that minimum landscaping for parking, screening, etc is not eligible for in-lieu payment. This also applies on pages 15, 23, and 29.
- Commentor:** Bureau of Development Services
Comment: C. The cost of land "A" should be adjusted on a regular basis as well. Also, it would make more sense to have an actual \$ amount in the code. The paragraph on adjusting the fee should be moved to commentary. This is more consistent with other sections of the code that deal with threshold amounts.
- Commentor:** Bureau of Development Services
Comment: Payment in Lieu of Landscaping. Has BOP created a form that BDS will use to calculate the fee? For our own needs, we will need to make TRACS programming changes to accommodate potential info fields and fees to ensure collection of fees.
- Commentor:** Bureau of Development Services
Comment: C. Payment in lieu of landscaping. Perhaps a compromise position is better, a 25% or 40% payment in lieu. In the absence of a review, greenway landscaping elements will become more important to retain and enhance habitat connections between 'restoration sites' and to offer at least some form of on-site mitigation. Offering full payment in lieu sets a questionable precedent for land use regulations.
- Commentor:** Bureau of Development Services
Comment: B.2.b. A few clarification questions about the terms listed: (1) Is replacement intended as part of normal maintenance and repair? (4) Pollution control equipment, is this going to be defined in 33.910?; and (5) Approved on-site mitigation & (6) Voluntary restoration, has there been any development of an established means of communication and tracking of these various projects. One lesson we have learned about tracking from PIR is the various mitigation areas have been tough to track and tricky to ensure that they are not overlapping. Does BES approve voluntary restoration? What is this process/system that they grant their approval through? How would this be communicated to BDS to ensure ease of implementation and reduced frustration for the applicant? (Item for action agenda?)
- Commentor:** Bureau of Development Services
Comment: 33.475.110. It's confusing to use the same phrasing "Nonconforming Uses" as 33.258 when this is specifically referring to uses that are not river-dependant or river-related. Change title and references to "Nonconforming River Uses" (or similar) to help differentiate.
- Commentor:** Bureau of Development Services
Comment: 33.475.430.A.3.c. This exemption doesn't make sense in this location. Alterations, maintenance, or replacement to accessory structures would be covered by "a" or "b". If new acc. structures are allowed, this should be moved to A.4.
- 33.475.430.A.3.d. The replacement activities identified in this paragraph be allowed only if coverage or facility size is not increased (see wording in paragraph "a" of this section)? Add "Replacement is not exempt whenever coverage or utility size is increased".
- 33.475.430.A.3.e. This sentence would be clearer if written as follows, "Dredging, channel maintenance, and removal of gravel from within the navigation channel, and maintenance dredging outside of the navigation channel, when approved by the..."
- Commentor:** Bureau of Development Services
Comment: Change the word "should" to "must" in all Standards, i.e. "The bank 'should' be planted..." to "The bank 'must' be planted..."
- Commentor:** Bureau of Development Services
Comment: 33.475.430.A.4 (or where appropriate) Please add an exemption or mention for cleanup projects. It could clarify their status somewhat, and simplify the nesting of requirements in the code.
Removal or remediation of hazardous substances conducted under ORS 465.200 through 465.545 and 465.900 and are exempt under ORS 465.315 are exempt from the procedures of this chapter. Any development proposed not in itself a remedial or removal action must meet the standards or criteria of this section.
- Commentor:** Bureau of Development Services
Comment: 33.475.210.D & .310.D. Setback averaging. It seems as though there should be some standards associated with proposals for setback averaging. For example, there should be:
- some show of need for setback averaging
 - a preference for an existing hard surface area for the reduced setback and/or a non-developed area for the extended setback area
 - no, or minimal, impacts to resources or functional values
 - resource enhancement of the extended setback area

OR

The code language be clarified to include more specific language indicating that the area of land within the reduced setback must be equal to

Report of River Plan / North Reach Comments (as of 12/31/2008)

the area of land that is gained from the increased setback.

How does setback averaging work for multiple buildings? Looks like someone could build to 25' if there are other buildings equal in width on site that are at least 75' back, for example.

Also, appears to allow non-river-dependent or related development up to the 25' setback if setback averaging is used. Is that the intent?

The proposed method of setback averaging does not seem like a good idea at first glance. Please provide commentary addressing the following questions and consider the code change suggestions above to increase the ease of implementation of this new standard:

What value is the increased setback area if it is surrounded by building?

Could there be additional commentary that discusses the intent of added flexibility or the circumstances that this change in the code is trying to address or provide flexibility for?

Commentor: Bureau of Development Services
Comment: 33.475.425.A.4. Trees greater than 4" should be changed to 6" until/unless changed throughout the Code by the Tree Project. Too confusing to have different tree thresholds throughout the Code.

Commentor: Bureau of Development Services
Comment: 33.475.425. The section would flow better if these permit submittal requirements were listed after the exemptions section and with the 'e' overlay standards. Move 33.475.425 to section before standards are listed.

Commentor: Bureau of Development Services
Comment: 33.475.425. The "D" in the last sentence should be "C."

Commentor: Bureau of Development Services
Comment: 33.475.420.C. For clarity, the first sentence should read, "...does not meet the River Environmental development standards or there are no River Environmental development standards that apply to the proposal."

Commentor: Bureau of Development Services
Comment: Typo – 33.475.220 references 33.475.050.C

Commentor: Bureau of Development Services
Comment: 33.475.210.F.2 - This standard is clunky and difficult to implement...requires going back to old code determine what the greenway setback would have been and there is no easy way to determine whether the development met the setback at the effective date. Also assumes a 25' greenway setback, which isn't always the old setback requirement.

Topic: River Plan Process

Commentor: NW Industrial Neighborhood Association
Comment: The Plan before you has been in process literally for years, but the draft language was just released a few weeks ago and is still being amended. We urge extreme caution as you consider amendments to the current zoning code.

The River Plan / North Reach was released on October 28, 2008, six weeks prior to the first hearing and 11 weeks prior to the second hearing.

Topic: River Restoration Program

Commentor: Friends of Cathedral Park - Barbara Quinn
Comment: The board of Friends of Cathedral Park neighborhood association wholeheartedly supports the River Plan / North Reach as a means of restoration of salmon and wildlife habitat over the next few decades. We urge you to support the 1% fee for restoration to help regain some of the loss of habitat in the North Reach.

Commentor: Portland Freight Committee - Wayne Kingsley
Comment: We have worked to create rules that are environmentally sound while at the same time provide the opportunity for more great jobs for the growing population in Portland. In some ways, this decade-long process has made great progress, but in other ways we haven't gotten it right. I am fine with the regulations associated with the fee, but don't like the replacement plan that was presented by staff tonight.

Commentor: Kinder Morgan, BP, NuStar - Phil Grillo
Comment: Objection to Restoration Site 16 located at the Kinder Morgan Terminal in Willbridge - We have never supported a restoration program that mandates the designation of restoration sites over the objection of the landowner. Proposed Restoration Site 16 is a significant portion of Kinder Morgan's Willbridge Terminal site and has previously been planned as the location of a future dock and distribution facility. Kinder Morgan is therefore not willing to have this site identified on any map as a "Restoration Site." It is critical that no restoration site be identified on this property.

Commentor: Portland Development Commission - Kevin Johnson
Comment: I'd like to address the 1% natural resource mitigation fee. But, what we're looking at is a lot of companies looking to invest \$5, 10, 50, 100 million. These investments could be very highly impacted and we want these jobs to come in because they employ a lot of people. If they come in and look at another \$1 million of some type of fee they will have to pay, they will go some place else. The sites I'm trying to get

Report of River Plan / North Reach Comments (as of 12/31/2008)

back into operational use – we might get these brownfields cleaned up and get some of the Superfund issues taken care of, but nobody is going to want to move into the area if they have that type of fee that they have to deal with. We need to take a close look at what the impact of this fee is, maybe look at trying to put some type of a cap on this fee because we are trying to get as much manufacturing here

Commentor: Audubon Society - Bob Sallinger

Comment: The plan does not contain adequate analysis of the feasibility of the City establishing permanent protections on the 20 restoration sites. The success of this plan from an environmental perspective is predicated on the protection of these sites. Failure to achieve protection for the vast majority of sites over time would not allow for adequate protection of fish and wildlife species. The plan should provide a realistic and detailed assessment of the challenges and probability of protecting each individual site. Staff is in the process of compiling the information requested.

Commentor: Department of Environmental Quality - Keith Johnson

Comment: DEQ would like to see more detail of what an "ambitious off-site restoration program" consists of.

Commentor: Friends of Cathedral Park - Barbara Quinn

Comment: Because Baltimore Woods connects wildlife to Kelley Point Park via Smith and Bybee Lakes/Pier Park to the north and the proposed Willamette Cove natural area/ Cathedral Park to the south, it offers an increased habitat area essential to wildlife survival. We ask that funding by the 1% fee of any off site restoration/acquisition of upland deciduous habitat be concentrated on its preservation.

Commentor: Audubon Society - Bob Sallinger

Comment: The Plan fails to provide a cost estimate for protecting and restoring the restoration sites. In order to realistically assess the feasibility of this plan, the City should have a ballpark figure of how much the system of restoration sites will cost. We recognize there are many variables but a cost range with accompanying explanation of variables is appropriate and necessary for the city and the public to make an Staff is in the process of compiling the information requested.

Commentor: Kinder Morgan, Working Waterfront - Rob Mathers

Comment: At certain locations along the North Reach, River Plan proposes to establish restoration sites on private industrial properties that allow the City to meet its environmental obligations at industry's expense.

Commentor: Port of Portland - Susie Lahsene

Comment: The Port is concerned that there is inadequate emphasis placed on the fully-fleshing out the restoration opportunities and the creation of improved habitat for the North Reach. The Port wants the restoration opportunities to be more fully described, because they are concerned that many of them may be too contaminated or degraded to bring back to restored habitat. They want staff to identify natural resource sites and really detail out the cost of restoration. Also, some of the pearls conflict with PDC's Harbor ReDI sites.

Commentor: Audubon Society - Bob Sallinger

Comment: The City recently presented an alternative approach to the 1% fee that it believes will accomplish similar objectives in terms of revenue. We are still analyzing this new information. In general we believe the 1% fee was set too low. We are troubled that this critical funding mechanism is still completely unresolved as the plan enters the public review phase.

Topic: Stormwater

Commentor: Department of Environmental Quality - Keith Johnson

Comment: Section 1.e is pretty brief. There is little discussion of State or City involvements. For example, the City of Portland is DEQ's Agent for many areas of storm water regulation, overseeing NPDES industrial storm water permits. The MS-4 storm water permit is also not described here.

Commentor: Department of Environmental Quality - Keith Johnson

Comment: Many utilities and important conduits are depicted on the map. However, storm sewers and industrial outfalls are not depicted. Maybe it's too much detail to include the piping, but at least noting outfall locations could provide useful information. (Storm water outfalls are included on the Inventory Maps.)

Commentor: Department of Environmental Quality - Keith Johnson

Comment: Does Option A include drywells? If so, to what extent are drywells being used, or will be used? Were any other design flows considered in modeling--such as a 25-year design storm, or others? Specifically, are storm water volumes predicted to increase to the Columbia Slough, and if so by how much?

Commentor: Department of Environmental Quality - Keith Johnson

Comment: Regarding storm water quality, are there MS-4 and other City storm water studies that can provide indicators to measure source control improvements in the quality of storm water?

Commentor: Bureau of Development Services

Comment: There is not mention of the Clean Water Act related to the TMDL/Stormwater permitting issues in the North Reach as part of the city's mandates they must comply with.

Commentor: Department of Environmental Quality - Keith Johnson

Comment: The City may want to point out that an important type of stormwater pollution comes from exposed materials and not just impervious surfaces. Examples include fertilizer and pesticide runoff from vegetated areas, including lawns; also industrial materials and waste piles that are exposed to storm water.

Report of River Plan / North Reach Comments (as of 12/31/2008)

- Commentor:** Friends of Baltimore Woods
Comment: Located between the neighborhood [Cathedral Park] and the river, the Baltimore Woods can store and filter stormwater from the neighborhood, improving watershed health in the North Reach, a stated goal of the City. In the future the Friends hope to work with the City to develop new opportunities for stormwater mediation.
The Friends of Baltimore Woods should communicate with the Bureau of Environmental Services' stormwater program about stormwater management options for this area.
- Topic:** Working Harbor Viability
- Commentor:** Port of Portland - Susie Lahsene
Comment: A primary concern the Port has with the River Plan proposal is the cost of development/redevelopment in the harbor as exemplified by the development fee and mitigation cost is too high with the proposed regulatory structure. This issue with the code spells continued uncertainty for business, additional time and cost for development, which will substantially dampen further investment. The region needs the traded industry value in the harbor to address the Superfund burden, and the River Plan needs to facilitate that activity both from a restoration and investment standpoint.
- Commentor:** Portland Freight Committee - Corky Collier, Gary
Comment: The draft rules may severely restrict growth in jobs and even reduce jobs in the area as employers find it too difficult or too expensive to conduct business.
- We recommend the City:
- Reexamine theregulations and fees to eliminate duplication and minimize the costs to a level necessary to achieve agreed environmental results.
 - Evaluate the overall costs for a business to comply with the regulations. An objective evaluation could reduce finger-pointing and give the City extremely useful planning data.
 - Place a high priority on the maximum use of scarce useable land and restore unusable land. Prevent further loss of fully serviced industrial land, in support of our Urban Growth Boundary and Portland's commitment to densification.
- Commentor:** Kinder Morgan, Working Waterfront - Rob Mathers
Comment: The infrastructure capabilities and services provided by the energy sector in Portland are irreplaceable, vital to continued economic development, and necessary for job retention and job growth in our communities near and far. Given the severe economic conditions, we urge the City to exercise great caution before it piles-on new regulation. If this proposed Plan were adopted today, it would constrain our ability to operate and grow without incurring unnecessary penalties.

Report of River Plan / North Reach Comments (as of 12/31/2009)

Commentor	Format
40 Mile Loop Land Trust - Mel Stout	Written
Audubon Society of Portland - Bob Sallinger	Written
Audubon Society of Portland - Bob Sallinger	Oral
BNSF - Linda Braden	Oral
BNSF - Terry Finn	Written
Bureau of Environmental Services - Paul Ketcham	Oral
Cesar DelRosario	Written
City of Portland Noise Control Office/ BDS - Paul Van Orden	Oral
Co Lerner General Contract / Springwater Dev. LLC - Corey Lerner	Oral
DEQ - Keith Johnson	Written
Friends of Baltimore Woods	Written
Friends of Baltimore Woods - Jim Barnas	Oral
Friends of Baltimore Woods - Sumner Sharpe	Oral
Friends of Cathedral Park NA board - Barbara Quinn	Written
Jack Newlevant	Written
James Male	Written
John Soares	Oral
Kathleen Anderson	Oral
Kim Elliot	Written
Kinder Morgan Energy Partners - Robert Mathers	Oral
Kinder Morgan, BP, NuStar - Phil Grillo	Written
Kinder Morgan, Working Waterfront Coalition - Rob Mathers	Written
Linnton Neighborhood Association - Ed Jones	Written
Linnton Neighborhood Association - Ed Jones	Oral
npGreenway	Written
npGreenway - Curt Schnieder	Oral
npGreenway - Francie Royce	Oral
npGreenway - Pam Arden	Oral
NuStar Energy - Brian Perleberg	Oral
NW Industrial Neighborhood Association (NINA) - Leah Goldstone-Schuller	Written
Paul Maresh	Written
Peter Finley Fry	Written
Piedmont Neighborhood Association - Janis McDonald	Written
Port of Portland - Susie Lahsene	Oral
Portland & Western Railroad - Paul Zalec	Oral
Portland & Western Railroad - Paul A. Zalec	Written
Portland Development Commission - Kevin Johnson	Oral
Portland Freight Committee - Corky Collier/ Gary Eichman	Written
Portland Noise Review Board - Kerrie Standlee	Oral
Robert Steelpnreel	Oral
RR Piltz	Oral
Sally Hood	Written
Schnitzer Steel - Ann Gardner	Oral
Schnitzer Steel - Steve Pfeiffer	Oral
Schnitzer Steel and WWC - Ann Gardner	Written
Schnitzer Steel Industries - Mathew Cusma	Oral
Swan Island TMA - Lenny Anderson	Oral
Todd Roll	Written
University of Portland - Megan Walseth	Written
University of Portland - Megan Walseth / Jim Kuffner	Oral
Wayne Kingsley	Oral

