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PORTLAND, OREGON

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LaVonne Griffin-Valade, City Auditor

1900 SW 4th Avenue, Room 3100

Portland, Oregon 97201

Telephone: (503) 823-7307

Fax: (503) 823-4347

TDD: (503) 823-6868

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RECOMMENDATION OF THE HEARINGS OFFICER

GENERAL INFORMATION

File No.: LU 09-160242 GE CP (HO 4090026)

Applicant: Michael Eaton
Multnomah County Bridge Division
1403 SE Water Avenue
Portland, OR 97214

**Applicant's:
Representative:** Michael Hoffmann
CH2M Hill
2020 SW 4th Avenue, Suite 300
Portland, OR 97201

Owners: City of Portland
1221 SW 4th Avenue #140
Portland, OR 97204

City of Portland
1120 SW 4th Avenue, #1204
Portland, OR 97204-1912

City of Portland
Bureau of Parks and Recreation
1120 SW 5th Avenue, #1302
Portland, OR 97204-1933

City of Portland
BES Facilities
1120 SW 5th Avenue, #1000
Portland, OR 97204-1912

Tricounty Metropolitan Transportation District of Oregon
710 NE Holladay Street
Portland, OR 97232

River View Cemetery Association
8421 SW Macadam Avenue
Portland, OR 97219-3044

Mildred Barbour
7080 SW 76th Avenue
Portland, OR 97223-7485

FMC Properties
7524 SW Macadam Avenue
Portland, OR 97219-3017

Macadam Bay, Inc.
1400 SW 5th Avenue, #770
Portland, OR 97201-5542

Hearings Officer: Gregory J. Frank

Bureau of Development Services (BDS) Staff Representatives: Stacey Castleberry and
Sylvia Cate

Site Address: Sellwood Bridge and Vicinity

Legal Description: TL 4900 BLOCK M, FULTON PK; LOT 1&2, WILLAMETTE OAKS PK;
LOT 3-6, WILLAMETTE OAKS PK; LOT 10&11, WILLAMETTE OAKS
PK; TL 300 0.32 ACRES, SECTION 22 1S 1E; TL 500 0.15 ACRES,
SECTION 22 1S 1E; TL 4500 0.91 ACRES, SECTION 22 1S 1E; TL 400
0.24 ACRES, SECTION 22 1S 1E; TL 100 2.58 ACRES SPLIT MAP
R330344 (R991220930), SECTION 22 1S 1E; TL 4600 0.36 ACRES,
SECTION 22 1S 1E; TL 200 5.55 ACRES, SECTION 22 1S 1E; TL 5000
1.52 ACRES, SECTION 22 1S 1E; TL 4800 1.07 ACRES SPLIT MAP
R330342 (R991220910), SECTION 22 1S 1E; TL 4700 0.32 ACRES
SPLIT MAP R330329 (R991220770), SECTION 22 1S 1E; TL 100 181.25
ACRES CEMETERY LAND POTENTIAL ADDITIONAL TAX,
SECTION 27 1S 1E; TL 200 3.02 ACRES, SECTION 27 1S 1E; TL 300
1.18 ACRES, SECTION 27 1S 1E

Tax Account No.: R300406940, R913700010, R913700050, R913700190, R991220080,
R991220090, R991220470, R991220490, R991220770, R991220790,
R991220860, R991220890, R991220920, R991220930, R991270010,
R991270710, R991270770, R991220470

State ID No.: 1S1E22AC 04900, 1S1E22AC 02600, 1S1E22AC 02700, 1S1E22AC 03100, 1S1E22DB 00300, 1S1E22DB 00500, 1S1E22AC 04500, 1S1E22DB 00400, 1S1E22D 00100, 1S1E22AC 04600, 1S1E22DB 00200, 1S1E22AC 05000, 1S1E22AC 04800, 1S1E22AC 04700, 1S1E27 00100, 1S1E27A 00200, 1S1E27A 00300, 1S1E22AC 04500

Quarter Section: 3730, 3830, 3831

Neighborhood: Sellwood-Moreland and South Portland

Business District: None

District Coalition: Southeast Uplift and Southwest Neighborhoods Inc.

Plan District: Macadam Plan District

Other Designations: Macadam Design District

Zoning: CG, CS, OS, R5, d, g, q, r, c, p, s –General Commercial, Storefront Commercial, Open Space, Residential 5,000 base zones with the Design, Greenway Water Quality, Greenway River General, Greenway River Recreational, Environmental Conservation, Environmental Protection, and Scenic Resources overlay zones.

Land Use Review: Type III, GE CP—Willamette River Greenway Goal Exception and Comprehensive Plan Amendment

BDS Staff Recommendation to Hearings Officer: Denial of a Statewide Planning Goal Exception, Greenway Goal Exception and associated Comprehensive Plan Amendment to authorize the placement of fill within the Willamette Greenway Setback area, associated with:

- Construction of the new Sellwood Bridge and connecting ramps
- Relocation of the trolley track line right-of-way; and
- Construction of the 18-foot multi-use trail

Public Hearing: The hearing was opened at 9:00 a.m. on February 1, 2010, in Room 2500A on the 2nd floor at 1900 SW 4th Avenue, Portland, Oregon, and was closed at 12:01 p.m. The record was held open until 4:30 p.m. on February 22, 2010 for new evidence and until 4:30 p.m. on March 1, 2010 for Applicant's rebuttal. The record was closed at that time.

Testified at the Hearing:

Sylvia Cate, BDS Staff Representative, 1900 SW 4th Avenue, Room 5000, Portland, OR 97201
Stacey Castleberry, BDS Staff Representative, 1900 SW 4th Avenue, Room 5000, Portland, OR 97201

Michael Eaton, Multnomah County Bridge Division, 1403 SE Water Avenue, Portland, OR 97214

Michael Hoffmann, CH2M Hill, 2020 SW 4th Avenue, Suite 300, Portland, OR 97201
Mark Greenfield, 14745 NW Gillihan Road, Portland, OR 97231
Steve Katko, CH2M Hill, 2020 SW 4th Avenue, Suite 300, Portland, OR 97201
Emily Roth, City of Portland Parks and Recreation, 1120 SW 5th Avenue, Suite 1302, Portland, OR 97204
Ward Barbour, 7080 SW 76th Avenue, Portland, OR 97223
Moanna Wright, 7505 SW Miles Place, Portland, OR 97219

Proposal

The City of Portland Zoning Code (“PCC”) requires that development within the Willamette Greenway Setback be either river-dependent or river-related (PCC 33.440.210 C.2). A Greenway Goal Exception is required for development that is not river-dependent or river-related.

The PCC defines bridges supported by piers or pillars, as opposed to fill, as river-dependent; and bridge exits and entrance ramps supported by piers or pillars, as opposed to fill, as river-related (PCC 33.910.030). Bridges and ramps supported by fill are not river-dependent or river-related. Entrance and exit ramps for the replacement Sellwood Bridge are proposed to be constructed on fill in some areas and require a Greenway Goal Exception where this fill is to be placed within the Greenway Setback. The Applicant, Multnomah County, therefore seeks a Greenway Goal Exception and Comprehensive Plan Amendment to allow placement of fill within the Willamette River Greenway Setback area.

This application for Greenway Goal Exception and Comprehensive Plan Amendment is the first phase of the local land use review process. At a future time, following advanced engineering design, the Applicant will apply for approval of development-specific Greenway and Design review. Those land use reviews are not part of the current application.

The Greenway Goal Exception is a required element of the Final Environmental Impact Statement (FEIS) process that the County is in the process of completing. The Comprehensive Plan Amendment is required solely to determine if the Greenway Goal Exception is supportive of the relevant goals and policies of the Comprehensive Plan; no changes in the Comprehensive Plan Map are proposed.

The County will apply for a separate Type II Greenway Review and Type II Historic/Design Review following Federal Highway Administration approval of the FEIS.

Project Background: This application for Greenway Goal Exception/Comprehensive Plan Amendment is limited to the review of placing fill within the Greenway Setback - the Sellwood Bridge replacement project as a whole does not require a Greenway Goal Exception/Comprehensive Plan Amendment. Still, for a complete understanding of this application, it is helpful to understand the project and its background in full, as described below by the Applicant.

The existing Sellwood Bridge is structurally deficient and functionally obsolete and must be replaced. The bridge has inadequate structural integrity to safely accommodate various types of heavy vehicles (including transit vehicles, trucks, and emergency vehicles) and to withstand moderate seismic events. The bridge does not meet current seismic standards.

In June 2003, cracks in both the east and west concrete approaches of the existing bridge were discovered and subsequently restrained with external steel clamps. In 2005, the weight limit for vehicles travelling across the bridge was reduced from 32 tons to 10 tons. This limit caused the diversion of truck traffic and 94 daily TriMet bus trips, which formerly crossed the bridge. Before the weight restriction was imposed, bus usage across the bridge was substantial and served many travel markets, including those between the Sellwood, Westmoreland, and Milwaukie areas and southwest Portland and City center. Since the weight restriction, the bus routes have been rerouted, making the use of public transportation between these key markets less direct and, for many persons, less attractive/convenient.

In May 1999, Metro made recommendations for the *South Willamette River Crossing Study*, which included the Sellwood Bridge. The study, initiated by Metro's Joint Policy Advisory Committee on Transportation, identified needed improvements for cars, transit, bikes, and pedestrian traffic crossing the Willamette River between southeast Portland and Oregon City.

The Sellwood Bridge Project was listed on the Metro 2004 RTP financially constrained list for RTP program years 2004 to 2009. In November 2008, the Sellwood Bridge Project Draft Environmental Impact Statement (DEIS) was released to the public. Formal comments on the document were collected through December 22, 2008. In February 2009, the Policy Advisory Group selected a Locally Preferred Alternative (LPA), based on the recommendations of the public and the project's Community Task Force.

Project Description:

This application for a Greenway Goal Exception and Comprehensive Plan Amendment is explicitly for the approval of placing fill within the Greenway Setback. Therefore, the Sellwood Bridge project discussed in this application *relates only* to areas within the Greenway Setback *where fill is being proposed*. Subsequently, the "project site" of this proposal is *only the areas within the Greenway Setback where fill is proposed*, not the greater Sellwood Bridge Project area that will be reviewed by the City in later, development-specific, land use reviews. The project description provided herein describes the bridge project in full for informational purposes only.

Multnomah County is proposing to place fill within the Greenway Setback for the purpose of enabling the replacement of the existing Sellwood Bridge with a new bridge, and the reconfiguration of the existing interchange area at Oregon Highway 43 just west of the western bridgehead. The entirety of the Sellwood Bridge Project "Locally Preferred Alternative" will contain the following elements:

- A new bridge will replace the existing bridge;

- The centerline of the new alignment will be approximately 15 feet south of the existing Tacoma Street centerline to allow for continuous traffic flow at the crossing throughout construction;
- The east end intersection of Tacoma Street and SE 6th Avenue will have a pedestrian-actuated (controlled) signal;
- The west end traffic interchange with Highway 43/Macadam Avenue will be signalized (stop light);
- The bridge span over the Willamette River will be 64 feet wide or less, containing two traffic lanes, two shoulder/bike lanes, and two pedestrian sidewalks, and a streetcar line;
- The existing Willamette Shoreline trolley line will be relocated eastward; and
- An 18-foot wide multi-use trail (14-foot paved; two 2-foot shoulders) will be constructed from the new bridge north to SW Miles Street. The trail will be located along the east side of the trolley line.

Two bridge types are under consideration: Concrete Box girder and Deck Tied Arch. The existing river crossing has five piers within the ordinary high water (OHW) elevation. The new bridge type would have either four piers (concrete box girder) or six piers (deck-tied arch) within the OHW elevation. The bridge span will be large enough to provide the required 200 feet of horizontal navigation clearance.

The new bridge for the Locally Preferred Alternative would be located on the existing alignment but extended slightly to the south. The new Sellwood Bridge structure will require the placement of fill within the Willamette River Greenway Setback area to raise the bridge approach to the bridge deck span and associated roadway connection ramps.

Reconstruction of the interchange at the west approach of the bridge would include expanding the roadway embankments, replacing the existing pavement, and constructing new ramps and interchange structures. Multiple bridge structures are assumed necessary to support the ramps in the west-side interchange within an identified slide escarpment. Outside of the existing landslide area, typical construction materials and structures are assumed.

The placement of fill within the Willamette River Greenway Setback area will also be required for the construction of an 18-foot wide multi-use trail and the relocation of the Willamette Shoreline trolley right-of-way located just east of Highway 43 (SW Macadam Avenue).

Although the project will necessitate the placement of fill in specific locations, on balance, direct project actions will result in a net reduction of fill in the Greenway Setback area. This is primarily the result of significant excavations to lower SW Macadam Avenue in the interchange area to lower the trolley line underneath the main bridge stem and bridge approach, and to lower the trolley line and Staff Jennings/Powers Marine Park driveway underneath SW Macadam Avenue.

The estimated amount of fill and excavation associated with the LPA in the Greenway Setback is summarized as an overall net cut of 36,615 cubic yards of soil for the multi-use trail, the Sellwood Bridge and approaches, and the Trolley line relocation.

There will be no fill placed in the Greenway Setback on the east side of the Willamette River.

Requested Goal Exception and Plan Amendments: The Sellwood Bridge Project entails development within the Willamette River Greenway Setback area that includes uses, such as bridge approaches on fill, that are neither river-dependent nor river-related. For this reason, an exception to Statewide Planning Goal 15, Willamette River Greenway, is required. The regulations governing exceptions to Statewide Planning Goals are set out in OAR 660, Division 4.

In the City of Portland, Goal 15 is implemented through the City's Comprehensive Plan. Comprehensive Plan Goal 2, Policy 2.7 and Goal 8, Policy 8.11(H) both instruct that the protection of the Willamette River Greenway is to be implemented under the City's Willamette Greenway Plan. Through these policies, the Willamette Greenway Plan is incorporated into, and made part of, the City's Comprehensive Plan.

As with Statewide Planning Goal 15, the City's Willamette Greenway Plan considers bridge approach ramps constructed on fill to be neither river-dependent nor river-related. To proceed with constructing bridge approach ramps on fill within the Greenway Setback, a Greenway Goal Exception is required.

Accordingly, Multnomah County requests City of Portland approval for the following:

- A **Comprehensive Plan Amendment** in the form of a **Greenway Goal Exception** as required by Statewide Planning Goal 15 and Willamette Greenway Plan, Section III, Part C, authorizing the placement of fill within the Greenway Setback area associated with:
 - Construction of the new bridge and connecting ramps (including fill associated with any temporary work bridges needed to remove the decommissioned bridge or construct the new permanent bridge)
 - Relocation of the trolley track line right-of-way
 - Construction of the 18-foot multi-use trail

Applicable Review Procedures and Standards: Under PCC 33.440.330, a Greenway Goal Exception and Comprehensive Plan Amendment are processed as a Type III procedure and must be approved by City Council.

It should be noted that, although this application is requesting an amendment to the City's Comprehensive Plan (by way of an exception to the Willamette Greenway Plan), this application is not requesting a change to the map designations of the Comprehensive Plan. Rather, this application seeks an exception providing reasons why the restriction in Goal 15 and the City's Greenway Goal implementing regulations on non-river-related/dependent development within the Greenway Setback should not apply to the placement of fill within the Greenway Setback proposed as part of the Sellwood Bridge Project.

Relevant Approval Criteria

In order to be approved, this proposal must comply with the approval criteria of PCC Title 33. The applicable approval criteria are listed below:

The Willamette Greenway Plan is implemented through the application of regulations found in PCC 33.440 (Greenway Overlay Zones). Greenway Goal Exception approval criteria are specifically found in PCC 33.440.360 B. However, additional requirements are specified by the Zoning Code for Statewide Goal Exceptions in PCC 33.850, as listed below. This application must address the following regulations that are applicable to the taking of the **Greenway Goal Exception**:

- Statewide Goal Exception (**Zoning Code 33.850.040**)
- State Exception to State Goal 2: Land Use Planning (**OAR Division 4; 660-004-0022(6)**)
- Greenway Goal Exception (**Zoning Code 33.440.360**)
- Comprehensive Plan Amendment (**Zoning Code 33.810.050**)

As part of the approval criteria for the **Comprehensive Plan Amendment**, the relevant goals and policies of the following must be addressed:

- **City of Portland Comprehensive Plan.**
<http://www.portlandonline.com/bps/index.cfm?c=47556>
- **State Land Use Goals.** The State Land Use Goals are available at www.lcd.state.or.us.
- **Metro Urban Growth Management Functional Plan.** www.metro-region.org under 2040 Growth Concept.
- As part of the approval criteria, address the relevant goals and policies of the neighborhood and community plans. The applicable plans for this property are:
 - **Corbett, Terwilliger, Lair Hill Policy Plan (CTLH).**
<http://www.portlandonline.com/bps/index.cfm?c=34248&a=89114>
 - **Southwest Community Plan.**
<http://www.portlandonline.com/bps/index.cfm?c=34248&a=58752>. **Southwest Community Plan Comprehensive Plan/Zoning Map.**
<http://www.portlandonline.com/bps/index.cfm?c=34248&a=58754>

ANALYSIS

Site and Vicinity: The Willamette River is approximately 187 river miles long and drains the Willamette Valley in western Oregon. The existing Sellwood Bridge is located about 16.6 river miles upstream of the Willamette River's confluence with the Columbia River. At the bridge, the river has a tributary drainage of approximately 11,200 square miles and the streambed elevation is below sea level and subject to tidal influences.

The Willamette River between Willamette Falls and the mouth of the Willamette River at the Columbia River has been straightened, channelized, dredged, and filled. Overall, it has been narrowed and deepened, resulting in the loss of important natural channels, minimizing the interaction between the river, the riparian area, and floodplain vegetation.

Despite these impacts, however, the Willamette River within the project area has some of the highest concentrations of remaining beach habitat, off-channel habitat, riparian area, mature forest, and cold-water tributary confluence areas. These features persist because the west side of the Willamette River is comparatively undeveloped and has been maintained as a natural area.

The Sellwood Bridge spans the Willamette River at river mile 16.6, as measured from its confluence with the Columbia River. Tributaries contributing flow in the vicinity of the project area are Stephens Creek, Johnson Creek, Kellogg Creek, and the Clackamas River.

Land uses on the west side of the Willamette River near the project area include parks and protected open space; this protected open space includes the approximately 265-acre River View Cemetery, west of the project area. Park property adjacent to the Willamette River in this area includes Willamette Moorage Park to the north and Powers Marine Park beneath the bridge and to the south. A notable exception is the Staff Jennings Marina, which is located just north of the bridgehead.

SW Macadam (State Highway 43), a rail corridor, a variety of commercial businesses, and a Portland General Electric (PGE) electrical tower are located immediately to the west of the project area. To the north is a residential area along SW Miles Court and Willamette Park.

The area is within a Landslide Hazard Area and damage to the bridge piers on the west side indicates a slow landslide over time. Shallow bridge footings and weight of fill on the west end transfer weight to the already unstable slide, causing downhill movement. It is likely that parts of the slide are related to the existing bridge, retaining wall, ramp, and abutment construction.

Two primary plant community types were identified by the Applicant. The riparian community is dominated by black cottonwood (*Populus balsamifera*) and Pacific Willow (*Salix lasiandra*) in a narrow strip along the river with some Columbia River Willow (*Salix fluviatilis*). Upslope of the riparian areas, the plant community shifts to a Douglas fir (*Pseudotsuga menzeisii*)/bigleaf maple (*Acer macrophyllum*) upland forest community. These riparian and upland habitat types are described in detail in Exhibits A.1 and A.11 in the application case file.

The riparian community represents a remnant of what was historically a broad, continuous corridor of riparian vegetation along the river. After urbanization, the remaining riparian corridor in the lower Willamette River is fragmented. The southwest Portland Willamette riverbank consists of 35 acres of fish and wildlife habitat that extends along 7,000 linear feet of contiguous habitat extending from Willamette Park through Powers Marine Park. The Sellwood Bridge project would impact the riparian areas in two of four remaining natural areas along the Willamette River within the City of Portland.

Zoning: The proposed bridge improvements, approach ramps, streetcar, and trail improvements will cross properties with the following City zoning designations: General Commercial, Storefront Commercial, Open Space, and Residential 5,000 base zones, with the Design, Greenway Water

Quality, Greenway River General, Greenway River Recreational, Environmental Protection, and Environmental Conservation, and Scenic Resources overlay zones.

The CG, or General Commercial zone, is intended to allow auto-accommodating commercial development in areas already predominantly built in this manner and in most newer commercial areas. The zone allows a full range of retail and service businesses with a local or regional market. Zoning Code standards listed for this zone must be shown to be met during development-specific land use reviews and building permit applications.

The CS, or Storefront Commercial zone, is intended to preserve and enhance older commercial areas that have a storefront character. The zone allows a full range of retail, service and business uses with a local and regional market area. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged. Zoning Code standards listed for this zone must be shown to be met during development-specific land use reviews and building permit applications.

The OS, or Open Space base zone, is intended to preserve public and private open and natural areas to provide opportunities for outdoor recreation and a contrast to the built environment, preserve scenic qualities and the capacity and water quality of the stormwater drainage system, and to protect sensitive or fragile environmental areas. Zoning Code standards listed for this zone must be shown to be met during development-specific land use reviews and building permit applications.

The R5 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 3,000 square feet. Zoning Code standards listed for this zone must be shown to be met during development-specific land use reviews and building permit applications.

The Design overlay zone promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. Design review will be required when specific development plans are proposed for the project.

The Greenway overlay zone is intended to protect, conserve, enhance, and maintain the natural, scenic, historical, economic, and recreational qualities of lands along Portland's rivers; establish criteria, standards, and procedures for the development of land, change of uses, and the intensification of uses within the Greenway; and implement the City's Willamette Greenway responsibilities as required by ORS 390.310 to 390.368 and Metro's Title 3. The purpose of this land use review is to determine whether a Greenway Goal exception should be allowed for proposed development, which is not river-dependent or river-related, within the Greenway Setback.

Environmental overlay zones protect environmental resources and functional values that have been identified by the City as providing benefits to the public. The environmental regulations encourage flexibility and innovation in site planning and provide for development that is carefully designed to preserve the site's protected resources. They protect the most important environmental features and resources while allowing environmentally sensitive urban development where resources are less

significant. The environmental development standards will be applied to this proposal at the time specific development plans are proposed.

The Scenic Resources Protection overlay zone is intended to protect Portland's significant scenic resources. The purposes of the Scenic Resource zone, to enhance the City's appearance and protect scenic views, are achieved by establishing height limits, establishing landscaping and screening requirements, and requiring preservation of identified scenic resources. The standards of the "s" overlay zone must be shown to be met by the project when specific development plans are proposed for the project.

Land Use History: City records indicate that prior land use reviews include a variety of land use actions related to the development of the moorage, sports fields in Willamette Park, and restoration efforts. These include the following:

- CU 77-62
- CU 77-67 (67-002968)
- VZ 223-69 (69-033992)
- CU 063-77 (77-002530)
- CU 72-83 (83-002840)
- PC 4137 (90-022358)
- PC 5009 (90-023242)
- PC 5244 (90-023478)
- PC 6651 (90-024913)
- 7334 PA (90-025620)
- PC 7550 ZC (90-025827)
- LUR 91-00789 DZ GW AD (91-009044)
- LUR 92-00101 (92-009220)
- LUR 92-00515 GW (92-009634)
- LUR 93-00243 EF (93-010242)
- LUR 94-00026 CU (94-010928)
- LUR 94-00179 MS (94-011081)
- LUR 94-00633 DZ GW (94-011535)
- LUR 95-00701 EN (95-012594)
- LUR 97-00926 CU DZ GW (97-014972)
- LUR 99-00148 (99-016553)
- LUR 99-00934 GW (99-017339)
- LUR 99-00740 CU (99-017145)
- LUR 00-00299 GW (00-006854)
- LU 02-136384 CU AD
- LU 06-158204 DZM GW
- LU 07-175806 GW
- LU 08-125999 DZ

The conditions of these prior actions remain in effect. The Applicant will address conditions from these prior reviews during City review of a development-specific proposal.

Agency Review: A "Request for Response" was mailed to other City of Portland service bureaus on October 30, 2009. The following Bureaus responded:

The Oregon Department of Land Conservation & Development (LCDC) (Exhibit E.1) responded that State Land Use Planning Goal 15 and the City's implementing provisions (Zoning Code Section 33.440) make it clear that a goal exception is needed for this proposal. Generally a bridge replacement, having a bigger support footprint and designed to accommodate a greater flow of traffic than the original bridge, is considered an intensification of use. Their comments conclude that since river access, recreation, and preservation of intact riparian habitat were objectives, stated by the Applicant, that influenced the favored alternative, it is likely that the Applicant will be able to successfully demonstrate that the criteria for a goal exception are met.

The **Site Development Services Section** of BDS (Exhibit E.3) noted that during the future Greenway Review for the Sellwood Bridge Project, Site Development will evaluate information pertaining to flood plain requirements, as well as any geotechnical engineering and erosion control elements within the jurisdiction of BDS for work on private property.

A portion of the project area is in the Potential Flood Hazard Area and Metro Title 3 Flood Management Area boundaries, and thus is subject to the applicable requirements of PCC 24.50, including balanced cut and fill requirements. The Applicant is advised that the base flood elevation as shown on FEMA maps is 34 feet (NAVD1988 datum). At the time of the future Greenway Review, the Applicant must provide a detailed analysis that demonstrates that the project will result in no net rise in the 100-year flood elevation.

On-site infiltration of stormwater is not recommended for the project and stormwater treatment and discharge will be subject to review by Multnomah County and the City's Bureaus of Environmental Services and Transportation.

The **City of Portland Water Bureau** (Exhibit E.4) provided comments regarding the location of water service mains on and near the Sellwood Bridge and noted that they have no objections to the project.

The City of Portland **Bureau of Transportation** (PBOT) (Exhibit E.5) provided a description of the street classifications of surrounding streets, status of improvements such as sidewalks, and findings for the Transportation System Plan policies. With a condition for a minimum 14-foot wide multi-use path to be constructed along SW Macadam Avenue from the new Sellwood bridge location to SW Miles Street, PBOT noted that they have no objections to the proposal.

The City of Portland **Bureau of Environmental Services** (BES) (Exhibit E.6) provided descriptions of the existing sanitary and storm sewer conveyance facilities that might be affected by the project, with notes that impacts to these facilities must be addressed at the time of later land use reviews. Regarding stormwater collection, treatment and disposal, for the bridge, roadway, rail and trail improvements, at the time of future land use reviews, BES will require detailed stormwater management plans and identified requirements from other agencies (NMFS) that drive stormwater treatment techniques. Such a plan must meet Oregon DEQ water quality requirements. The future Greenway and Design reviews must provide details about all streams, drainageways, and wetlands near the project (Appendix A.3 of the 2008 SWMM). BES also highlighted the importance of mature trees, steep slopes, and riparian areas and wildlife habitat in the project area.

BES referred to their recently completed \$1 million habitat enhancement project in the confluence area of Stephens Creek. The road construction and Greenway Trail modifications for access to Macadam Bay Club/Willamette Moorage will impact wetlands in this area. BES expressed concern that the Applicant minimizes impact to the Stephens Creek Natural Area and to Powers Marine Park to the maximum extent feasible.

BES strongly supports mitigation concepts and sites that improve fish passage and provide benefits to riparian areas, such as replacement of culverts that act as fish barriers, and additional fish passage improvements around Stephens Creek and the perennial streams in Powers Marine Park.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on December 16, 2009 and on January 7, 2010.

ZONING CODE APPROVAL CRITERIA

The Applicant's request for a Greenway Goal Exception constitutes an exception to Statewide Planning Goal 15, Willamette River Greenway.

Zoning Code Section 33.850.040 Statewide Planning Goal Exceptions stipulates a Statewide Planning Goal exception will be approved if it is found that the proposal meets State and any additional City approval criteria for the specific goal exception.

The State approval criteria for exceptions to Statewide Planning Goal 15 are found in **OAR 660-004-0022(6) Willamette Greenway**.

City approval criteria for the Greenway Goal Exception are found in **Zoning Code Section 33.440.360**.

Zoning Code Section 33.850.030 requires an amendment to Portland's Comprehensive Plan for all Statewide Planning Goal exceptions. The approval criteria for Comprehensive Plan Amendments are found in **Zoning Code Section 33.810.050**.

The findings for the relevant State and City approval criteria will therefore, be presented as follows:

- I. Statewide Land Use Planning Goal Exception –**OAR 660-004-0022(6)**
- II. City Greenway Goal Exception—Portland Zoning Code **33.440.360**
- III. City Comprehensive Plan Amendment—Portland Zoning Code **33.810.050**.

I. Statewide Land Use Planning Goal Exception—OAR 660-004-0022(6)

Statewide Planning Goal 15 Willamette River Greenway Section C.3.k requires a setback line to be established to keep structures separated from the river in order to protect, maintain, preserve, and enhance the natural, scenic, historic, and recreational qualities of the Willamette River Greenway, as identified in the Greenway inventories. The setback line shall not apply to river-related or river-dependent uses.

Work associated with the proposed Sellwood Bridge and its approaches, roadway ramp connections to the bridge, the relocated trolley line right-of-way, and the construction of the multi-use trail, will

require placement of fill within the Greenway Setback. The proposed project actions are not neither river-dependent nor river-related.

The requirements for Goal exceptions are set out in OAR 660, Division 4.

OAR 660-004-0022 Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

An exception Under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

(6) Willamette Greenway: Within an urban area designated on the approved Willamette Greenway Boundary maps, the siting of uses which are neither water-dependent nor water-related within the setback line required by Section C.3.k of the Goal may be approved where reasons demonstrate the following:

(a) The use will not have a significant adverse effect on the greenway values of the site under consideration or on adjacent land or water areas;

Findings: Goal 15 lists the Greenway values. The Sellwood Bridge Project's effect on these listed Greenway values is described by the Applicant below. Because those values apply to the lands within the Greenway itself, for purposes of demonstrating compliance with OAR 660-004-0022(6)(a), the adjacent lands and water areas addressed herein are those located within the Greenway. It is further noted that the focus of this standard is not simply an "adverse effect," but a "significant" adverse effect. The Applicant explains below that the use will not significantly adversely affect Greenway values on either the site under consideration or on adjacent land or water areas.

The values of the Greenway are listed in Goal 15 as: "...the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River ..." The Sellwood Bridge Project's effect, on each of the aforementioned Greenway values, was included in comments provided by the Applicant. The Hearings Officer includes a summary of Applicant's comments below.

Greenway Values

Natural

BDS staff, in its report to the Hearings Officer, summarized submissions (as of the date of the staff report) and concluded that Applicant had *not* provided adequate information to recommend that this approval criterion had been met (Exhibit H.4, pages 12 and 13). Applicant submitted additional information into the record addressing areas that BDS staff considered lacking (Exhibits H.6 and H.12). Applicant submitted a final argument which also addressed the areas which BDS staff found lacking (Exhibit H.11).

Before reviewing the specific evidence in the record, the Hearings Officer will review, briefly, what the Hearings Officer believes to be the appropriate interpretation of OAR 660-004-0022 (6) (a).

This approval criterion requires an applicant to demonstrate that the proposed use will not have a *significant adverse impact* on the greenway values of the site or adjacent land or water areas (emphasis added by the Hearings Officer). The Hearings Officer finds that this approval criteria is met even if the proposed project has some adverse effect on the greenway values of the site or adjacent waterways *so long as the adverse impact is not found to be significant*.

OAR 660-004-0005, the definition section for the Division 4 Interpretation of Goal 2 Exception Process, does not include a definition of “significant.” The Hearings Officer notes that the Webster’s Online Dictionary defines significant as “important” and “noticeably or measurably large amount.” The Hearings Officer finds that significant, for the purpose of this decision, means a distinctive, important and measurable effect.

Applicant, in Exhibits H.6 and H.12, summarized the fill locations and the greenway values to be impacted. Applicant is proposing, in this case, to impact a total of 2.24 acres of lowland conifer/bottomland hardwood forest. Within the 2.24 acres are 0.64 acres of land within the boundaries of Powers Marine Park, 0.20 acres within Willamette Moorage Park, and 1.40 acres within the Oregon Highway 43/Willamette Shoreline Trolley right-of-way. Exhibit H.6a includes an extensive description of the resources/greenway values existing within the areas to be impacted (Exhibit H.6a, pages 2 and 3). Exhibit H.12, pages 1 and 2, provides additional information regarding impacts to the “Westside Lowland Conifer Forest and Bottomland Hardwood Forest in the Greenway Setback.” The Hearings Officer finds the Applicant’s listing, in Exhibit H.6a, pages 2 and 3, of the impacts to be credible. The Hearings Officer incorporates the Applicant’s “Response” in Exhibit H.6a, pages 2 and 3, as part of these findings.

Applicant, in Exhibits H.6a and H.12, also included descriptions of mitigation measures proposed to address the above-referenced impacts on greenway values/resources. Applicant’s final argument discussed Applicant’s proposed mitigation, in the context of the anticipated impacts, and concluded (1) the proposed mitigation is viable and (2) the proposed mitigation will offset the expected impacts (Exhibit H.11, pages 2 and 3). The Hearings Officer finds the information supplied by the Applicant in Exhibits H.6a (pages 2 and 3) and Exhibit H.12 (pages 1 and 2) and the final argument supplied by Applicant (Exhibit H.11, pages 2 and 3) are credible and persuasive. The Hearings Officer finds that Applicant adequately addressed the character of the impacted natural resources on and adjacent to the site and the proposed mitigation is viable. The Hearings Officer finds that there are adverse impacts created by this proposal but the impacts, when considering the proposed mitigation, are not significant; there is no net adverse effect on the greenway values or adjacent land/water.

Scenic

The Comprehensive Plan outlines requirements for protecting scenic resources through the *City of Portland Scenic Resources Protection Plan* (1991). According to the Plan, there are no scenic viewpoints located in the area for which the Goal exception is needed (the localized areas of fill within the Greenway Setback), although there are two viewpoints located in the adjacent water and

land areas to the site under construction. These viewpoints are shown on Exhibit C.15 in the application case file.

The Applicant noted that the existing bridge area is the focus of the scenic viewpoints. The Scenic Resources Protection Plan does not outline specific restrictions to bridge project development, such as height or overlay zones. The structural elements employed in the bridge design could obstruct the view at some locations and improve the view at other locations. A new bridge structure will likely improve visual quality, as plans for the replacement bridge call for a much more aesthetically pleasing structure than the existing structure. Regardless, because a bridge already exists, a new or rehabilitated bridge in the same location would certainly be less visually intrusive than a new bridge structure at a different location.

For these reasons, the Hearings Officer finds that the Sellwood Bridge Project will not have a significant adverse effect on Greenway Scenic values.

The Hearings Officer finds that in addition to the scenic viewpoints shown on Exhibit C.15, the Willamette River itself is identified as a Scenic Corridor in the Scenic Resources Protection Plan. However, because the localized areas of fill within the Greenway Setback are situated away from identified scenic resources, and not within the river itself, the Hearings Officer finds that there will be no significant adverse effect on scenic values that specifically result from the areas of fill.

Historical

The only historical resource in the area for which the Goal exception is needed (areas of fill within the Greenway Setback) is the Sellwood Bridge. Historical research conducted for the Sellwood Bridge Project DEIS effort revealed that the existing Sellwood Bridge is eligible for the National Register of Historic Places.

Because, by necessity, the existing bridge needs to be demolished to install a structurally sound replacement bridge, the Applicant has worked with the Oregon State Historic Preservation Office (OSHPO) and Oregon Department of Transportation's (ODOT) cultural resources staff to develop suitable mitigation actions, including:

- Salvage of bridge materials and preservation of dedication plaques for reinstallation at a later time;
- Inclusion of interpretive panels on new bridge facility or at another location, such as Sellwood Riverfront Park;
- Incorporation of existing bridge materials, such as guardrails, into the new bridge;
- Historic American Building Survey/Historic American Engineering Record (HABS/HAER) documentation to add to the collective context of the existing Portland downtown bridges and to supplement existing documentation (measured drawings of engineering plans, photos, etc.);
- Creation of a project historic website using HABS/HAER documentation;
- Programmatic historic preservation agreement for all Multnomah County bridges between County and OSHPO; and

- Placement of historical drawings and engineering materials into a permanent public-access repository such as the Multnomah County archives, City of Portland archives, or Multnomah County library.

For these reasons, the Hearings Officer finds that the Sellwood Bridge Project will not have a significant adverse effect on Greenway Historic values.

Agricultural

There are no agricultural Greenway values present in the project area. The Sellwood Bridge Project will be located entirely within the urbanized area of Portland, and not upon or near farmland within the Greenway boundary.

Economic

One business, Staff Jennings Marina, is located within the Greenway Setback in the project area. Staff Jennings Marina is a commercial boat dealership with a fuel dock, boathouse, boat storage, and paint shop, that is located north of the existing bridge at 8240 SW Macadam Avenue between Powers Marine Park and Willamette Moorage Park.

The Hearings Officer finds that this proposal (placing fill within the Greenway Setback) will not result in any adverse economic impacts. Right-of-way needs for the greater project (specifically the relocation of the trolley line and construction of the bicycle/pedestrian trail) will necessitate the incorporation of the upper Staff Jennings parking lot and sign for project use. The Hearings Officer finds that neither the removal of parking spaces at Staff Jennings, nor the relocation of the access road to the business, is the result of placing fill within the Greenway Setback, but are impacts related to the greater project.

The Sellwood Bridge carries over 30,000 vehicles a day including many vehicles involved in the movement of goods or the movement of commuters to and from work. The Hearings Officer finds the bridge is critical to the continued economic well-being of the City of Portland. The Hearings Officer finds the reinstatement of bus transit and the accommodation for a potential future streetcar over the replacement bridge will greatly aid the efficient transport of commuters between Southeast and Southwest Portland.

Based on the above discussion, the Hearings Officer finds the net economic impact of the Sellwood Bridge project will be positive, and the project will not have an adverse effect on Greenway economic values.

Recreational

The majority of the Greenway on the west side of the Willamette River in the project area is in the Greenway River Recreational overlay zone. These areas provide opportunities for both passive and active recreation, including picnicking, boating, fishing, bird watching, and other similar activities. The Hearings Officer finds that the Sellwood Bridge Project will not reduce potential river-dependent and river-related recreational uses in the Greenway beyond existing conditions. The

project will entail the relocation of the trolley line, which will be a linear barrier lying parallel to the river. However, the Hearings Officer finds that the existing trolley line already forms this barrier. The public will still be able to access both Powers Marine Park and Willamette Moorage Park on foot, bicycle, or by vehicle, although the existing vehicular access driveways to both parks will be relocated.

The placement of fill, within the Greenway Setback, will not result in any loss of parking at either Park. As shown on Exhibit C.17, no fill activities are taking place at Powers Marine Park in the areas north of the bridge where current parking is located.

The project will not impede the public's existing ability to access the open sandy beach areas at either Powers Marine Park or Willamette Moorage Park for the purposes of launching kayaks or canoes, or other riverfront activities. The bridge provides pedestrians and bicyclists with connections to Willamette River trails on both sides of the river and to the Springwater Corridor Trail located close to the river's east bank.

For these reasons, the Hearings Officer finds that fill activity within the Greenway Setback for the Sellwood Bridge Project will not have a significant adverse effect on Greenway Recreational values.

(b) The use will not significantly reduce the sites available for water-dependent or water-related uses within the jurisdiction;

Findings: The new bridge will be constructed within the same immediate vicinity as the existing bridge. The relocated trolley line will be a replacement, in close proximity to the existing trolley line. The new bicycle/pedestrian trail (although being wider) is a replacement for an existing bicycle/pedestrian trail. Because all of these project elements replace existing facilities in close proximity to where they exist today, the Hearings Officer finds there will be no significant reduction of sites available for river-related or river-dependent uses. The Hearings Officer finds this criterion is met.

(c) The use will provide a significant public benefit; and

Findings: The Sellwood Bridge carries more than 30,000 vehicles per day; Oregon's busiest two-lane bridge. The Sellwood Bridge is important to the efficient and reliable movement of commuters and goods within the Portland metropolitan region. Existing weight restrictions due to the structural deterioration of the bridge, which have led to the cessation of bus transit and truck travel, have limited the movement of people and goods. The Sellwood Bridge has substandard bicycle and pedestrian facilities. Approval of this project will improve the facility for all key uses; utility of the bridge, pedestrian, bicycle, trolley and path. The Hearings Officer finds that to the extent the fill in the Greenway Setback allows the greater project to occur, it will contribute to the overall project's significant public benefit. The Hearings Officer finds this criterion is met.

(d) The use is consistent with the Legislative findings and policy in ORS 390.314 and the Willamette Greenway Plan approved by LCDC under ORS 390.322.

Findings: The legislative findings and policy in ORS 390.314 are:

ORS 390.314. Legislative findings and policy

(1) The Legislative Assembly finds that, to protect and preserve the natural, scenic and recreational qualities of lands along the Willamette River, to preserve and restore historical sites, structures, facilities and objects on lands along the Willamette River for public education and enjoyment and to further the state policy established under ORS 390.010, it is in the public interest to develop and maintain a natural, scenic, historical and recreational greenway upon lands along the Willamette River to be known as the Willamette River Greenway.

The Hearings Officer finds that the Sellwood Bridge predates the adoption of Goal 15. The bridge is provided for in the City of Portland Transportation System Plan (TSP) and Metro Regional Transportation Plan (RTP), both of which have been acknowledged to be in compliance with all Statewide Planning Goals. As described in Exhibit A.11 (last page: January 7, 2010 Memorandum from Steve Katko of CH2M Hill) of this application, it would be operationally infeasible to construct the project without the use of fill.

(2) In providing for the development and maintenance of the Willamette River Greenway, the Legislative Assembly:

(a) Recognizing the need for coordinated planning for such greenway, finds it necessary to provide for development and implementation of a plan for such greenway through the cooperative efforts of the state and units of local government.

The State of Oregon and units of local government, including Metro, Multnomah County, Clackamas County, and the City of Portland have cooperated in the implementation of Greenway planning as required by legislative intent. Sellwood Bridge Project actions which are subject to this application will be permitted through this established local and statewide Greenway planning process.

(b) Recognizing the need of the people of this state for existing residential, commercial and agricultural use of lands along the Willamette River, finds it necessary to permit the continuation of existing uses of lands that are included within such greenway; but, for the benefit of the people of this state, also to limit the intensification and change in the use of such lands so that such uses shall remain, to the greatest possible degree, compatible with the preservation of the natural, scenic, historical and recreational qualities of such lands.

The Hearings Officer finds that the Sellwood Bridge predates Goal 15. Like the existing bridge, the replacement bridge and its approaches will be located predominantly within existing publicly owned (Multnomah County; ODOT; City of Portland; TriMet) right-of-way being used for transportation purposes, thereby protecting Greenway values to the greatest extent possible. If a replacement

bridge were to be built in another location that did not already have a bridge crossing in place, the impact on the Greenway in that location would be substantially higher. Regarding the construction of the bicycle/pedestrian trail, although a 14-foot paved trail will replace an existing 6-foot trail, the use of the trail is compatible with existing Greenway recreational values, since there was already a trail in place. The new trail, which is being built as requirement of PBOT, is being designed strictly to PBOT standards and will not utilize more space than necessary to meet PBOT standards. To remain compatible with the natural values that lay adjacent to this recreational resource, the Applicant proposed vegetated gabion walls to improve vegetation and wildlife habitat conditions to the greatest extent possible.

Applicant, in Exhibit H.12, described Best Management Practices (“BMPs”) to be used during project construction to minimize adverse impacts on the natural qualities of the Willamette Greenway. Applicant noted that it is required to follow BMPs, including the following:

- Develop erosion control plans by a professional engineer; and
- Install and maintain appropriate drainage/erosion control measures to trap sediment runoff during construction; and
- Implement an erosion/sediment control monitoring plan during construction to monitor runoff; and
- Stage construction to limit denuded soil on site at any one time to reduce the potential for sediment runoff; and
- Fence construction areas and post signs to indicate work zones/protected natural areas.

The Hearings Officer notes that the proposed gabion walls, in the words of the Applicant, are a “placeholder” type of engineered wall that could be vegetated and provide a wildlife-friendly slope crossing that would also provide visual relief as compared to a concrete wall (Exhibits H.12, H.6, page 5, and H.11, page 3). The Hearings Officer finds that Applicant adequately addressed this legislative policy.

(c) Recognizing that the use of lands for farm use is compatible with the purposes of the Willamette River Greenway, finds that the use of lands for farm use should continue within the greenway without restriction.

Sellwood Bridge Project actions will be performed entirely within the urbanized area of Portland, and not upon or near farmland within the Greenway boundary. For this reason, the Hearings Officer finds that the project will in no way impede the continuation of farm uses within the Greenway.

(d) Recognizing the need for central coordination of such greenway for the best interests of all the people of this state, finds it necessary to place the responsibility for the coordination of the development and maintenance of such greenway in the State Parks and Recreation Department.

The construction of Sellwood Bridge Project elements in no way limits or changes Oregon State Parks’ responsibilities for the coordination of the development and maintenance of the Greenway.

(e) Recognizing the lack of need for the acquisition of fee title to all lands along the Willamette River for exclusive public use for recreational purposes in such greenway, finds it necessary to limit the area within such greenway that may be acquired for state parks and recreational areas and for public recreational use within the boundaries of units of local government along the Willamette River.

Sellwood Bridge Project actions will be located primarily within existing public right-of-way that has been used for similar purposes. This land is in the public domain and will remain in the public domain after completion of construction of project elements.

OAR 660-004-0022(6)(d) also requires a finding that the use is consistent with the Willamette River Greenway Plan as acknowledged by the Land Conservation and Development Commission (LCDC). This plan is implemented and embodied in each relevant jurisdiction's plan policy and codes. For the City of Portland, the Willamette River Greenway Plan serves as the policy document for the segment of the river running through Portland. Portland has established Greenway Setback delineation procedures and has adopted land development ordinances which proposed developments within the Greenway must be in compliance with.

The Willamette Greenway Plan's goals and objectives are implemented through PCC 33.440. Following Plan Amendment approval, Multnomah County will apply to the City of Portland for permits issued pursuant to land use regulations adopted to implement Statewide Planning Goals 15 and 5 (Natural Resources). Those regulations take recreation, resource and wildlife protection and other concerns into account. Through approval conditions imposed during those permitting processes, the purpose underlying the Willamette Greenway Plan's goals and objectives can and will be achieved.

The City of Portland Willamette Greenway Plan, together with its Comprehensive Plan, its Transportation System Plan, and Metro's Regional Transportation Plan, recognizes and provides for the Sellwood Bridge Crossing within the Willamette River Greenway. As identified earlier, Willamette Greenway Plan Section III.C requires a goal exception to place fill within the Greenway Setback area. An exception to authorize fill in the Greenway follows.

II. Greenway Goal Exception—Portland Zoning Code 33.440.360

33.440.360 Greenway Goal Exception

A. When a greenway goal exception is required. Approval of an exception to Statewide Planning Goal 15 - Willamette Greenway, is required to locate a development or right-of-way that is not river-dependent or river-related within or riverward of the Greenway Setback. A Greenway goal exception is not required to add revetments to a riverbank.

B. Approval criteria. Requests for Greenway goal exceptions will be approved if the review body finds the Applicant to have shown that all of the following approval criteria are met:

- 1. The proposed use is allowed in the base zone by right, with limitations, or as a conditional use;**

Findings: Sellwood Bridge Project actions will take place within the following base zones: Open Space (OS); General Commercial (CG); Storefront Commercial (CS); and Residential 5,000 (R5). All Sellwood Bridge Project actions are public right-of-way uses (refer to BDS correspondence from July 16, 2009, Exhibit A.1, Attachment B). Rights-of-way, streets, and bridges are not listed within any Use Category in the Portland Zoning Code (33.920). Further, public right-of-way uses are not regulated by Title 33 as noted in Zoning Code Section 33.10.030:

33.10.030 B. Clarification for rights-of-way. Land within private rights-of-way, including rail rights-of-way and utility rights-of-way, is regulated by Title 33. Land within public rights-of-way is regulated by Title 17, Public Improvements, and not by Title 33, except in the following situations where both Titles apply:

The exceptions include Environmental, Greenway, Scenic, and Design overlay zones. Since the right-of-way, streets, and bridges are not Zoning Code uses, and since the proposed use in the right-of-way is not regulated by the Zoning Code base zones, this criterion does not apply.

- 2. The proposal will not have a significant adverse effect on the inventoried greenway values of the site or on abutting sites or water areas;**

Findings: The Hearings Officer finds this criterion is met for the reasons set out in the findings set forth above in the Hearings Officer's response to OAR 660-004-0022(6)(a).

- 3. The proposal will not significantly reduce lands available for river-dependent or river-related uses within the City;**

Findings: The Hearings Officer finds this criterion is satisfied for the reasons set out in the Hearings Officer's response to OAR 660-004-0022(6)(b).

- 4. The proposal will provide a significant public benefit;**

Findings: The Hearings Officer finds this criterion is satisfied for the reasons set out in the Hearings Officer's response to OAR 660-004-0022(6)(c).

- 5. The intensification of existing uses or change in use must be limited, to the greatest possible degree, so that such lands will remain compatible with the preservation of the natural, scenic, historical, and recreational qualities of such lands;**

Findings: The Hearings Officer finds this criterion is met for the reasons set out in the Hearings Officer's response to OAR 660-004-0022(6)(d)(2)(b).

6. The proposal cannot reasonably be accommodated in a location which does not require a goal exception;

Findings: The Hearings Officer acknowledges that the existing Sellwood Bridge is structurally deficient and functionally obsolete, and in addition, any bridge replacement solution must address substandard and unsafe roadway, pedestrian and bicycle facilities, and meet forecasted travel demand. This project has entailed comprehensive alternatives evaluation analysis to examine potential crossing concepts, both before and during the Environmental Impact Statement process (Exhibit A.12, application case file).

The Hearings Officer further finds (Exhibit A.11, last page, January 7, 2010 Memorandum from Steve Katko/CH2M Hill), that it is operationally infeasible to construct the project without the use of fill, which is the reason for the Greenway Goal exception sought in this application. The Hearings Officer finds that the project design minimized fill and cut where possible, but the project would not be feasible from an engineering standpoint without the placement of fill in certain areas. The Hearings Officer finds that it is not feasible to construct the necessary bridge-related improvements on the west side of the river through the use of piers and elevated roadway only, given the constraints of available space, topography, and existing uses.

The Hearings Officer finds that any bridge crossing type, in any location on the river, would require crossing the Greenway and would entail a degree of development-related fill in the Greenway. As such, any potential alternative would require a Greenway exception. Areas for which the exception is being taken, which are the areas where fill will be added in the Greenway, are shown on Exhibit C.17.

The relocation of the trolley line and construction of the bicycle/pedestrian trail, which are actions that will entail placement of fill, are actions associated with the need to replace the Sellwood Bridge as proposed. Because the trolley line exists along the entirety of the west bank of the Willamette River between Portland and Lake Oswego, it is assumed that the construction of a replacement bridge anywhere in a feasible location to meet the purpose and need of the project would also entail having to relocate the trolley line.

The Hearings Officer finds that there is only one project alternative concept that could have avoided the placement of fill in the Greenway – the tunnel alignment concept (Exhibit C.16 in the application case file). In addition to cost and safety problems alluded to by the Applicant in Exhibit A.11, the Hearings Officer finds that the tunnel concept was dismissed for reasons that would certainly qualify the concept as “unreasonable” under this rule:

- The tunnel alignment would not provide bicyclist and pedestrian connections to the established shared-use trail network located on both sides of the Willamette River.
- The tunnel alignment would not accommodate existing and future travel demands between origins and destinations served by the Sellwood Bridge. A tunnel would primarily serve through-traffic, leaving local traffic with significant out-of-direction travel, particularly for neighborhood destinations.

The Hearings Officer finds that roadway connections, as well as trolley connections, must be made between new, replacement facilities, and existing facilities located either across the river, or within the Willamette Greenway Setback area. To the extent that piers or pillars cannot be used in place of fill in the Greenway Setback, for any of the alternatives cited in Exhibit A.12 (page 2 through 6), it follows that there are not alternative locations that do not require a Greenway Goal Exception, and this criterion would be met.

The Hearings Officer finds, based upon Exhibit A.12, H.6 and H.12, that the Applicant has undertaken the exercise to compare alternatives. The Hearings Officer finds that Applicant has compared roadway, interchange, ramp and trolley designs and has documented that due to cost, geotechnical and other considerations the preferred alternative creates the fewest negative impacts. The Hearings Officer finds that an alternative using pillars or trestles in the setback is not feasible. The Hearings Officer finds this criterion is met.

- 7. Of all other potential locations within the greenway that require a goal exception, there are none with significantly better long-term environmental, economic, social, and energy consequences after mitigation measures;**

Findings: The Hearings Officer finds that this criterion focuses on other, alternative locations within the Greenway that require a Goal exception. It requires the Applicant to demonstrate that, compared to the proposed location, no such other locations perform significantly better in terms of long-term environmental, economic, social and energy consequences after mitigation measures are taken into account.

The Hearings Officer, based upon a review of Exhibit A.12, finds there are no other potential locations within the Greenway that can reasonably accommodate the proposed use. The Hearings Officer finds that constructing a bridge on undeveloped land would have significantly greater impacts than replacing the bridge at its existing location. The proposed location for the bridge replacement is already committed to an urban transportation use, namely the existing Sellwood Bridge. The Hearings Officer finds that locating the replacement bridge in an area already occupied by a bridge serving motor vehicles, bicycles and pedestrians would have significantly fewer adverse impacts, particularly to the Greenway and Greenway values, than locating it in an area still in a predominantly natural state. Significantly, the replacement of the Sellwood Bridge at this location is already part of the City's acknowledged plan and Metro's RTP.

The Hearings Officer finds that because there are no other potential general locations that warrant consideration, there is no cause to perform an economic, social, environmental, energy (ESEE) comparison with the current project.

The Applicant also finds that the purpose of this application is to allow fill within the Greenway Setback to support bridge approaches and associated transportation improvements on the west side of the Willamette River. Given that the bridge (excluding its approaches) would be considered a river-dependent or river-related use and, as such, would not require a Goal exception, there are no other potential locations for locating the approach roads within the Greenway – they must be where they are proposed in order to connect to the bridge. Because there are no other potential project locations, there are no ESEE consequences to address.

Applicant, in Exhibit H.6, identified and addressed in detail the economic, environmental, social and energy consequences of the proposed alignment in comparison to other alignments considered. The Hearings Officer finds the statements made in Exhibit H.6, pages 9 through and including 23, discuss in adequate detail the ESEE consequences of each of the considered alternatives. The Hearings Officer adopts, by this reference, as additional findings pages 9 through and including 23 of Exhibit H.6.

The Hearings Officer finds this approval criterion is met.

8. The proposal is compatible with other adjacent uses, or will be so rendered through measures designed to reduce adverse impacts; and

Findings: The Hearings Officer finds that this criterion is satisfied for the reasons set out in findings in response to approval criterion PCC 33.440.360 B.5 and findings for OAR 660-004-0022 (6)(d)(2)(b). Therefore, this criterion is met for the reasons set out in response to OAR 660-004-0022(6)(d)(2)(b).

The Hearings Officer finds this criterion is met.

9. Development and fills riverward of the greenway setback must show that there are no practical on-site alternatives which achieve the same level of public benefit.

Findings: The only project development actions riverward of the Greenway Setback will be the placement of bridge support piers. There will be no fill placed riverward of the Greenway Setback. This criterion does not apply.

III. Comprehensive Plan Amendment—Portland Zoning Code 33.810.050

The City of Portland Zoning Code, at 33.850.030 A., requires that Quasi-judicial Statewide Planning Goal exceptions will include a concurrent Type III review that includes an amendment to

the City's Comprehensive Plan. This section of the Hearings Officer's recommendation fulfills this requirement.

Furthermore, the Portland Zoning Code, at 33.850.040, Approval Criteria, states:

A Statewide Planning Goal exception will be approved if it is found that the proposal meets State and any additional City approval criteria for the specific goal exception. The approval criteria are included in the appropriate chapters containing regulations which can be modified through a Statewide Planning Goal exception.

The Applicant is requesting a Goal Exception, which is discussed above, in Sections I and II of this recommendation, and reviewed against the applicable criteria found in the Greenway Chapter, 33.440. This section of the Hearings Officer's recommendation evaluates the Goals and Policies of the City of Portland Comprehensive Plan and makes findings as to whether the Goal Exception is consistent with the adopted Comprehensive Plan. The Applicant is not requesting a Comprehensive Plan Map Amendment, nor proposing any changes to the text of the Comprehensive Plan. The following findings demonstrate that the requested Goal Exception is, on balance, consistent with the relevant Goals and Policies of the adopted Comprehensive Plan.

The following Comprehensive Plan Goals and Policies are relevant to this proposal:

GOAL 1 Metropolitan Coordination

The Comprehensive Plan shall be coordinated with federal and state law and support regional goals, objectives and plans adopted by the Columbia Region Association of Governments and its successor, the Metropolitan Service District, to promote a regional planning framework.

Findings: The *Urban Growth Management Functional Plan* was approved November 21, 1996 by the Metro Council and became effective February 19, 1997. The purpose of the Plan is to implement the Regional Urban Growth Goals and Objectives (RUGGO), including the 2040 Growth Concept. Local jurisdictions must address the Functional Plan when Comprehensive Plan Map Amendments are proposed through the quasi-judicial or legislative processes. The *Urban Growth Management Functional Plan* is Section 3.07 of the Metro Code. The 13 titles in that Section are summarized and addressed below.

Overall, as noted in the discussion below, the Hearings Officer finds that the requested Goal Exception will have little or no effect on the intent of these Titles, or these Titles will be met through compliance with other applicable City regulations. The Hearings Officer finds that the proposed project is consistent with Metro's regional planning framework and therefore, the requested Greenway Goal Exception is consistent with Goal 1, Metropolitan Coordination, of the City's Comprehensive Plan.

Urban Growth Management Functional Plan

Title 1 - Requirements for Housing and Employment Accommodation

This section of the Functional Plan facilitates efficient use of land within the Urban Growth Boundary (UGB). Each city and county has determined its capacity for providing housing and employment which serves as their baseline, and if a city or county chooses to reduce capacity in one location, it must transfer that capacity to another location. Cities and counties must report changes in capacity annually to Metro.

Findings: The proposed Greenway Goal Exception is to allow fill material to be placed within the Willamette River Greenway Setback along the west riverbank in order to reconfigure roadways and access ramps to a replacement Sellwood Bridge. Most of the lands involved are zoned Open Space on the west side of the river and therefore, there is no inherent housing or employment capacity within that base zone. Other affected lands on the west bank are zoned Commercial, which allows, but does not specifically require, housing. However, the Applicant does note that regardless of which design alternative is selected for the new bridge and access roadway configuration, a displacement of nine businesses [representing a total of 30 employees] will occur as a result of the overall Sellwood Bridge Replacement Project. In addition, five condominiums are anticipated to be demolished and displaced: four associated with the Sellwood Harbor 39-unit condominium complex, and one condominium in the 49-unit River Park complex. These residential displacements will occur on the east side of the river and on lands zoned CM and RH, both of which require housing. However, this land use review is narrowly limited to a Greenway Goal Exception to allow fill to be placed within the Greenway Setback, along the west bank of the river.

The intent of Title 1 is to require the City of Portland to use land within the UGB efficiently and to increase its capacity if necessary to accommodate Portland's share of the regional growth for both housing and employment capacity. For the past 20 years, the City has adopted local community plans and zoning to provide additional housing capacity, as well as expand employment zoning on lands suitable for businesses and manufacturing. Title 1 directs local jurisdictions to establish areas and boundaries to define the central city, regional centers, main streets, corridors, station communities, employment and industrial areas, and designate regionally significant industrial areas, among other tasks, to provide housing and employment capacity within the City. The City is fully compliant with the requirements of Title 1 and as a result, the City has adequate housing capacity due to thousands of non-required residential units developed on lands within Commercial zones.

Although the above-mentioned displacement of nine businesses and five condominiums will be disruptive to the individuals affected, overall, the Hearings Officer finds that the proposal will result in an enhanced transportation network with a greatly improved bridge over the Willamette River. The enhanced bridge and approaches will accommodate increased development, particularly in the Sellwood neighborhood, and the placement of fill in the Greenway Setback areas will not reduce the City's capacity for housing or employment. Therefore, the Hearings Officer finds that the requested Greenway Goal Exception is consistent with the intent of Title 1.

Title 2 - Regional Parking Policy

The Metro 2040 Growth Concept calls for more compact development to encourage more efficient use of land, promote non-auto trips, and protect air quality. In addition, the federally mandated air quality plan adopted by the state relies on the 2040 Growth Concept fully achieving its transportation objectives. This Title establishes region-wide parking policies that set the minimum number of parking spaces that can be required by local governments for certain types of new development. It does not affect existing development. Parking maximums are also specified. By not creating an over-supply of parking, urban land can be used most efficiently.

Findings: Chapter 33.266 of the Portland Zoning Code establishes parking maximums and minimums for specified uses in a variety of zones, consistent with the requirements of Title 2. The requested Greenway Goal Exception will not affect the parking standards in Title 33. While the construction activities and final bridge configuration are anticipated to have impacts on specific parking spaces associated with parks and businesses within the affected lands, these impacts will be reviewed at the time of specific development against the standards set forth in PCC 33.266, and appropriate mitigation will be assessed at that time. Therefore, the Hearings Officer finds that the current request, to allow a Greenway Goal Exception allowing fill material within the Greenway Setback along the western Willamette River bank, is consistent with the intent of Title 2.

Title 3 - Water Quality, Flood Management and Fish and Wildlife Conservation

The goal of the Stream and Floodplain Protection Plan (Title 3) is to protect the region's health and public safety by reducing flood and landslide hazards, controlling soil erosion and reducing pollution of the region's waterways.

Findings: Compliance with this Title is achieved in these areas through the review of development against the current Stormwater Management Manual regulations at time of building permits. The current request is for a Greenway Goal Exception to allow fill material within the Greenway Setback along the west riverbank to support the necessary roadway and ramp access to a new bridge. As discussed earlier in this recommendation, the fill area will occur within a defined Water Quality and Flood Management Area.

The Greenway Goal Exception approval criteria require that impacts to these areas be avoided, or minimized and mitigated. The Hearings Officer finds that the proposal does comply with the Goal Exception approval criteria; the proposal is consistent with the intent of Title 3. The Hearings Officer finds that intent of this Title is met.

Title 4 - Industrial and Other Employment Areas

Title 4 places restrictions of certain uses in three designations on the 2040 Growth Concept Map. In Employment Areas, retail uses are limited to less than 60,000 square feet. This can be increased if it is demonstrated that transportation facilities are adequate to serve the retail use and to serve other planned uses in the Employment Area.

Findings: The Hearings Officer finds that the requested Greenway Goal Exception will not have any effect on Title 4, and therefore, is consistent with the intent of this Title.

Title 5 - Neighbor Cities and Rural Reserves

This section of the Functional Plan directs Metro to work with its neighbor cities to protect common locations for green corridors along transportation corridors connecting the Metro region and each neighboring city.

Findings: The Hearings Officer finds that this proposal has no impact on this Title, as the subject site is within the UGB and therefore, has no impact on neighboring cities or rural reserves. The requested Greenway Goal Exception is consistent with the intent of this Title.

Title 6 - Central City, Regional Centers, Town Centers and Station Communities

The intention of Title 6 is to enhance the Centers designated on The 2040 Growth Concept Map by encouraging development in these Centers. This Title recommends street design and connectivity standards that better serve pedestrian, bicycle and transit travel and that support the 2040 Growth Concept.

Findings: The requested Greenway Goal Exception is to allow fill material to be placed within the Greenway Setback along the west Willamette riverbank as part of the underpinnings to future roadway and ramp access to a new Sellwood Bridge. The proposed future bridge will be designed to meet the applicable standards of the City of Portland and ODOT. Because the requested Greenway Goal Exception lies in an area that is not within the Central City, nor is designated as a Regional or Town Center or a Station Community, the Hearings Officer finds that this Goal Exception has no impact on this Title.

Title 7 - Affordable Housing

This section of the Functional Plan will ensure that all cities and counties in the region are providing opportunities for affordable housing for households of all income levels.

Findings: The requested Greenway Goal Exception will allow fill material to be placed within the Greenway Setback, thus providing the grade changes determined necessary to modify the bridge approach to the bridge deck span and associated roadway connection ramps. Additional fill material will allow construction of an 18-foot wide multi-use trail and the relocation of the Willamette Shoreline trolley right-of-way, which is located just east of Highway 43 [a.k.a. SW Macadam Avenue]. To the extent that the requested Goal Exception provides the ability to construct a significantly improved bridge and multi-modal connectivity across the river, which in turn could support affordable residential development in the Sellwood area, the Hearings Officer finds this proposal is consistent with the intent of Title 7.

Title 8 - Compliance Procedures

This Title ensures that all cities and counties in the region are fairly and equitably held to the same standards and that the Metro 2040 Growth Concept is implemented. It sets out compliance

procedures and establishes a process for time extensions and exemptions to Metro Code requirements.

Findings: This proposal meets this Title by fulfilling the notice requirements for Type III land use reviews, as outlined in PCC 33.850, Statewide Planning Goal Exceptions. In addition to notifying the affected Neighborhood Associations and property-owners within a 400-foot radius of the site, a notice of the proposal has also been sent to Metro and to LCDC. Therefore, the Hearings Officer finds this proposal is consistent with this Title.

Title 9 - Performance Measures

This Title ensures that progress or lack of progress is measured in the implementation of the Urban Growth Management Functional Plan (UGMFP) and the 2040 Growth Concept.

Findings: The Hearings Officer finds the requested Goal Exception has no impact on this Title and therefore, it is consistent with the intent of Title 9.

Title 10 - Definitions

This Title defines the words and terms used in the document.

Findings: The Hearings Officer finds the requested Goal Exception has no impact on this Title and therefore, it is consistent with the intent of Title 10.

Title 11 - Planning for New Urban Areas

The purpose of this Title is to guide planning of areas brought into the UGB for conversion from rural to urban use.

Findings: The Hearings Officer finds the requested Goal Exception has no impact on this Title and therefore, it is consistent with the intent of Title 11.

Title 12 - Protection of Residential Neighborhoods

The purpose of this Title is to protect the region's existing residential neighborhoods from air and water pollution, noise and crime, and to provide adequate levels of public services.

Findings: The proposed Greenway Goal Exception is requested to allow fill material to be placed in specific areas along the west bank of the Willamette River, within the Greenway Setback. The Goal Exception will have no adverse affect on Title 12, because the fill will be placed in such a way that stormwater is treated appropriately and with mitigation, the Applicant states that the annual pollutant loads as a result of the project would generally decrease below those of a No Build Alternative. Any noise associated with the fill will be limited and anticipated to occur within a 30-day time window. Although the request is for a Goal Exception to place fill within the Greenway Setback, it is also important to note that the overall project will provide a significant enhancement of a multi-modal transportation link across the Willamette River. Therefore, the Hearings Officer finds the proposal is consistent with the intent of Title 12.

Title 13 - Nature in Neighborhoods

The purposes of this program are: conserve, protect and restore a continuous ecologically viable streamside corridor system from the streams' headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with upland wildlife habitat and surrounding urban landscape; control and prevent water pollution for the protection of the public health and safety; maintain and improve water quality throughout the region.

Findings: The proposed Greenway Goal Exception is requested to allow fill material to be placed in specific areas along the west bank of the Willamette River, within the Greenway Setback. This Greenway Goal Exception request to place fill along the west riverbank within the Greenway Setback does include extensive Title 13 High Value ranked lands (the entire Willamette River, Stephens Creek, and the unnamed creek to the south). However, the requirements of Title 13 direct local jurisdictions to apply their environmental regulations when the land use review is for a use that would not otherwise be allowed by right by the underlying zoning. In this specific instance, the purpose of the fill is to construct significant improvements in the public rights-of-way in immediate proximity of the western bridgehead. However, rights-of-way are not a 'use' as defined by the Portland Zoning Code and therefore, are allowed in any zone. For purposes of this review, the City is updating the adopted Comprehensive Plan to demonstrate that the requested Goal Exception is still consistent with the over all adopted Comprehensive Plan.

The Hearings Officer finds the proposal will have little or no effect on the intent of most of these Titles, or these Titles will be met through compliance with other applicable City regulations. The Hearings Officer finds the request is generally consistent with the regional planning framework, and this Goal [**GOAL 1: Metropolitan Coordination**] is met.

GOAL 2 Urban Development

Maintain Portland's role as the major regional employment, population and cultural center through public policies that encourage expanded opportunity for housing and jobs, while retaining the character of established residential neighborhoods and business centers.

Findings: The proposed Greenway Goal Exception is requested to allow fill material to be placed in specific areas along the west bank of the Willamette River, within the Greenway Setback. The purpose of the fill is to provide support and raise the bridge approach to the bridge deck span and associated roadway connection ramps. Fill may also be required to build temporary work platforms need to remove the decommissioned bridge after construction of the replacement bridge is completed.

The result will be an enhanced transportation facility that will provide a safer river crossing with more capacity for multi-modal transportation. The placement of fill within the Willamette River Greenway Setback area will also be required for the construction of an 18-foot wide multi-use trail and the relocation of the Willamette Shoreline trolley right-of-way. Overall, the placement of fill material will provide the necessary engineered foundation for a significant upgrade to the region's transportation network. The Hearings Officer finds that the placement of fill within the Greenway

Setback will not impinge on Portland's role as a major regional employment, population and cultural center.

The Hearings officer finds the proposed Greenway Goal Exception is relevant to the following Goal 2 Policies:

2.1 Population Growth

Allow for population growth within the existing city boundary by providing land use opportunities that will accommodate the projected increase in city households by the year 2000.

The Hearings Officer finds that the proposed bridge replacement and enhanced multi-modal transportation system supported by the fill will be a critical piece of infrastructure that will better support population growth within the existing City boundary.

2.6 Open Space

Provide opportunities for recreation and visual relief by preserving Portland's parks, golf courses, trails, parkways and cemeteries. Establish a loop trail that encircles the city, and promote the recreational use of the city's rivers, creeks, lakes and sloughs.

The Hearings Officer finds that the bridge replacement and enhanced multi-modal transportation system supported by the fill will include an 18-foot wide multi-use trail that will run along the west riverbank, providing new opportunities for pedestrians and bicyclists to enjoy the river and associated views along the new trail.

2.7 Willamette River Greenway Plan

Implement the Willamette River Greenway Plan which preserves a strong working river while promoting recreation, commercial and residential waterfront development along the Willamette south of the Broadway Bridge.

The Hearings Officer finds the proposed Goal Exception to allow fill material to be placed within the Greenway Setback is consistent with this Policy to the extent that the request meets all of the required approval criteria for a Goal Exception to the Willamette River Greenway Plan.

Based upon findings earlier in this recommendation the Hearings Officer finds that the requested Goal Exception is consistent with the applicable Policies in Goal 2, Urban Development. The Hearings Officer finds the request is consistent with the Regional Planning framework, and thus this Goal [GOAL 2: *Urban Development*] is met.

GOAL 3 Neighborhoods

Preserve and reinforce the stability and diversity of the City's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses and insure the City's residential quality and economic vitality.

Findings: The proposed Greenway Goal Exception will ultimately result in an enhanced transportation facility that will provide a safer river crossing with more capacity for multi-modal transportation by replacing the existing bridge that is structurally deficient and functionally obsolete. The proposed fill within the Greenway Setback will also allow for significant upgrades to existing substandard and unsafe roadway configurations approaching the bridge, as well as improve a multi-modal trail system for pedestrians and bicycles. The overall outcome of the Goal Exception results in a project that will increase the City's residential quality and revive economic vitality with the resumption of a multi-modal transportation link across the Willamette River that includes transit services and freight movement.

The Hearings Officer finds the proposed Greenway Goal Exception is relevant to the following Goal 3 Policies:

3.1 Physical Conditions

Provide and coordinate programs to prevent the deterioration of existing structures and public facilities.

The requested Goal Exception is consistent with this Policy because the existing bridge has deteriorated beyond the point of providing a safe river crossing without imposed weight restrictions, external steel clamps, and similar measures to keep the existing bridge viable. The Goal Exception would allow fill material to be placed within the Greenway Setback, which in turn will provide support for approach ramps and related roadway improvements to a replacement bridge that will be structurally sound, as well as provide capacity for the current and future travel demands.

3.6 Neighborhood Plan

Maintain and enforce neighborhood plans that are consistent with the Comprehensive Plan and that have been adopted by City Council.

The area identified for the Greenway Goal Exception includes lands that are also included in the Corbett-Terwilliger-Lair Hill Neighborhood Plan, the Southwest Community Plan and the Macadam Plan District.

Corbett-Terwilliger-Lair Hill

The CTLH Neighborhood Plan was adopted in 1977. The requested Greenway Goal Exception is consistent with Policy IV, Proposed Physical Improvement Projects, Table 4, Street Improvements, which lists pedestrian/bicycle pathways along the waterfront, and improved access to the Sellwood Bridge. The Goal Exception request is consistent with this Policy.

Macadam Plan District

The regulations for the Macadam Plan District are found in PCC 33.550. The Greenway Goal Exception request has no impact on these regulations and therefore, is consistent with this Plan District.

Southwest Community Plan

The Southwest Community Plan: Vision, Policies and Objectives was adopted in 2000. The pertinent Policies within the SWCP include:

- Land Use and Urban Form: Special Areas, The Willamette River Greenway
There are two objectives under the Willamette River Greenway Special Area. The first speaks to protection of the River and the Greenway via implementing the regulations of the Willamette Greenway Plan. This review is to specifically allow a Greenway Goal Exception, which is an allowed request that triggers specific approval criteria found within the Greenway regulations. The Hearings Officer finds the proposed Goal Exception is consistent with this Objective.
- Public Facilities
Objective 5 states: “Develop land use patterns and public facilities that protect natural water courses, and consider the impacts of landslides and earthquakes.” The proposed Goal Exception to allow fill material to be placed within the Greenway Setback is intended to provide significantly enhanced public transportation facilities, while protecting the natural environment, streams, and wildlife within the Greenway Setback. The Hearings Officer finds that, with mitigation (Exhibits H.6 and H.12), proposal ensures that the request is consistent with this Objective.
- Parks, Recreation and Open Space
Multiple Objectives under this Policy speak to: [2] the preservation of natural areas for wildlife habitat, environmental and scenic values; [11] the encouragement of well-designated, well-maintained trails and bicycle paths as recreational opportunities; [13] the promotion of safe and convenient trails and bicycle paths... to the Willamette River. The Hearings Officer finds that the requested Goal Exception will enable the provision of a multi-use path along the Willamette Greenway that connects from the Sellwood Bridge to points further north along the river. To the extent that the Greenway Goal Exception includes an adequate mitigation plan, the preservation of natural areas for wildlife, environmental and scenic values, the Hearings Officer finds the request is consistent with these Objectives.
- Transportation
This Policy speaks to a balanced, multi-modal transportation system that encourages transit use and pedestrian accessibility and connectivity. Multiple Objectives under this Policy speak to: [1] supporting the development of pedestrian facilities identified in the Pedestrian Master Plan and the SW Trails map; [2] enhancing access for bicyclists; [3] improving circulations for transit, automobiles and truck traffic; [4] improving intra-district and inter-

district transit service. The Hearings Officer finds the requested Goal Exception to place fill material within the Greenway Setback to support enhanced multi-modal transportation facilities is consistent with these Objectives.

- Watershed

This Policy and related Objectives speak to protecting and enhancing the environment and natural resources via integration of stormwater management and development, which prevents degradation of water quality, aquatic, streamside and riparian habitats and ecosystems, and plant and animal habitats throughout the stream corridor. To the extent that the Greenway Goal Exception includes an adequate mitigation plan addressing these values (Exhibits H.6 and H.12), the Hearings Officer finds the request is consistent with this Policy and Objectives.

The *Southwest Community Plan* policies relate directly to the project meeting the specific approval criteria for the Greenway Goal Exception. The Hearings Officer, in preceding sections, found that approval criteria for PCC 33.440.360 B.2, B.5, B.6 and B.7 were met. The Hearings Officer finds the proposal is consistent with the intent of Policy 3.6 Neighborhood Plan.

In summary, the Hearings Officer finds the requested Goal Exception is consistent with the applicable policies in Goal 3, Neighborhoods. The Hearings Officer finds the request is consistent with the regional planning framework, and this Goal [**GOAL 3: Neighborhoods**] is met.

GOAL 4 Housing

Enhance Portland's vitality as a community at the center of the region's housing market by providing housing of different types, tenures, density, sizes, costs, and locations that accommodate the needs, preferences, and financial capabilities of current and future households.

Findings: Although the overall bridge project will impact a total of five residential units, all of these units are on the *east* side of the Willamette River. The requested Goal Exception to allow fill material is specifically limited to areas along the *west* bank of the river. Within the proposed fill area, there are no existing residential structures and therefore, the Hearings Officer finds that the proposed Goal Exception for fill material to be placed within the Greenway Setback will not have an adverse impact on housing within the fill area. The proposal is consistent with this Goal.

GOAL 5 Economic Development

Foster a strong and diverse economy which provides a full range of employment and economic choices for individuals and families in all parts of the city.

Findings: The Hearings Officer finds that the proposed Greenway Goal Exception will result in an enhanced transportation facility that will provide a safer river crossing with more capacity for multi-modal transportation by replacing the existing bridge that is structurally deficient and functionally obsolete. The proposed fill within the Greenway Setback will also allow for significant upgrades to

existing substandard and unsafe roadway configurations approaching the bridge, as well as improving a multi-modal trail system for pedestrians and bicycles.

The Hearings Officer finds the proposed Greenway Goal Exception is relevant to the following Goal 5 Policy:

5.4 Transportation System

Promote a multi-modal regional transportation system that stimulates and supports long term economic development and business investment.

The existing bridge has been placed on weight restrictions that resulted in the diversion of truck traffic and 94 daily TriMet bus trips, which provided significant transit services to multiple travel areas, including those between the Sellwood, Westmoreland and Milwaukie areas and southwest Portland and the City center. The requested Goal Exception would allow fill material to be utilized in the Greenway Setback as an engineered foundation for roadways, access ramps and a multi-modal trail as well as a future alignment of the Willamette Shoreline trolley. Because the fill material will ultimately allow the construction of a replacement bridge, which will provide a safer and more robust multi-modal transportation link across the Willamette River, economic and business investment will be further supported by the significant improvement of transporting goods and services across this area of the River. Therefore, the Hearings Officer finds the proposal is consistent with this policy and Goal 5.

GOAL 6 Transportation

Develop a balanced, equitable, and efficient transportation system that provides a range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise, and water pollution; and lessens reliance on the automobile while maintaining accessibility.

Findings: The proposed Greenway Goal Exception is requested to allow fill material to be placed in specific areas along the west bank of the Willamette River, within the Greenway Setback. The purpose of the fill is to provide support and raise the bridge approach to the bridge deck span and associated roadway connection ramps. Fill may also be required to build temporary work platforms needed to remove the decommissioned bridge after construction of the replacement bridge is completed.

PBOT reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services. A summary of PBOT comments are quoted in the indented section below:

Street Classification Designations for Surrounding Streets

Southeast Tacoma Street and the Sellwood Bridge are designated as District Collectors, Transit Access Streets, Off-street Paths (Bikeways), City Walkways, Truck Access Streets, Major

Emergency Response Streets, and Community Main Streets/Corridors. The Sellwood Bridge is a Multnomah County structure. There is sidewalk on the north side of the bridge, but it is substandard in width based on City requirements.

Southwest Macadam Avenue is designated as a Major City Traffic Street, Transit Access Street, City Bikeway and Off-street Path, City Walkway, Major Truck Street, Major Emergency Response Route, and Regional Corridor. SW Macadam Avenue is ODOT jurisdiction. There is an existing off-street path between Macadam and the river. The Applicant is proposing an 18-foot multi-use path (14-foot paved trail with 2-foot unpaved shoulders each side) on the east side of Macadam Avenue and sidewalk on the west side. This is sufficient for PBOT, but will need approval from ODOT.

Conformance with Transportation Policies

There are no transportation related approval criteria for a Greenway Goal Exception. The Comprehensive Plan Map Amendment is required solely to determine if the Greenway Goal Exception is supportive of the relevant goals and policies of the Comprehensive Plan. Given that no changes to the Comprehensive Plan Map are proposed, the relevant policies of Goal 6 for the Greenway Goal Exception relate to river-dependent uses and access.

Policies 6.1 through 6.17 and 6.19 through 6.34

Classifications for the surrounding streets are outlined above. In general, the proposed project is improving services for bicyclists, pedestrians, transit and freight. The Applicant's discussion in the narrative showing conformance with these policies is sufficient to demonstrate compliance.

Policy 6.18 Adequacy of Transportation Facilities

This application does not change allowed land uses, it replaces a structurally deficient bridge with one that is safe and can perform as anticipated in the City of Portland Transportation System Plan (TSP). Adequacy of services does not directly relate to the Greenway Goal Exception. However, the project Environmental Impact Statement indicates that proposed improvements will maintain or improve existing levels-of-service in the project vicinity.

Policy 6.35 Southeast Transportation District

The Applicant's discussion in the narrative showing conformance with this Policy is sufficient to demonstrate compliance. Objectives E, G, I and L are particularly relevant to this project. Objective E: Improve access and safety for bicycles through the development of more inner Southeast east/west bike routes and the provision of bicycle facilities across the bridges and to a variety of destinations, including downtown, the river, and parks. Objective G: Encourage regional and inter-district truck traffic to use Regional Truckways, Priority and Major Streets in southeast Portland by establishing convenient truck routing that better serves trucks, while protecting Southeast neighborhoods. Objective I: Continue to improve cross-town transit service, transit facilities and bus stops, and transit travel times, and expand off-peak and weekend service to provide access to activity centers on Portland's eastside. Objective L:

Support SE Tacoma's function as a main street and District Collector in the future, and support and implement transportation projects that will reinforce these designations.

The proposal to add bike lanes and sidewalks to the new bridge and reinstate bus and truck traffic on the bridge furthers these objectives. Additionally, the proposal to build an 18-foot wide multi-use path along SW Macadam Avenue specifically supports Objective E.

As discussed under the TSP policies above, the proposed Comprehensive Plan Amendment is in conformance with the Goal 6 Policies of the TSP as they relate to the Greenway Goal Exception.

PBOT has also reviewed the Greenway Goal Exception request and the associated bridge replacement project, and the Hearings Officer quotes PBOT comments related to Street Improvements in the indented section below:

The existing bridge and facilities on SW Macadam Avenue are substandard for pedestrians and bicyclists. The proposed design of the new bridge consists of two travel lanes, two 6.5-foot bike lanes and two 12-foot sidewalks. Additionally, an 18-foot multi-use path is proposed along SW Macadam Avenue from the new bridge to SW Miles Street. The proposed bridge design and improvements on SW Macadam Avenue meet City of Portland requirements and standards.

PBOT/ Development Review finds that all policies in the TSP are met and that the criteria for approval of the Greenway Goal Exception and associated Comprehensive Plan Amendment are met. Therefore, Portland Transportation has no objection to the approval of the Greenway Goal Exception and associated Comprehensive Plan Amendment subject to the following condition[s] of approval: A minimum 14' wide multi-use path shall be constructed along SW Macadam Avenue from the new Sellwood Bridge location to SW Miles Street.

The Hearings Officer finds with the PBOT recommended condition of approval, the Goal Exception can be found to be consistent with all applicable Policies and Objectives of Goal 6.

GOAL 7 Energy

Promote a sustainable energy future by increasing energy efficiency in all sectors of the city by ten percent by the year 2000.

Findings: The result of the proposed Greenway Goal Exception will be an enhanced transportation facility that will provide a safer river crossing with more capacity for multi-modal transportation, by replacing the existing bridge that is structurally deficient and functionally obsolete. The proposed fill within the Greenway Setback will also allow for significant upgrades to existing substandard and unsafe roadway configurations approaching the bridge, as well as improving a multi-modal trail system for pedestrians and bicycles. The significant upgrades to pedestrian and bicycle facilities as a result of the fill will promote alternative transportation modes, and thus will reduce reliance on oil-based energy to the extent that trips via alternate modes are taken. The restoration of a viable

bridge linkage at this location will enable the restoration of transit services, which will no longer be required to detour via a less direct route, thus reducing the amount of energy consumption proportional to the reduction in miles traveled. A replacement bridge that has no weight restrictions will promote a more direct route for freight, goods and services to cross the Willamette River at this point, again reducing reliance on oil-based energy in proportion to the reduced miles of detoured routes.

The Hearings Officer finds that the proposed Greenway Goal Exception is relevant to the following Goal 7 policy:

7.6 Energy Efficient Transportation

Provide opportunities for non-auto transportation including alternative vehicles, buses, light rail, bikeways, and walkways. The City shall promote the reduction of gasoline and diesel use by conventional buses, autos and trucks by increasing fuel efficiency and by promoting the use of alternative fuels.

The request to allow fill material within the Greenway Setback will provide foundation support for both the realigned Willamette Shoreline Trolley, as well as for a multi-use path for bicycles and pedestrians. The Hearings Officer finds the Greenway Goal Exception request is consistent with Goal 7 and applicable Policies.

GOAL 8 Environment

Maintain and improve the quality of Portland's air, water and land resources and protect neighborhoods and business centers from detrimental noise pollution.

Findings: There appears to be no significant or long-term detrimental impacts on air quality as a result of placing fill within the Greenway Setback. The result will be a significantly enhanced multi-modal transportation link across the Willamette River. The elements of the overall bridge project include specific transportation facilities to be supported in part by the fill, such as the Willamette Shoreline Trolley and the multi-use pedestrian/bicycle facility. These, together with a viable and safer replacement bridge, will promote the use of alternative modes of transportation such as ridesharing, bicycling, walking, and transit, which in turn will help improve air quality to the extent that alternative modes reduce exhaust gases and particulate pollution associated with burning fossil fuels.

The Hearings Officer finds the proposed Greenway Goal Exception is relevant to the following Goal 8 policies:

8.5 Interagency Cooperation – Water Quality

Continue cooperation with federal, state and regional agencies involved with the management and quality of Portland's water resources.

Findings: The Hearings Officer finds that Applicant is collaborating with all of the appropriate agencies to ensure compliance with applicable water quality regulations.

8.10 Drainageways

Regulate development within identified drainageways for the following multiple objectives.

Objectives:

A. Stormwater runoff

Conserve and enhance drainageways for the purpose of containing and regulating stormwater runoff.

B. Water quality and quantity

Protect, enhance, and extend vegetation along drainageways to maintain and improve the quality and quantity of water.

C. Wildlife

Conserve and enhance the use of drainageways where appropriate as wildlife corridors which allow the passage of wildlife between natural areas and throughout the city, as well as providing wildlife habitat characteristics including food, water, cover, breeding, nesting, resting, or wintering areas.

Findings: The Applicant (Exhibit A.11) noted that the placement of fill within the Greenway Setback area will not have any impact on water quality. Other comments within the Applicant's narrative (Exhibit A.11) indicate that stormwater will be managed as required and construction methods will be utilized to reduce impacts on wildlife during construction. To the extent that the Applicant's proposed mitigation plans are consistent with this Policy and related Objectives, the Hearings Officer finds the proposal is consistent with Goal 8.

8.11 Special Areas

Recognize unique land qualities and adopt specific planning objectives for special areas.

D. Willamette River Greenway

Protect and preserve the natural and economic qualities of lands along the Willamette River through implementation of the city's Willamette River Greenway Plan.

Findings: The request is to approve a Goal Exception to allow fill material to be placed within the Greenway Setback area. To the extent that the request meets all of the applicable approval criteria for a Greenway Goal Exception, the Hearings Officer finds the proposal is consistent with this Policy.

8.12 National Flood Insurance Program

Retain qualification in the National Flood Insurance Program through implementation of a full range of floodplain management measures.

Findings: The Applicant noted (Exhibit A.12) that the project will not increase the base flood elevation and therefore, there will be no net rise in flood elevation. The Hearings Officer finds the request is consistent with this Policy.

8.15 Wetlands/Riparian/Water Bodies Protection

Conserve significant wetlands, riparian areas, and water bodies which have significant functions and values related to flood protection, sediment and erosion control, water quality, groundwater recharge and discharge, education, vegetation, and fish and wildlife habitat. Regulate development within significant water bodies, riparian areas, and wetlands to retain their important functions and values.

8.17 Wildlife

Conserve significant areas and encourage the creation of new areas which increase the variety and quantity of fish and wildlife throughout the urban area in a manner compatible with other urban development and activities.

Findings: Protection and improvement of any Wetlands/Riparian and Water bodies and Wildlife can be possible via appropriate construction methods and mitigation measures (Exhibit H.12, page 2, Best Management Practices). To the extent that the proposal to place fill within the Greenway Setback meets the applicable approval criteria for a Greenway Goal Exception, which must include appropriate and specific mitigation plans, the Goal Exception is consistent with this portion of Goal 8.

In summary, the Hearings Officer finds the requested Goal Exception is consistent with the applicable policies in Goal 8, Environment. The proposal is inconsistent with Policy 8.11 D, as discussed above. The Hearings Officer finds the request is consistent with the regional planning framework, and this Goal [**GOAL 8: Environment**] is met.

GOAL 9 Citizen Involvement

Improve the method for citizen involvement in the on-going land use decision-making process and provide opportunities for citizen participation in the implementation, review and amendment of the adopted Comprehensive Plan.

Findings: The Applicant indicated that prior to the submission of this application, two public briefings, an open house, and a public hearing were held during November and December 2008. These meetings and solicitation for agency and public comments narrowed the field of possible alternatives, from a No Build Alternative to five other Alternatives. Subsequently, the preferred Alternative D, Refined option was selected. The Hearings Officer notes that this application is the first step in obtaining multiple approvals for the construction methodology and general design of the preferred configuration, which requires fill material to be placed within the Greenway Setback.

The City provided notice of the proposed Greenway Goal Exception and Comprehensive Plan Amendment to surrounding property owners within 400 feet of the site and to the Neighborhood

Association, in order to inform them of their opportunity to comment on the application both in writing and at the public hearings on this application. In addition, the site has been posted per the requirements of the Portland Zoning Code for Type III Land Use Reviews. The Hearings Officer finds that this Goal has been met.

GOAL 10 Plan Review

Portland's Comprehensive Plan will undergo periodic review to assure that it remains an up-to-date and workable framework for land use development. The Plan will be implemented in accordance with State law and the Goals, Policies and Comprehensive Plan Map contained in the adopted Comprehensive Plan.

Findings: This Goal and related policies address how the City of Portland will address periodic review and how the Plan is implemented, including quasi-judicial Comprehensive Plan Map Amendments. However, the request is for a Goal Exception and therefore, a concurrent Comprehensive Plan evaluation is required. Because the request is neither a periodic review, nor a request to amend the Comprehensive Plan Map designations, the Hearings Officer finds this Goal is not applicable to the proposal.

GOAL 11 A Public Facilities

Provide a timely, orderly and efficient arrangement of public facilities and services that support existing and planned land use patterns and densities.

GOAL 11 B Public Rights of Way

Improve the quality of Portland's transportation system by carrying out projects to implement the 2040 Growth Concept, preserving public rights-of-way, implementing street plans, continuing high-quality maintenance and improvement programs, and allocating limited resources to identified needs of neighborhoods, commerce, and industry.

Findings: The proposal to place fill material within the Greenway Setback will support access ramps, a realigned Shoreline Trolley, and multi-use path associated with the overall project of replacing the existing Sellwood Bridge with a structurally sound and enhanced bridge. The proposed Goal Exception is consistent with these Goals.

GOAL 11 F Parks and Recreation

Maximize the quality, safety and usability of parklands and facilities through the efficient maintenance and operation of park improvements, preservation of parks and open space, and equitable allocation of active and passive recreation opportunities for the citizens of Portland.

Findings: The proposed Greenway Goal Exception to place fill within the Greenway Setback area will provide foundation support for an enhanced multi-modal path and a realigned Willamette Shoreline Trolley route. Both of these elements will provide both active and passive recreation opportunities along this section of the Willamette River. The Hearings Officer finds that the proposed Goal Exception is consistent with this Goal.

GOAL 12 Urban Design

Enhance Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a substantial legacy of quality private developments and public improvements for future generations.

12.4 Provide for Pedestrians

Portland is experienced most intimately by pedestrians. Recognize that auto, transit and bicycle users are pedestrians at either end of every trip and that Portland's citizens and visitors experience the City as pedestrians. Provide for a pleasant, rich and diverse experience for pedestrians. Ensure that those traveling on foot have comfortable, safe and attractive pathways that connect Portland's neighborhoods, parks, water features, transit facilities, commercial districts, employment centers and attractions.

12.7 Design Quality

Enhance Portland's appearance and character through development of public and private projects that are models of innovation and leadership in the design of the built environment. Encourage the design of the built environment to meet standards of excellence while fostering the creativity of architects and designers. Establish design review in areas that are important to Portland's identity, setting, history and to the enhancement of its character.

Findings: The proposed Greenway Goal Exception is requested to allow fill material to be placed in specific areas along the west bank of the Willamette River, within the Greenway Setback. The purpose of the fill is to provide support and raise the bridge approach to the bridge deck span and associated roadway connection ramps. The associated overall project of the bridge replacement and the associated enhanced multi-modal transportation facilities are consistent with Policy 12.4. While the Greenway Goal Exception and the fill material within the Greenway Setback area does not trigger a Design Review, the overall replacement bridge will trigger a future Design Review, because portions of the bridge will cross areas that contain the Design overlay zone. The Hearings Officer finds the request is consistent with Policy 12.7.

CONCLUSIONS

The Applicant, in this case, proposes to replace the current operationally inefficient and structurally deficient Sellwood Bridge with a new bridge. As part of the bridge replacement, ramps/connections at the west end of the bridge will be modified.

This application and review only deals with locations where the applicant proposes to fill within the Greenway Setback. This application seeks City approval of a Greenway Goal Exception and a Comprehensive Plan Amendment (whenever a Statewide Planning Goal Exception is requested, the Portland Zoning Code, at 33.850.030 A, requires an Amendment to the City's Comprehensive Plan). This application is the first phase of the local land use review process. Additional land use reviews will be undertaken prior to the final approval of the replacement Sellwood Bridge Project.

The Hearings Officer notes that the BDS staff recommendation to the Hearings Officer was denial based upon BDS' perception that insufficient evidence was in the record to satisfy the relevant approval criteria. The Hearings Officer finds that additional information (Exhibits H.5, H.6, and H.12) submitted by Applicant, after the issuance of the BDS staff recommendation, filled the evidentiary gaps. The Hearings Officer, upon review of all of the evidence in the record, finds that all of the relevant approval criteria (policies, goals, etc.) are met.

Testimony was offered, at the public hearing, expressing concern about fill in and around SW Miles Street (See Exhibits H.9 and H.10). The Hearings Officer appreciates the concerns stated by the residents/owners regarding privacy, property values and drainage. However, the Hearings Officer finds that the location of the fill, commonly referred to as the Willamette Shoreline Trolley right-of-way, will see intensified use in the future; trolley and public access trail/path. Owners/residents of property adjacent to the Willamette Shoreline Trolley right-of-way and the general Miles Place community are justifiably concerned about drainage and are advised to maintain contact with the City during the permit stage of the development.

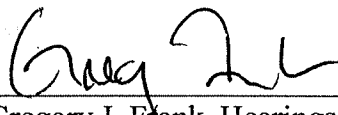
RECOMMENDATION

Approval of a Statewide Planning Goal Exception, Greenway Goal Exception and associated Comprehensive Plan Amendment to authorize the placement of fill within the Willamette Greenway Setback area, generally consistent with Exhibits A.11 and C.17, associated with:

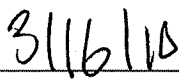
- Construction of the new Sellwood Bridge and connecting ramps;
- Relocation of the trolley track line right-of-way; and
- Construction of the 18-foot multi-use trail

Subject to the following conditions:

1. Retaining wall(s) along the bike trail shall be designed, engineered and constructed in a manner that provides wildlife friendly vegetation and visual relief.
2. Mitigation activities required to occur at Willamette Moorage Park and Powers Marine Park shall be made consistent with Exhibits H.12b and H.12c.



Gregory J. Frank, Hearings Officer



Date

Application Deemed Complete: October 15, 2009
Report to Hearings Officer: January 22, 2010
Recommendation Mailed: March 17, 2010

Conditions of Approval. This project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "Applicant" includes the Applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

City Council Hearing. The City Code requires the City Council to hold a public hearing on this case and you will have the opportunity to testify. The hearing will be scheduled by the City Auditor upon receipt of the Hearings Officer's Recommendation. You will be notified of the time and date of the hearing before City Council. If you wish to speak at the Council hearing, you are encouraged to submit written materials upon which your testimony will be based, to the City Auditor.

If you have any questions contact the Bureau of Development Services representative listed in this Recommendation (503-823-7700).

The decision of City Council, and any conditions of approval associated with it, is final. The decision may be appealed to the Oregon Land Use Board of Appeals (LUBA), as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that:

- an appellant before LUBA must have presented testimony (orally or in writing) as part of the local hearings process before the Hearings Officer and/or City Council; and
- a notice of intent to appeal be filed with LUBA within 21 days after City Council's decision becomes final.

Please contact LUBA at 1-503-373-1265 for further information on filing an appeal.

Recording the final decision.

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

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

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

If the Zone Change or Comprehensive Plan Map Amendment approval also contains approval of other land use decisions, other than a Conditional Use Master Plan or Impact Mitigation Plan, those approvals expire three years from the date the final decision is rendered, unless a building permit has been issued, or the approved activity has begun.

Subsequent Land Use Reviews. A development-specific Greenway Review and Design Review may be required before carrying out this project. Any subsequent land use reviews or building permits must demonstrate compliance with:

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

EXHIBITS
NOT ATTACHED UNLESS INDICATED

A. Applicant's Statement

1. Applicant's 9/24/09 narrative—with bound collection of narrative exhibits along with graphic exhibits: Exhibits C.1 through C.16
2. Applicant's 9/24/09 narrative (superseded by Exhibit A.11)
3. Technical Memorandum: Sellwood Bridge: DEIS Alternatives and Preferred Revised Alternatives D Comparison-Aquatics
4. Sellwood Bridge Water Resources Final Tech Report, Section 3, Affected Environment
5. Methodology for Establishing the Greenway Setback along the Proposed Sellwood Bridge Disturbance
6. December 28, 2009 Email Correspondence from Applicant with attached revised Project Site Plan, and attached list of revised properties that comprise the site
7. December 24, 2009 Request for Land Use Hearing to be Rescheduled
8. December 29, 2009 Revised Project Description from Applicant
9. December 23, 2009 Supplemental information from Applicant
10. January 4, 2010 Response from Applicant to BDS request for additional findings
11. January 7, 2010 Revised Applicant's Narrative: Supersedes Pages 1 through 79 of Exhibit A.1, and Exhibit A.2.
12. Final Environmental Impact Statement and Final Section 4(f) Evaluation—Sellwood Bridge

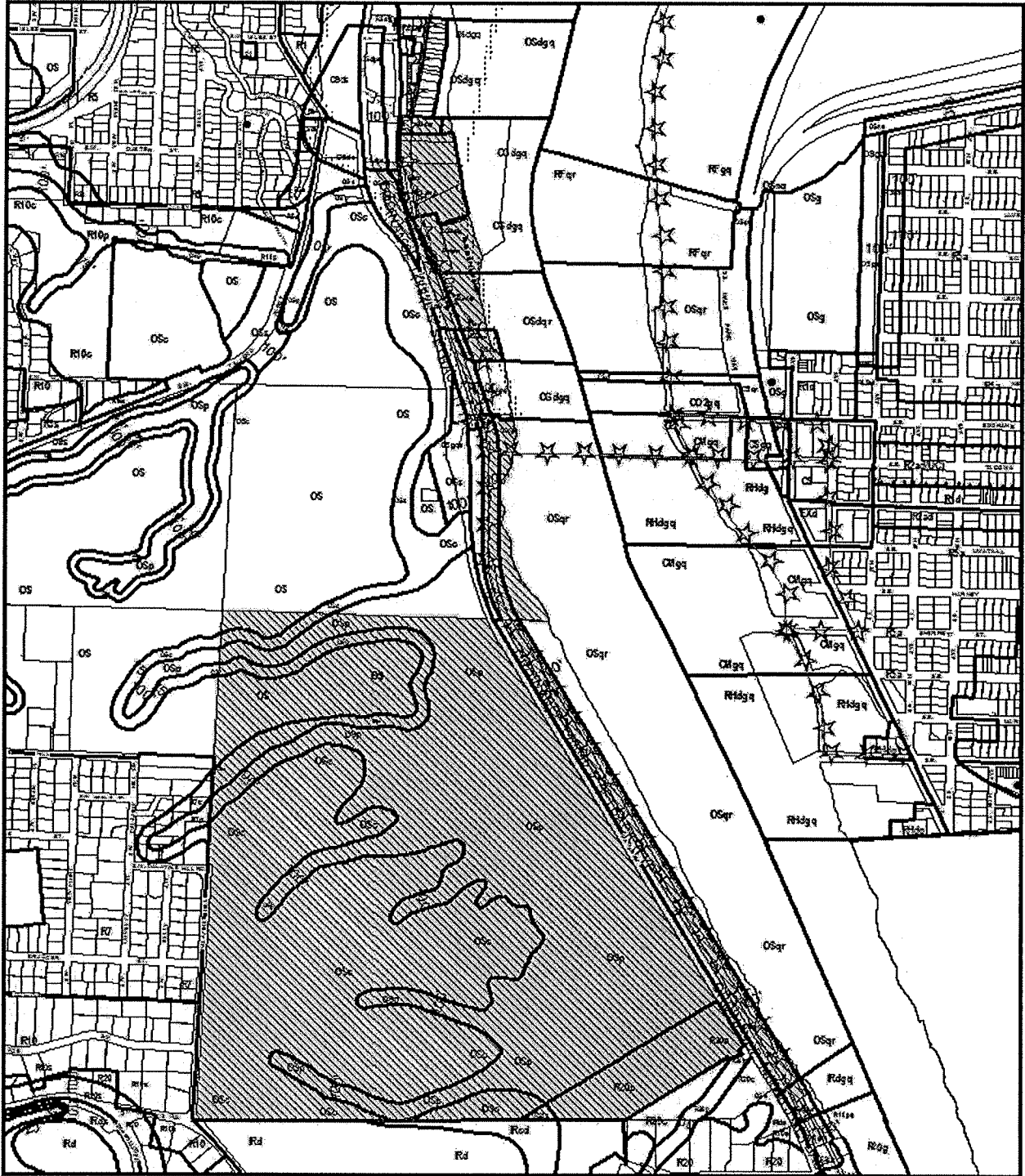
B. Zoning Maps (**attached**)

C. Plans & Drawings

1. Proposed Sellwood Bridge plan view (in Figures following page 79 in Exhibit A.1)
2. Proposed Sellwood Bridge plan view (in Figures following page 79 in Exhibit A.1)
3. Proposed Sellwood Bridge plan view (in Figures following page 79 in Exhibit A.1)
4. Proposed Sellwood Bridge plan view (in Figures following page 79 in Exhibit A.1)
5. Proposed Sellwood Bridge plan view (in Figures following page 79 in Exhibit A.1)
6. Proposed Replacement Sellwood Bridge Cross Section (in Figures following page 79 in Exhibit A.1)
7. Cut & Fill Locations in Willamette Greenway Setback (in Figures following page 79 in Exhibit A.1)
8. Cut & Fill Locations in Willamette Greenway Setback (in Figures following page 79 in Exhibit A.1)
9. Cut & Fill Locations in Willamette Greenway Setback (in Figures following page 79 in Exhibit A.1)
10. Cut & Fill Locations in Willamette Greenway Setback (in Figures following page 79 in Exhibit A.1)
11. Greenway Setback Delineation (in Figures following page 79 in Exhibit A.1)
12. Greenway Setback Delineation (in Figures following page 79 in Exhibit A.1)
13. Greenway Setback Delineation (in Figures following page 79 in Exhibit A.1)
14. Greenway Setback Delineation (in Figures following page 79 in Exhibit A.1)

15. Scenic Viewpoints in Sellwood Bridge Project Area (in Figures following page 79 in Exhibit A.1)
 16. Tunnel Alignment Concept (in Figures following page 79 in Exhibit A.1)
 17. Project Site (showing areas of fill within Greenway Setback) (**attached**)
 18. Mitigation Areas at Willamette Moorage Park and Powers Marine Park (**attached**)
 19. Relocated Parking Spaces at Powers Marine Park
- D. Notification information
1. Request for Completeness Review
 2. DLCDC Notice of Proposed Amendment
 3. Request for Response
 4. Posting Letter to Applicant (superseded by Exhibit D.7)
 5. Posting Notice (superseded by Exhibit D.8)
 6. Applicant's Statement Certifying Posting (superseded by Exhibit D.10)
 7. Revised Posting Letter to Applicant
 8. Revised Posting Notice
 9. Mailed Notice of Public Hearing (superseded by Exhibit D.11)
 10. Applicant's Statement Certifying Posting
 11. Mailed Notice of Rescheduled Public Hearing
- E. Agency Responses
1. Oregon Department of Land Conservation and Development
 2. BDS Land Use Services
 3. Site Development Review Section of Bureau of Development Services
 4. Water Bureau
 5. Bureau of Transportation Engineering and Development Review
 6. Bureau of Environmental Services
 7. BDS Land Use Services
- F. Letters: No letters have been received
- G. Other
1. Original LUR Application
 2. Site History Research
 3. Pre-Application Conference Summary Memo
 4. Case Contacts: attached memos, e-mail, and other miscellaneous correspondence
- H. Received in the Hearings Office
1. Hearing Notice - Castleberry, Stacey
 2. Request to reschedule - Castleberry, Stacey
 3. Request to reschedule - Castleberry, Stacey
 4. Staff Report - Castleberry, Stacey
 5. Copy of e-mail with 2 pages of attached maps - Castleberry, Stacey
 6. Letter from Hoffmann at CH2M HILL dated 1/27/10 with attachments - Castleberry, Stacey
 - a. Copy of Letter from Castleberry to Hoffman with Hoffman/CH2M HILL responses included (23 pages) - Castleberry, Stacey
 - b. 11x14 drawings (2 pages) - Castleberry, Stacey
 - c. Memo from Hoffman to Katko dated 1/25/10 - Castleberry, Stacey

- c. Memo from Hoffman to Katko dated 1/25/10 - Castleberry, Stacey
7. PowerPoint presentation - Castleberry, Stacey
8. 2/18/10 e-mail to Castleberry - Roth, Emily
9. Letter to Castleberry - Wright, Moanna
10. Letter to Castleberry from Ward Barbour - Wright, Moanna
11. Memo to Hearings Officer, "Final Argument" dated 2/22/10 - Greenfield, Mark
12. Memo from Multnomah County to Hearings Officer dated 2/22/10 with attachments listed as "Appendices A-E" - Eaton, Michael
 - a. E-mail from Emily Roth to Stacey Castleberry dated 2/18/10 (1 page) labeled "Appendix A" - Eaton, Michael
 - b. Draft Agreement between Multnomah Co. and Willamette Moorage Park (7 pages including maps) labeled "Appendix B" with attached maps - Eaton, Michael
 - c. Draft Agreement between Multnomah Co. and Powers Marine Park (8 pages including maps) labeled "Appendix C" with attached maps - Eaton, Michael
 - d. Photo illustration of Structure on Piers (1 page) labeled "Appendix D" - Eaton, Michael
 - e. E-mail from Stacey Castleberry to Schwartz and Hoffmann dated 2/18/10 (1 page) - Eaton, Michael

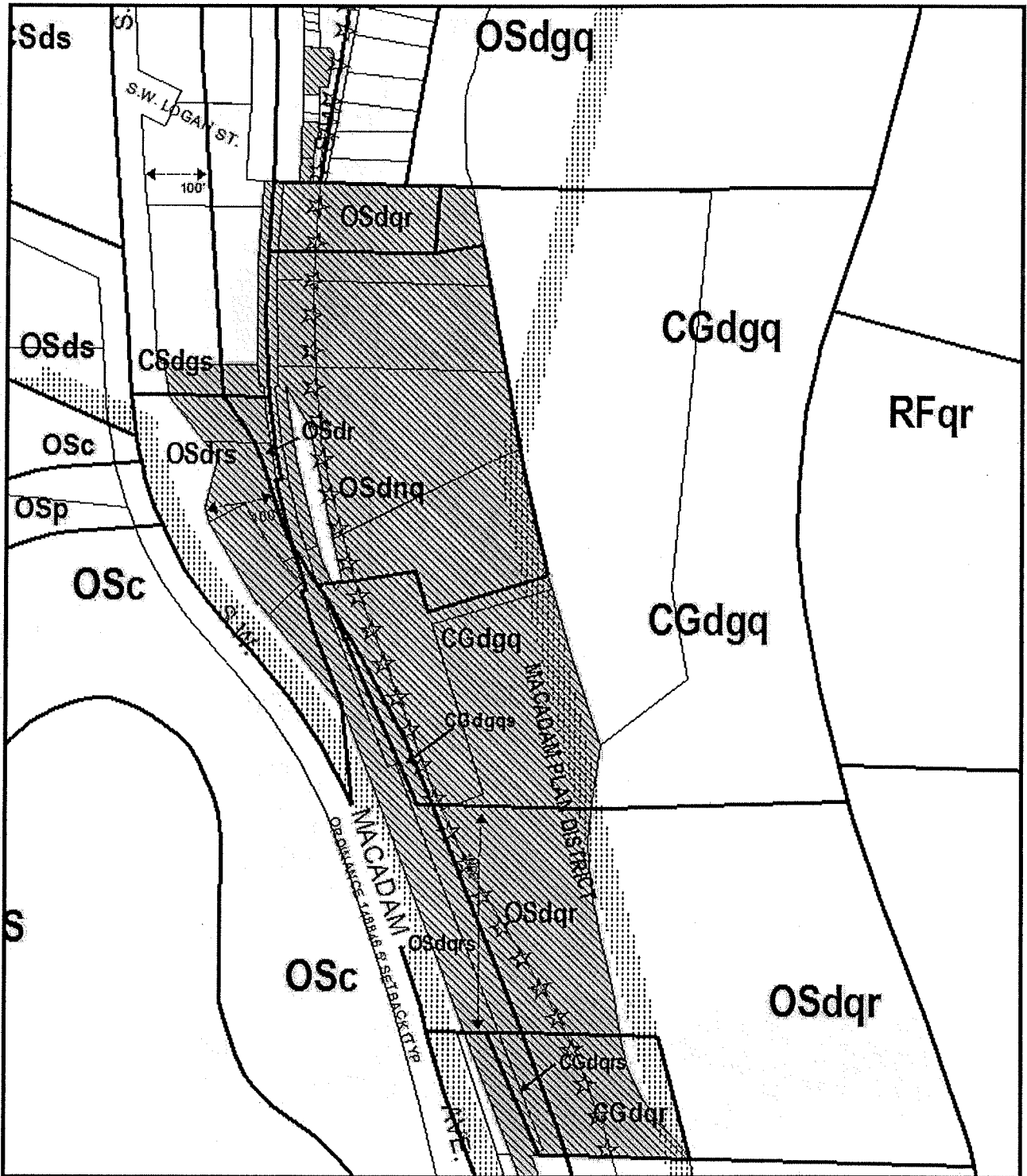


ZONING

 Site



File No.	<u>LU 09-160242 GE.CP</u>
	<u>3730,3829,3830,3929,3930,</u>
1/4 Section	<u>3931,4029,4030,4031</u>
Scale	<u>1 inch = 800 feet</u>
State_Id	<u>1S1E27 100</u>
Exhibit	<u>B (Dec 30,2009)</u>

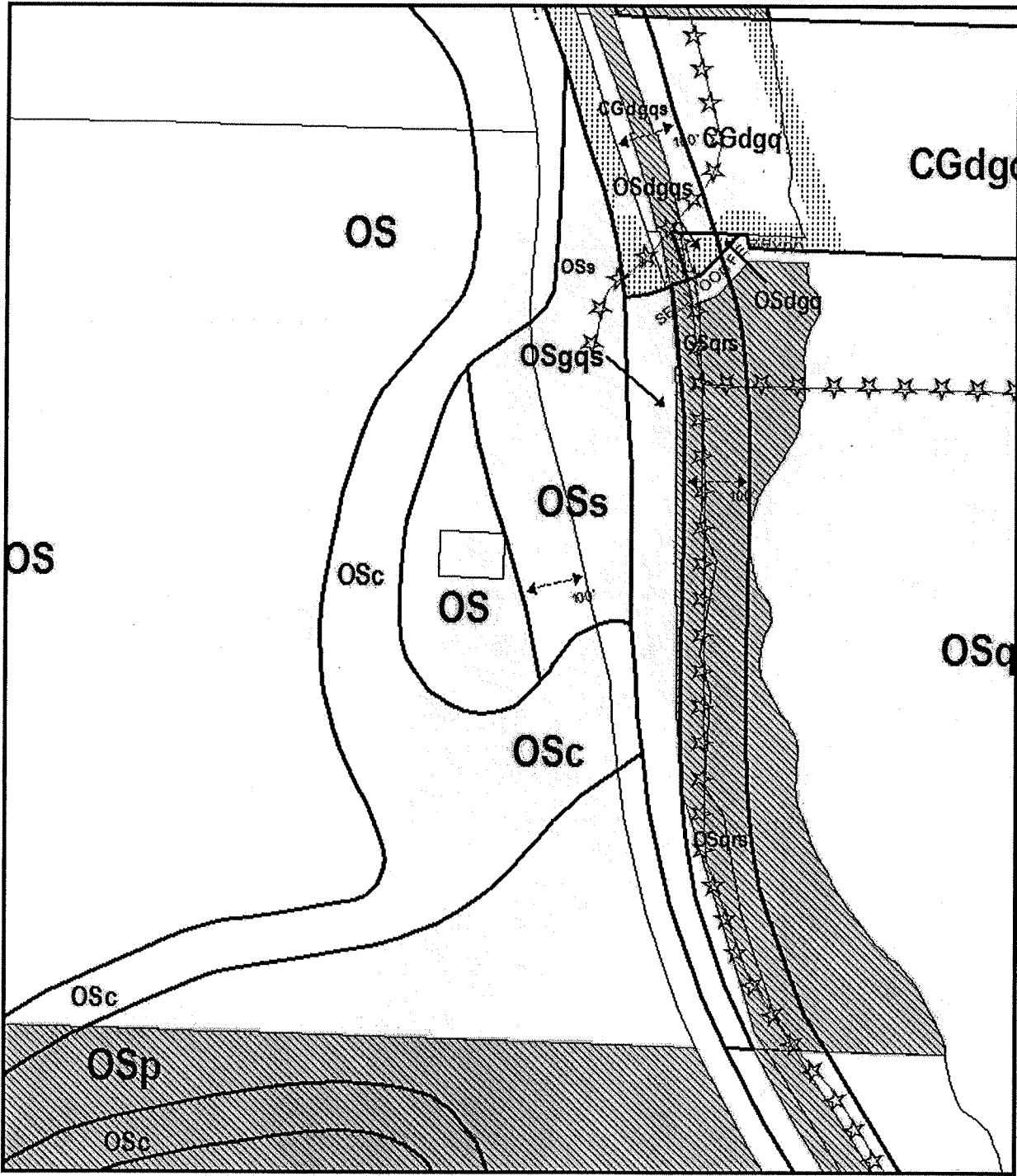


ZONING

 Site



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Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1S1E27 100</u>
Exhibit	<u>B.a (Dec 30,2009)</u>

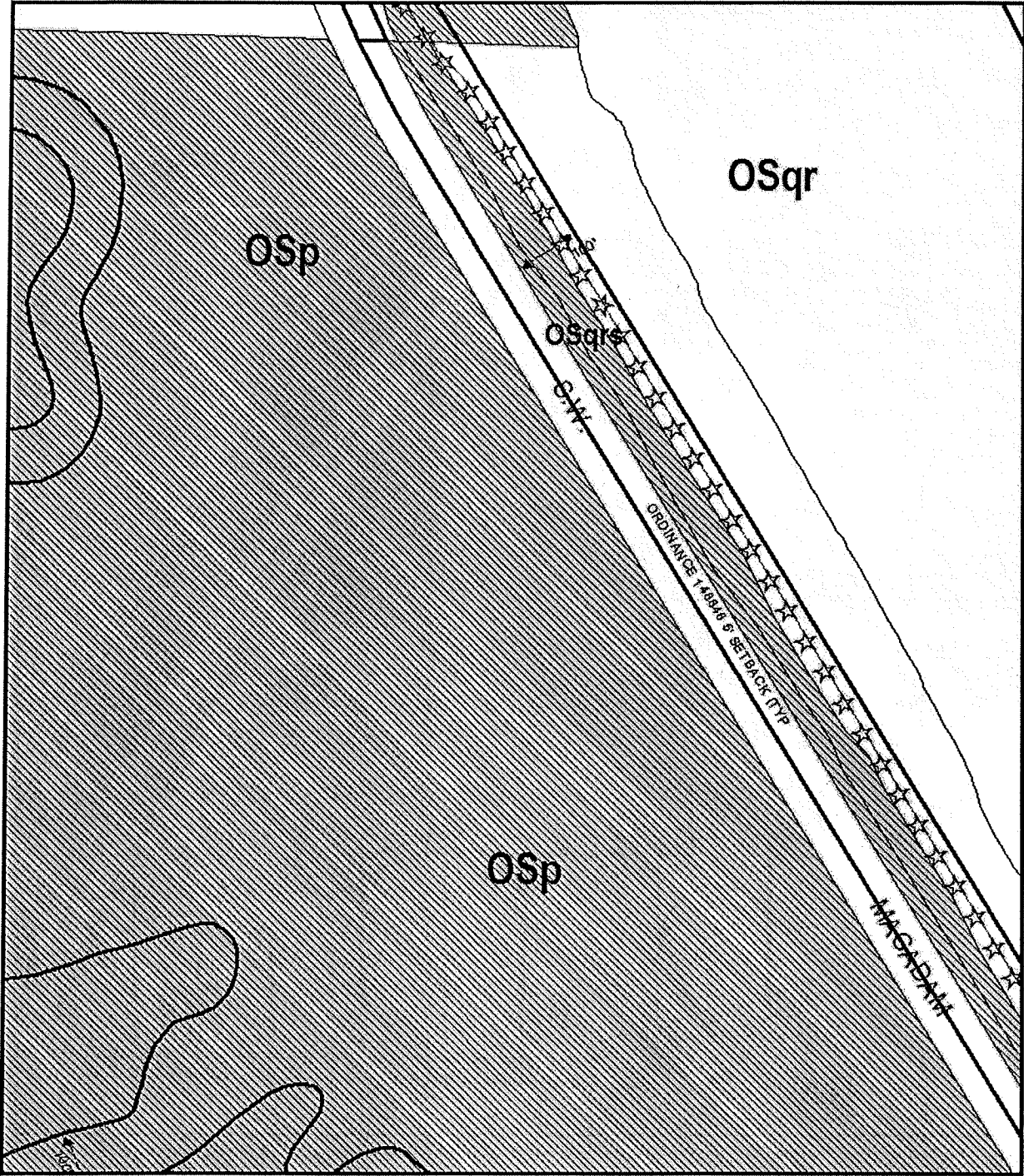


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

 Site



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 3931, 4029, 4030, 4031
 1/4 Section
 Scale 1 inch = 200 feet
 State_Id 1S1E27 100
 Exhibit B.b (Dec 30, 2009)

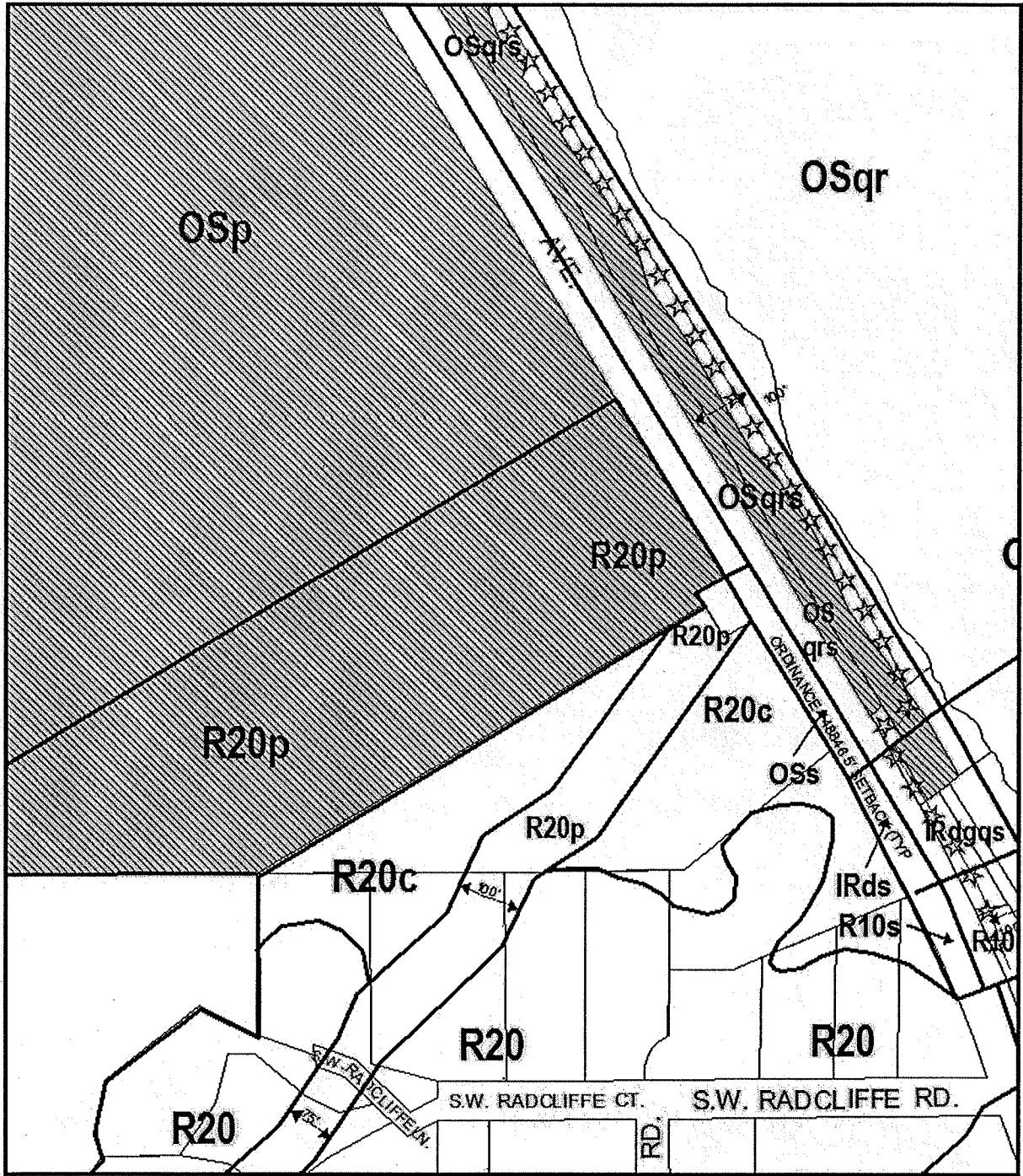


ZONING

-  Site
-  Historic Landmark



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 Scale 1 inch = 200 feet
 State_Id 1S1E27 100
 Exhibit B c (Jan 22,2010)



ZONING  Site



File No. LU 09-160242 GE, CP
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 Exhibit B.d (Dec 30, 2009)

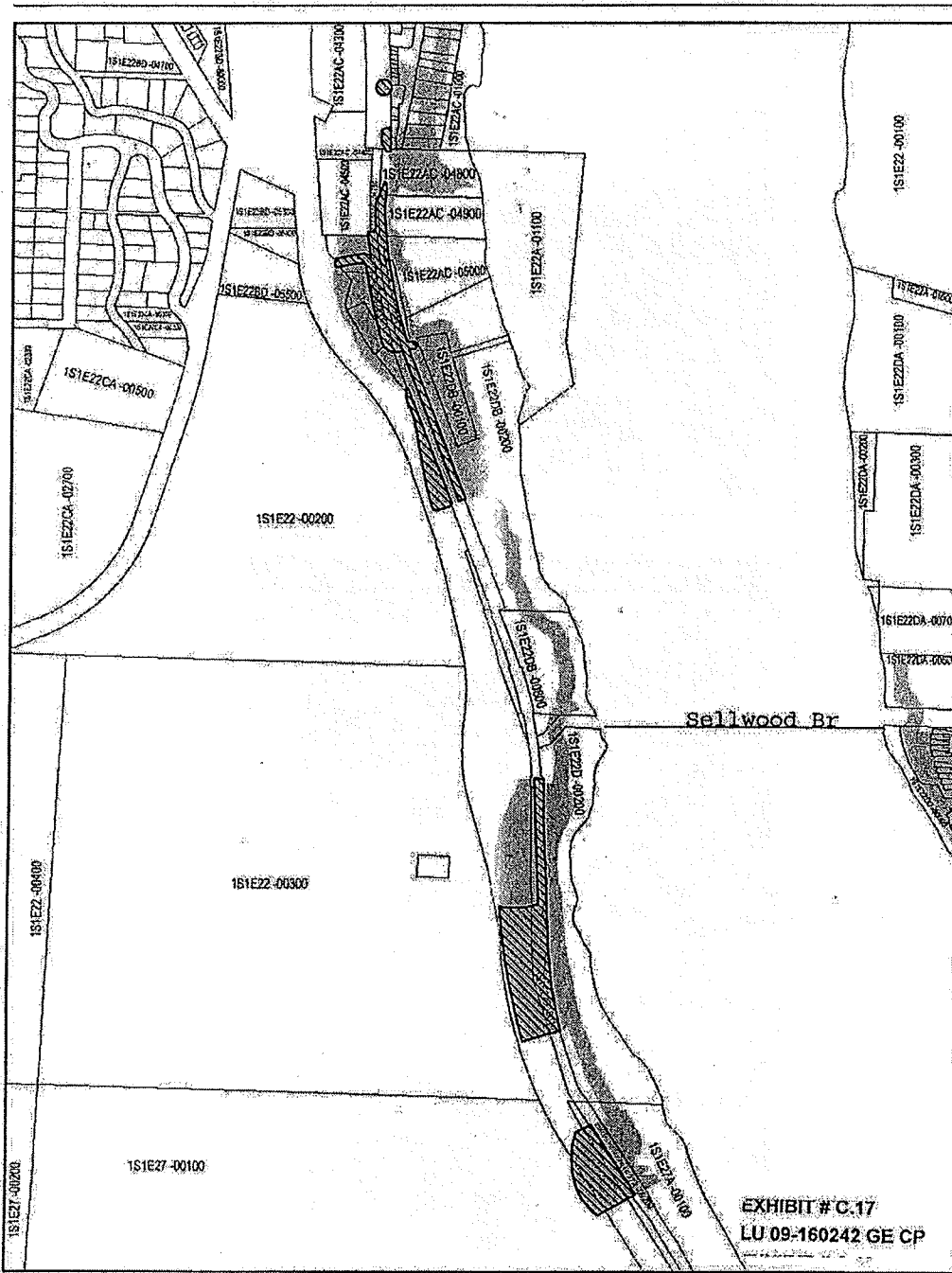



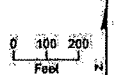


EXHIBIT # C.17
LU 09-160242 GE CP

LEGEND

-  Site
-  (Areas of fill within Greenway Setback)
-  Greenway Setback, 50 to 200 Feet.



Project Site
Greenway Goal Exception Application
City of Portland

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Mitigation Areas at Willamette Moorage and Powers Marine Parks

