From: David Littlewood [mailto:davidltx@gmail.com]
Sent: Friday, March 13, 2015 9:07 AM
To: BPS Mailbox
Subject: Comprehensive Plan Testimony

ATTN: Leslie Lum

My name is David Littlewood, I own the property on NE Levee Rd, listed as Property# R171714 on Portland Maps. I support the attached proposal for an R-20 zoning change request of my residential farming property by removing the Industrial Sanctuary designation. I believe this offers the most realistic way to find a creative, future balance that truly respects residential livability and real biodiversity of natural habitat, both of which are grossly undermined now when there has been no attempt to address the past planning/development failures that led to such relentless, negative impact produced by 24-hour trucking operations

While I do not personally stand to benefit to the proposed r20 zone change request, as I am only permitted a single family residence by the conservation easement held by The Wetlands Conservancy on my 2.16 acres zoned residential farming, I do believe it offers an opportunity for a group of property owners in a unique area of Portland to begin a conversation on how to find a solution to what I have witnessed from afar to be an incredibly disheartening and lack of good faith effort by the City of Portland to respect residential property rights or conservation values.

My late wife and I bought this property for our family when my stepson bought the property at 8850 NE Levee Rd. He grew up near an airport in a ranch house with mimosa trees and a green space to explore as a kid. Needless to say, he was thrilled to find the same experience for his kids. Airport noise with its somewhat limited hours and doppler effect was par for the course with the windows open in our Austin home without AC. My understanding is the nearby trucking noises from two trucking yards that occurs at all hours with no doppler effect, means leaving the windows in his home invites explosive and disruptive noises, often even when closed. In short, I know he has struggled with finding a partner in the City of Portland with enforcing noise issues and that engaging planning or development staff has been similar battle where there is no one who embraces the concept of public service in address the situation.

So, Justin has informed me of this seemingly simple change request. He shared that the last land use planning process, (Airport Futures?), resulted in wetland delineations on this wetland parcel but not on the nearby industrial one owned by Oak Harbour which the drainage district staff verified flood ours and a nearby horse pasture owned by the Ron and Sally Beck. So, when Justin does work as the local steward of this property, he gets subjected to 70db semi honks for 5+ seconds or explosive hitching while weeding the weeds that come from the same trucking yard's non-wetland property that floods mine? Justin, also tells me that in his communication with planning staff that although our conservation easement prohibits industrial use, that you claim this as part of your available industrial inventory? Please help me understand how 2.16 acres is part of your industrial inventory when it is prohibited by a conservation easement or even the wetland delineations you put on only our property and not theirs that make it illegal to build an earthen weir to keep Oak Harbour from flooding our property?

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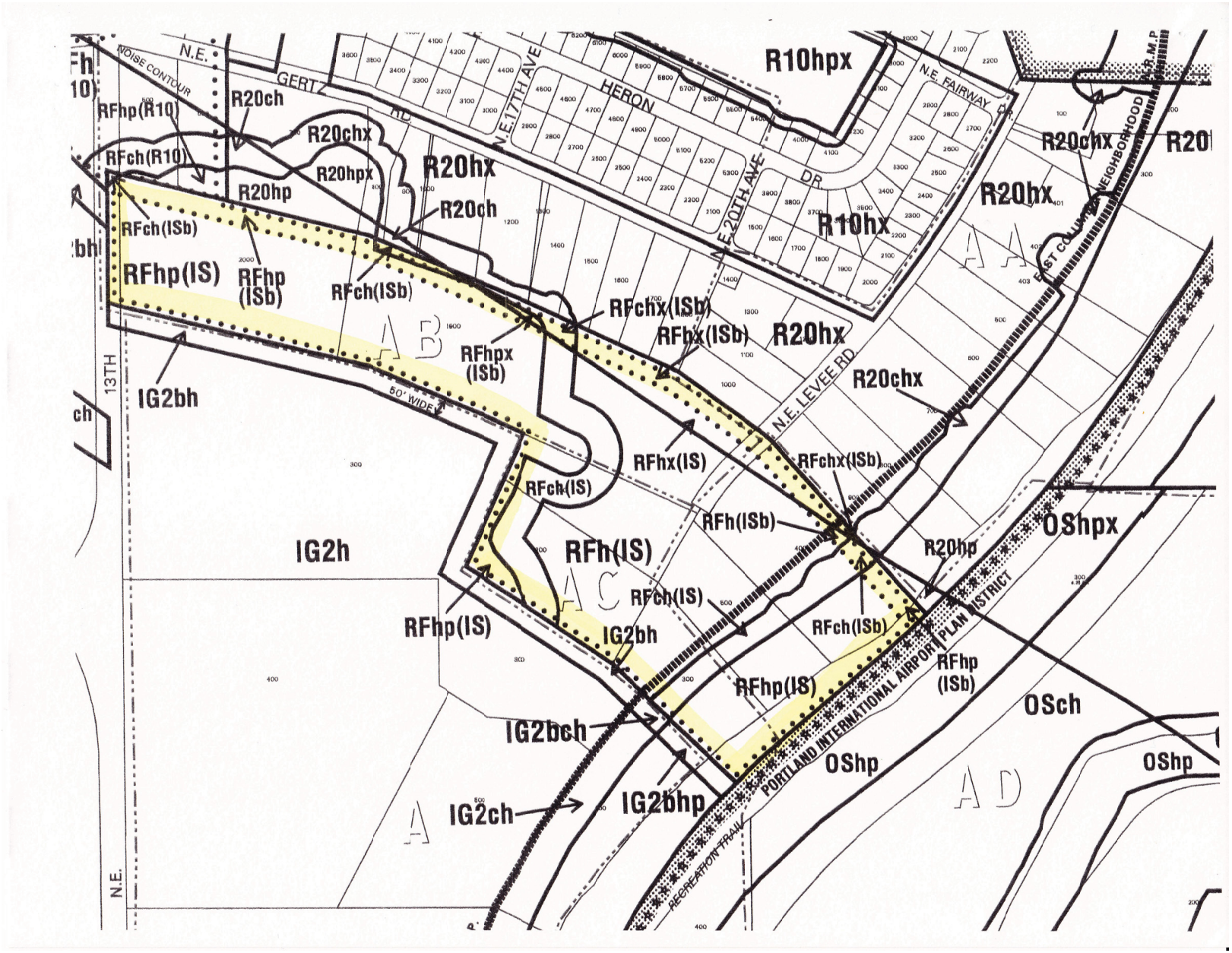
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PORTLAND INTERNATIONAL AIRPORT PLAN DISTRICT
RECREATION TRAIL
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"Land Use Request" for Plan Map Designation Change from Industrial Sanctuary to Residential (R-20) as Part of the Comprehensive Plan Update

Location: East Columbia Neighborhood; abutting or using access to NE Levee Road and unimproved NE 13th Avenue

Property IDs: R171711 (9009 NE Levee Rd); R171707 (9000 NE Levee Rd); R171713 (8855 NE Levee RD); R171708 (8916 NE Levee Rd); R171709 (8850 NE Levee Rd); R171714 (vacant, no address); R171716 (vacant, no address, same ownership as abutting lot R17119 to the north)

Existing Zoning: RFhp (RF: Residential Farm/Forest, h: Aircraft Landing Overlay Zone, p: Environmental Protection Overlay Zone); RFch (c: Environmental Conservation Overlay Zone); RFhpx (x: Portland International Airport Noise Impact Overlay Zone); RFchx; RFhx; and RFh

Existing Plan: IS: Industrial Sanctuary; ISb (b: Buffer)

Considerations:

I. "Change in Circumstances" since enactment of the Industrial Sanctuary Designation

A. In 2011, as part of the Middle Columbia Corridor/Airport Natural Resources Inventory, this area received substantial coverage of the Environmental Overlay Zoning of "p" protection and "c" conservation (see zoning map included). That map shows the "p" and "c" overlay zones covering: approximately one-half of four of the properties; one-third of one property; two-thirds of one property; and all of one property.

B. The extensive coverage of the "p" overlay zone is important for future development potential. As characterized in the Zoning Code website "Zone Summaries": "The Environmental Protection zone provides the highest level of protection to the most important resources and functional values. . . . Development will be approved in the environmental protection zone ***only in rare and unusual circumstances***." [*Emphasis added*]. The environmental zoning appears to have taken the majority of this area out of potential development in the future. As such, any development, in particular industrial development with its large buildings and extensive paving associated with heavy truck traffic, would not be anticipated to be approved or occur in the majority of this area with the Plan designation of Industrial Sanctuary.

C. The portion of the lots not covered by environmental zoning is where there are five houses with a total improvement value of over $655,000. A reasonable expectation is that these homes outside the environmental zoning would be less likely to be developed for industrial uses due to the existing improvement values and the relatively small acreage not in the "p" or "c" zones.

II. R-20 Zoning Request

A. R-20 zoning would match and be compatible with the zoning to the immediate north.

B. R-20 residential zoning would protect environmental resource values by not developing those areas and yet add a few additional new home sites concentrated in the area of NE Levee Road outside the "p" and "c" zones. In addition, there could also be the possibility of application by individual property owners for small Planned Development lots located outside the environmental zones. A Planned Development can result in a lot density closer to the development potential of their entire property.

C. A buffer between industrial and residential uses already exists in the abutting industrial zoned (IG2h) property to the south. Along the industrial property's northern boundary is a 50-foot wide buffer strip zoned IG2bh. The "b" buffer zone was a condition of approval of the industrial development and was enacted to serve as a "buffer" to reduce adverse effects between incompatible land use attributes, such as noise, lights, and views.

D. It is recognized that there is a "need" to maintain adequate planned areas for future industrial growth. However, continuing to include this area in the inventory of acreage to fulfill future industrial need could be viewed as representing a false acreage number in that inventory. That is because the majority of the acreage is covered by undevelopable environmental zones and, except for one smaller lot, the remaining acreage is already developed with housing, significantly reducing the conversion to industrial land use.

III. Transportation and Access Issues

A. The homes in this area gain access to the public road system only through NE Levee Road to NE Gertz Road, which are both narrow, two-lane, local streets without full improvements. There is no outlet to the east because of a major drainage slough; to the west, NE Gertz Road contains a major truck barrier (tight radius traffic circle) constructed to keep large industrial truck traffic from the nearby residential neighborhoods; and NE 13th Avenue is posted with "no truck" signs at NE Marine Drive. Therefore, there is no legal large truck traffic route to this area from the north.

B. The industrial property to the south has existing frontage and access necessary for truck traffic on a portion of NE 13th Avenue south of the unimproved part of NE 13th which effectively disconnects the industrial traffic from the residential streets to the north. To the west, the industrial road system connects via NE Fazio Way and NE Gertz Road, to NE Vancouver Way.

C. In summary, the road system to the north of this area does not allow industrial truck traffic and the property owner to the south does not appear to have the incentive to provide a road system through the property to reach the small developable (not environmentally zoned) part of the subject ownerships.

IV. Environmental Zoning Placed on Industrial Sanctuary Planned Properties Was Contrary to Directives to the City of Portland in the Gunderson, LLC vs. City of Portland LUBA Decision (affirmed by the Oregon Court of Appeals and Oregon Supreme Court)

A. In January 21, 2011, three months before the "Airport Futures" Comprehensive Plan Update and associated zone changes were adopted in April 2011, the Land Use Board of Appeals (LUBA) ruled that the adopted environmental restrictions (in this case Willamette River Greenway zoning provisions) placed on industrial properties In the "North Reach River Plan" were overturned because such environmental restrictions in effect reduced the amount of industrial lands without taking that reduction into account in accordance with Division 9 Administrative Rules for Statewide Planning Goal 9 Industrial Development. The Gunderson vs. City of Portland LUBA decision stated on page 11, lines 13 through 24 the following:

> Because the likely result of applying the new regulations is that the city's supply of land potentially available for new or expanded industrial development would be effectively reduced, perhaps significantly so, it is incumbent on the city to consider the impact of such potential reductions on the city's industrial land supply and determine, based on an adequate factual base, whether any such impacts on the inventory are consistent with the city's Goal 9 obligation to maintain an adequate supply of industrial land. To do so, the city must necessarily (1) undertake to quantify to the extent necessary the number of acres the new regulations will likely remove from potential industrial development, compared to the existing acknowledged regulations, and (2) evaluate the impact of any net reduction in land supply on the city's Goal 9 inventory of industrial lands. The second step will entail making at least some determinations regarding the adequacy of the city's industrial land supply, before and after application of the new regulations.

B. In recognition of the Gunderson decision, industrial property owners within the "Airport Futures Plan Area" demanded in hearing testimony that the proposed environmental zoning overlay zones be removed from their properties prior to the Comprehensive Plan and Zoning Map amendments being adopted. The "Airport Futures" plan and zoning changes were adopted soon after (April 2011). The request by industrial land owners for the city to remove the environmental overlay zones was followed/complied with for all non-governmental industrial lands **except** the subject NE Levee Road properties. Within the "Airport Futures" area, the NE Levee Road Industrial Sanctuary properties were the only privately owned properties in the industrial lands inventory that had environmental restrictions placed on them. No analysis of the developable industrial acreage lost due to the environmental zoning was ever done, in blatant disregard of the Gundersun vs. City of Portland requirements.

C. Since the City of Portland chose to not comply with the requirement to determine the amount of acreages lost and the resulting impact on the industrial lands inventory as a result of the extensive environmental overlay zones mapped on the NE Levee Road properties, then we must conclude that the city never intended to actually ensure that the properties were available for later industrial development. The city cannot have it both ways: count the properties in the industrial inventory and also apply environmental zoning to severely restrict their later use as industrial properties.

D. In conclusion, the Industrial Sanctuary Comprehensive Plan designation for the subject properties should be removed.