

East Columbia Neighborhood Association  
c/o Gary Kunz, Chairperson  
1611 NE Marine Drive, Portland, Or 97211

March 10, 2015

Bureau of Planning and Sustainability  
1900 SW Fourth Avenue, Suite 7100  
Portland, OR 97201-5380

Re: Testimony for the Record on the proposed Portland Comprehensive Plan Update

This is a cover letter for various testimony submittals from the East Columbia Neighborhood area. Included are the following attachments:

**Attachment A**

This is a "Land Use Request" for change in Plan designation for south of the NE Levee Road area. This attachment has the following parts:

A letter to Barry Manning dated December 28, 2013; a "Land Use Request" with Sections I, II, and III (page 1 and 2) dated December 28, 2013; and a zoning map of the area. These materials were submitted in person to the Bureau of Planning and Sustainability before the end of the 2013 calendar year. The letter and arguments were later approved by the Board of Directors of the East Columbia Neighborhood Association (ECNA) on October 9, 2014. The items were then unanimously approved by the ECNA general membership at a meeting on December 9, 2014.

**Attachment B**

These comments were sent via the Map App and are submitted again under the ECNA letterhead. They were written by the then Board Chair, Maryhelen Kincaid on December 31, 2013. The comments were on the Draft Comprehensive Plan.

**Attachment C**

Comments and property owner signatures in this submittal are included as a courtesy. They have not been reviewed or approved by the neighborhood association.

Thank you,

  
Gary Kunz  
Chairperson

Copies to: Leslie Lum, City of Portland District Liaison

# Attachment A

December 28, 2013

Barry Manning  
Senior Planner  
Bureau of Planning and Sustainability  
1900 SW Fourth Avenue, Suite 7100  
Portland, OR 97201-5380

Dear Barry,

I would like to thank you again for your attendance and assistance at a recent informal neighborhood gathering. Your explanations of the proposed updates to the Comprehensive Plan were most helpful.

As I am sure you recall, the topic that occupied most of the discussion was regarding an area in our neighborhood that is zoned Residential Farm/Forest with a Comprehensive Plan designation of Industrial Sanctuary.

At the gathering, you suggested that we submit information and arguments as a "Land Use Request" as part of the Plan Update procedure for land use designation and zoning change. Attached is a "Land Use Request" to consider changing the Plan designation from Industrial Sanctuary (IS) to Residential (R20). In conjunction with such action, the zoning could also be changed to R-20 or left at Residential Farm/Forest until individual zone change requests to the R-20 zone are submitted with development proposals.

There are several justifications for the "Land Use Request" as attached. The primary two are (1) a change in circumstances that occurred with enactment of the latest environmental overlay zones on those properties, and (2) the lack of a viable public street system for industrial truck traffic in the area.

As a retired Senior Planner with Multnomah County I appreciate the complexity and sometimes confusing history of some of these types of situations. (I actually worked on some nearby areas when they still in County jurisdiction.) I hope that the information included with the land use request will be helpful. I thank you for your and the planning staff's considered review. Feel free to contact me if I can be of any further help.



Gary Clifford  
1150 NE Faloma Road  
Portland, OR 97211  
kerrclifford@hotmail.com  
503-515-5508

**“Land Use Request” for Plan Map Designation Change  
from Industrial Sanctuary to Residential (R-20)  
as Part of the Comprehensive Plan Update**

December 28, 2013

**Location:** East Columbia Neighborhood; abutting or using access to NE Levee Road and unimproved NE 13<sup>th</sup> 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

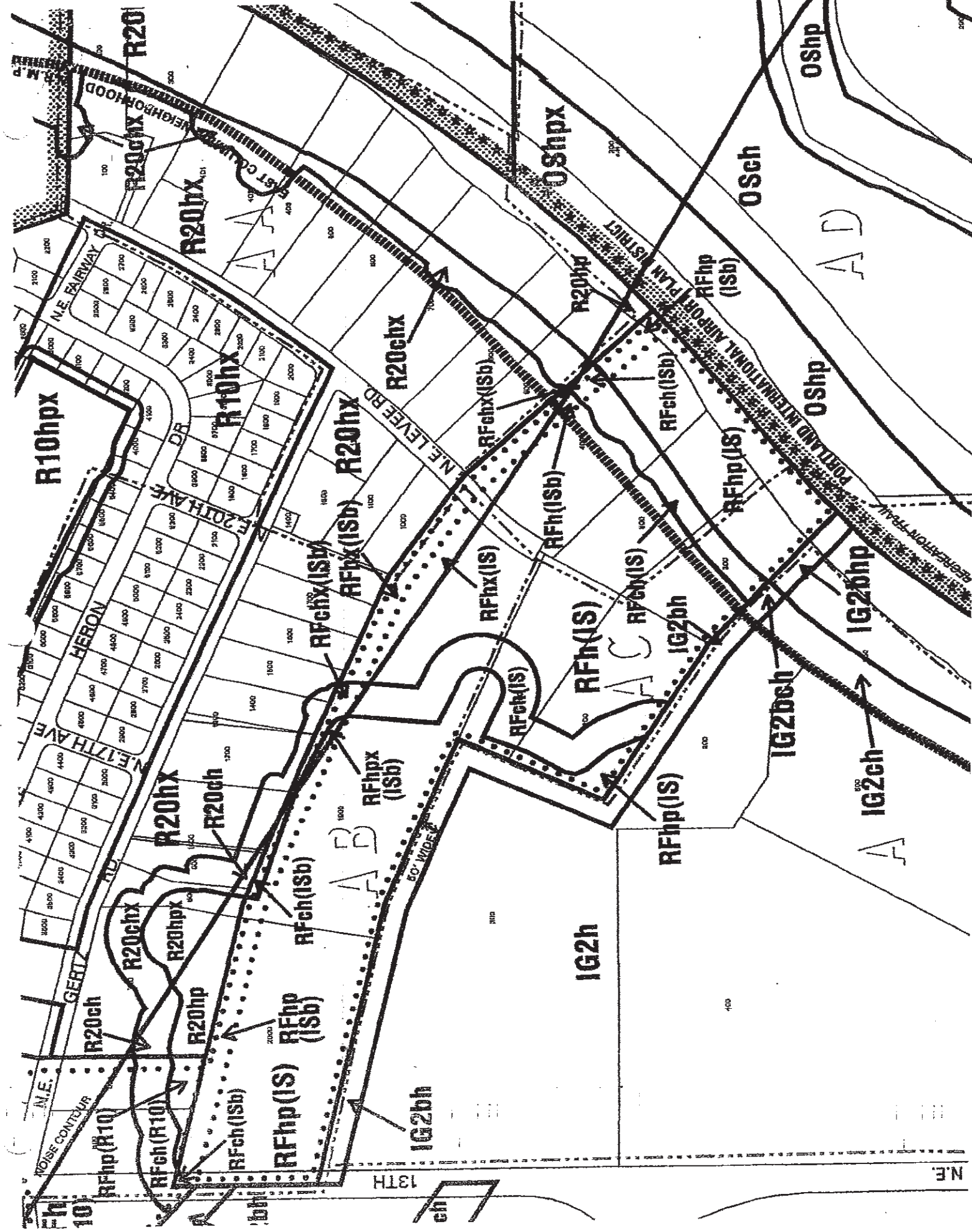
- A. The homes in this area gain access to the public road system only through NE Levee Road to NE Gertz Road, which are both narrow, two-lane, local streets without full improvements. There is no outlet to the east because of a major drainage slough; to the west, NE Gertz Road contains a major truck barrier (tight radius traffic circle) constructed to keep large industrial truck traffic from the nearby residential neighborhoods; and NE 13<sup>th</sup> 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 13<sup>th</sup> Avenue south of the unimproved part of NE 13<sup>th</sup> 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 East Columbia Neighborhood Association recommends the removal of the Industrial Sanctuary Plan designation for the subject properties.



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December 31, 2013

**Comments on Draft Comprehensive Plan from East Columbia Neighborhood Association (ECNA):**

- opposes the proposal to convert OS land currently golf courses to any Industrial zoning designation. There should be no net loss of Open Space land and all natural habitat areas should be preserved or expanded.
- Is concerned that any land converted to Industrial land would add additional toxins to the air quality, which is already poor.
- suggests that an eye to equity and an evaluation of environmental justice be applied in the selection of land for industrial zoning in North/Northeast Portland
- does not support any industrial sanctuary designations or conversions for residential property in ECNA (specifically Levee Road)
- Strongly supports the continuation of the Columbia Corridor study to examine land use priorities
- Requests that the City do an inventory of underutilized and unused Industrial zoned land as an option to reduce the demand for more Industrial zoned land. Use what we have before acquiring more
- Requests the City take the lead and develop feasible and economical ways to reclaim brownfields at the federal, state and local level.
- Carefully examine any proposal for mitigation in zone changes to include ongoing management, feasibility for future use, and overall benefit.
- In considering available parcels of land to convert to Industrial zoning put PIR on the table as a possible site.
- Provide a financial impact evaluation for Infrastructure needs when considering current OS space to Industrial