



PLANNING COMMISSION MEETING

Tuesday, January 13, 2015

6:30 p.m.

Council Chambers

2nd Floor City Hall

1300 NE Village Street

MEETING AGENDA

1. **CALL TO ORDER:** 6:30 p.m.
2. **CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS**
3. **REVIEW AND ADOPT MINUTES:**
 - September 23, 2014
4. **PUBLIC HEARING**
 - Application 2014-39-NR: Port of Portland
Applicable Fairview Municipal Code Criteria:
 - FMC 19.25 Agricultural Holding Zone
 - FMC 19.100 Culturally Sensitive Lands
 - FMC 19.105 Floodplain Overlay
 - FMC 19.106 Natural Resource Regulations
 - FMC 19.413.030 Type III Procedures
5. **STAFF UPDATES**
6. **COMMISSION UPDATES**
7. **TENTATIVE AGENDA**
 - January 27, 2014: Type IV Legislative Hearing – Development Code Amendment. Review proposal to allow as a Conditional Use Medical Marijuana/Marijuana Retail Facilities in Light Industrial Zone.
8. **ADJOURNMENT**

NEXT PLANNING COMMISSION MEETING TUESDAY, JANUARY 27, 2015.

Planning Commission hearings are broadcast live on Comcast Cable Channel 22 and Frontier Cable Channel 33. Replays of the hearing are shown on Comcast Channel 22 and Frontier Channel 33 Saturday at 12:00pm and Monday at 2:00pm, and Comcast Channel 30 and Frontier Channel 39 Wednesday at 7:00pm. Further information is available on our web page at www.fairvieworegon.gov or by calling Devree Leymaster, City Recorder, 503-674-6224.

The meeting location is wheelchair accessible. A request for an interpreter for the hearing impaired or for other accommodations for person with disabilities should be made at least 48 hours before the meeting to: Devree Leymaster, 503-674-6224.



MINUTES
PLANNING COMMISSION MEETING
1300 NE Village Street
Fairview, OR 97024
Tuesday, September 23, 2014

PRESENT: Gary Stonewall, Chair
Keith Kudrna
Jack McGiffin
Steve Kaufman
Greg Walczyk

ABSENT: Ed Jones, Vice Chair
Julius Arceo

STAFF: Allan Berry, Public Works Director
Erika Palmer, Development Analyst
Devree Leymaster, City Recorder

1. CALL TO ORDER

Chair Stonewall called the meeting to order at 6:30 PM.

2. CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS

Chair Stonewall inquired if any person would like to speak on a non-agenda item, hearing none moved to approval minutes.

3. REVIEW AND ADOPT MINUTES

Commissioner Kudrna moved to approve the August 26, 2014 minutes and Commissioner Kaufman seconded. The motion passed unanimously.

4. PUBLIC HEARING

2014-29-ZC; Ordinance 11-2014; Resolution 42-2014
Amend FMC 19.107, 19.140 & 19.155
Village Street Trees

Chair Stonewall read the Opening Statement for Legislative Land Use Hearings.

Development Analyst Palmer reviewed the staff report. The proposed text amendments do not add regulatory language. They provide consistency and allow flexibility in tree planting spacing if needed due to physical constraints. Repealing V.5 in FMC 19.155 and referencing tree characteristics, and moving the information to the Sidewalk Handbook will provide consistency, flexibility and cost savings should changes to the street tree list be required. The process will be easier for Fairview residents to request changes to street tree types. The proposed amendments comply with federal, state and applicable intergovernmental agreements. Staff met with Village Street residents, business owners, and chairs of 2 Village Street HOA's. These minor changes will allow Village Street the street tree of choice, Pink Flair Cherry Trees.

Chair Stonewall inquired if any person would like to speak in favor of, opposition of, or neutrally. Hearing none, Chair Stonewall closed the public hearing.

Commissioner McGiffin asked what the change process for an applicant will be. Development Analyst Palmer answered they will make their request directly to Council. Council has the authority to change the Sidewalk Handbook by resolution.

Commissioner Kudrna inquired if there is public notice for changes to the Sidewalk Handbook. Development Analyst Palmer answered yes.

Commissioner Kaufman moved to recommend approval of 2014-29-ZC; Ordinance 11-2014 and Resolution 42-2014 to amend FMC 19.107, 19.140 and 19.155 to City Council for adoption and Commissioner Kudrna seconded. The motion passed unanimously.

AYES: 5

NOES: 0

ABSTAINED: 0

5. STAFF UPDATES

Public Works Director Berry reported the first phase of tree trimming and trail widening at Fairview Woods Park is almost complete. The goats will be coming soon to clear the understory. Once complete, will re-evaluate if additional tree trimming/removal is needed. Trail markers and signage will be posted. Staff will discuss installing a directional fence (direct access through formal trails) with the Fairview Oaks/Woods apartment complex.

Commissioner Kaufman commented there is already a noticeable difference at the Bridge Street trail head and suggested posting temporary signage to alert residents if they can enter the park and in what areas.

Development Analyst Palmer reported the public improvements for the Wind River Subdivision, Depot Street, will begin next week.

Director Berry commented on the walking/map brochures created by CAF intern Jose Gutierrez and inquired if the Commission would like a presentation. The Commission replied yes.

6. COMMISSION UPDATES

Commissioner Kudrna reported a SOLV event to clear invasive species near the creek behind Anthem Church is scheduled for October 11. Contact SOLV or Friends of Fairview for information.

7. TENTATIVE AGENDA – October 28, 2014

- Walking Map/Brochure – Presentation
- Fairview Lake Riparian Buffer Discussion – Work Session

8. ADJOURNMENT

Meeting adjourned by consensus at 6:56 PM.

Gary Stonewall, Chair

Devree A. Leymaster
City Recorder

Date: _____



PLANNING COMMISSION STAFF REPORT EXHIBIT "A" FINDINGS OF FACT

Public Hearing Date: January 13, 2015
Date of Report: January 6, 2015
Application Number: 2014-39-NR Natural Resource Permit

Application/Proposal: A request to consider a natural resource review to permit major site grading and wetland fill in the north portion of site and natural resource enhancements and wetland creation in the southern portion of the of the site.

Applicant: Port of Portland
Property Owners: Port of Portland

Location: 223rd Avenue Part of the Troutdale Reynolds Industrial Park
Tax Map & Tax Lot: IN-3E-22 TL 300

Acreage: 85.83 Acres

Comprehensive Plan Designation: General Industrial (GI)

Zoning Designation: Agricultural Holding (F-2)

Zoning Overlays: Natural Resource Regulations
Culturally Sensitive Lands

Surround Land Use/Zoning:
North: Moore Excavation/General Industrial
South: Vacant/Residential Community Service Parks
East: City of Troutdale/Troutdale Reynolds Industrial Park (TRIP)

Streets/Classification: 223 Avenue/Major Collector/Multnomah County Jurisdiction
Marine Drive/Major Collector/Multnomah County Jurisdiction

Notices & Referrals:

Notice: On December 18, 2014 notice was mailed to surrounding property owners within a 250 ft. of the taxlot where the proposed activity will be taking place. On December 19th, a sign was posted at the site near the intersection of Marine Drive and NE 223rd Avenue. Notice was published in the Gresham Outlook on December 19th, 2014.

At the time of this report, the City has not received any written comments.

Referrals: On November 26, 2014 referrals were sent to: The City of Fairview Public Works, Building and Engineering Departments; Gresham Fire Department; Multnomah County Transportation Department; Columbia Slough Watershed Council; City of Troutdale; and Multnomah County Drainage District.

At the time of this report, the City had received three comments

- 1) Multnomah County Transportation Department. Senior Transportation Planner, Joanna Valencia (see Exhibit C-1)
- 2) City of Fairview Public Works Department. Engineering Associate Zaldy Macalanda (see Exhibit C-2)
- 3) Multnomah County Drainage District. Engineer II, Mandy O'Hara (see Exhibit C-3)

Applicable Review Criteria: This Type III application process requires a Planning Commission decision subject to the requirements of the Fairview Municipal Code (FMC) Title 19:

- FMC 19.25 Agricultural Holding Zone
- FMC 19.100 Culturally Sensitive Lands
- FMC 19.105 Floodplain Overlay
- FMC 19.106 Natural Resource Regulations
- FMC 19.413.030 Type III Procedures

Application Narrative/ Location/Background & Existing Conditions:

Narrative: The applicant is seeking Planning Commission approval of a natural resource permit for site grading and environmental enhancements in anticipation of future site development. The grading and environmental enhancement project work will include the following:

- Mass site grading and planting within the wetlands located in the south portion of the site for the purpose of wetland creation and enhancement;
- Re-grading, benching and realignment of Sundial Channel (channel of Sundial Creek) and associated wetlands for stormwater conveyance, drainage and flood

- control, water quality, natural resource enhancement to serve as on site mitigation for wetland impacts associated with the proposed project;
Filling of wetlands T, V, W and X (see Tab G in Exhibit B) in the north portion of the site for the purpose of creating a future development lot;
- Construction of 20 foot wide utility access roads to provide access for maintenance purposes to existing and future anticipated utility infrastructure and seasonal maintenance of areas managed by Sandy Drainage Improvement Company for flood control.
 - Approval to allow three years to complete the project. Two years is typically allowed for a land use decision pursuant to FMC Chapter 19.400.030 (Time limit on land use decision for approval).
 - The applicant requests the city preliminarily approve an upland buffer setback in relation to the future wetland mitigation area and future the development lot. The request is to allow ten (10) feet of the required 50 foot upland buffer associated with wetland N to be located within a 10 foot setback in the lot. As part of this proposal the applicant also requests the City allow 20% of the upland buffer within the setback to contain water quality swales for the purpose of stormwater management. This request is pursuant to Condition # 31 of the Department of State Lands (DSL) Letter of Authorization letter (LOA) (see Tab I, in Exhibit B)
 - Request the City to confirm access across and 15 foot setback from the south edge of the toe drain which is located in the northern portion of the site. It is not mapped on Natural Resources Map and it is not regulated by DSL; however, it is regulated by the Army Corps of Engineers for the purpose of stormwater conveyance.

The primary purpose of this project is to complete a suite of environmental enhancements to the wetlands and other waterways within the south portion of the project area. The proposed improvements span two jurisdictions (City of Fairview & City of Troutdale) and are expected to improve floodplain and wetland connectivity, increase flood storage and storm water treatment capabilities and flood attenuation functions of the currently degraded wetlands. This project is also expected to enhance the overall stream habitat associated with Salmon Creek.

This project will lay the foundation for the future creation of one rough graded development lot with associated wetland mitigation already in place. Before development can occur on the future development lot, it will be partitioned into two parcels and rezoned from Agricultural Holding Zone (F-2) to General Industrial (GI). The site will be partitioned and rezoned at a later date (approximately fall of 2016 or 2017) or after the grading, fill and site enhancements are complete.

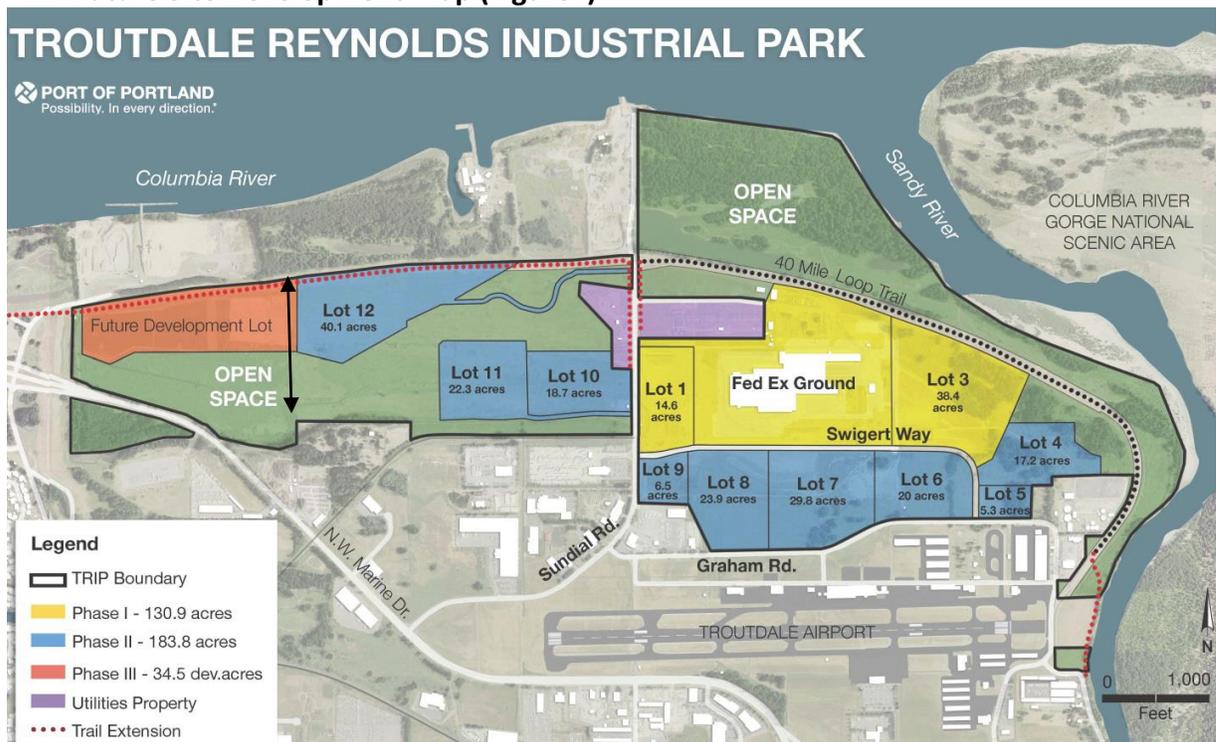
As part of this request the applicant proposes to fill Wetlands S, T, V, W and X (see Tab G, in Exhibit B:) in order to create one future lot suitable for development in the northern portion of the site. The wetlands in the north portion of the site are isolated degraded riparian features located in an area which is currently being utilized as a berry farm.

The south portion of the site will be utilized for both wetland enhancement and creation. The overall design of the wetlands mitigation area in the south portion of the site has been carefully developed in collaboration with the Sandy Drainage Improvement Company (SDIC). Additional wetland creation will allow for a more reliable flood control system which will create greater flood storage capacity. The eastern half of the site is located within the 5000 feet of the Troutdale Airport. Mitigation plant spacing and varieties have been carefully selected with input from Port Aviation natural resources staff to ensure wildlife hazard planting standards will be met. In addition, plant varieties have been selected to be compatible with existing and future anticipated electrical utility infrastructure which includes; lines, towers and access roads. In addition to the requested City approval; impacts associated with filling wetlands, will also require review and approval by the Department of State Lands (DSL) and the Corps of Engineers. A Joint Permit Application (JPA) has been filed with both agencies. The Port has received a Letter of Authorization (LOA) from the Department of State Lands (see Tab I, in Exhibit B) The applicant assumes approval recommendations from both Agencies as a Condition of Approval required by the City of Fairview prior to any site grading work occurring on the site (Condition 7)

Location

The subject site is located north of Marine Drive, east of NE 223rd Avenue and directly south of the levee in the Troutdale Reynolds Industrial Park (TRIP) project area. The site is 85+ acres and identified as tax lot 300 of Multnomah County Tax Assessors Map 1N-3E-22. The boundaries of the future development lot and open space areas shown on the graphic below and have not yet been formally created, however the shape matches that identified in other city documents contained in the Fairview Community Vision.

TRIP Future Site Development Map (Figure I)



The entire Troutdale Reynolds Industrial Park (TRIP) is shown above. The black arrow indicates the city limits between Fairview and Troutdale.

Background

Originally, the site and surrounding area was a floodplain with a mix of riparian woodlands and wet prairie. Numerous small lakes and ponds were present in the area. Larger lakes included Company Lake and Sundial Lake, the latter of which occupied much of the present Fairview Farms area (west of Sundial Road) and had an outlet to Salmon Creek. Prior to construction of the levee this area was subject to regular flooding by the Columbia River. Because the area was routinely flooded, a levee was constructed to protect the land from frequent flooding and to facilitate subdividing the area into smaller farm tracts.

In 2004, the Port Commission approved the Port of Portland's purchase of 700 acres of industrial property in the City of Fairview and Troutdale. The Port's long term preferred plan for the site was originally an intermodal rail yard. However, due to community concerns and lack of market interest, the Port made the decision to redevelop and market the property for industrial purposes. Most recently a new FedEx ground facility was completed in the City of Troutdale. The FedEx facility has been a success and now employs approximately than 800 people and is now currently in the process of expanding its facilities.

Proposed Phase II and III improvements are anticipated to begin in the summer of 2015 and have been incorporated as part of the Port's master plan. Various stakeholders, including the City of Fairview, City of Troutdale, Multnomah County, Sandy Drainage Improvement District (SDIC), Bonneville Power Administration (BPA), state and federal natural resource management agencies, and many others have been involved in this planning process.

Existing Conditions

The site is generally flat with a high elevation of approximately 25 feet above mean sea level (msl), in the middle of the site to a low elevation of 15 feet along the north and south boundaries of the site.

The site is located within the Salmon Creek Watershed. Salmon creek flows in a north westerly direction along the south portion of the site. The entire area including Salmon Creek and the wetlands within the site are actively managed by the Sandy Drainage Improvement Company (SDIC) for stormwater conveyance and flood control purposes. All of the drainage within the SDIC district which includes the Salmon Creek watershed is pumped to the Columbia River by a pump station, immediately adjacent to the west boundary of the Fairview lot. The pumped water is discharged into Salmon Creek slough (located along western boundary of the site), which enters the Columbia River about ½ miles downstream from the point of discharge. The site contains a few trees scattered in

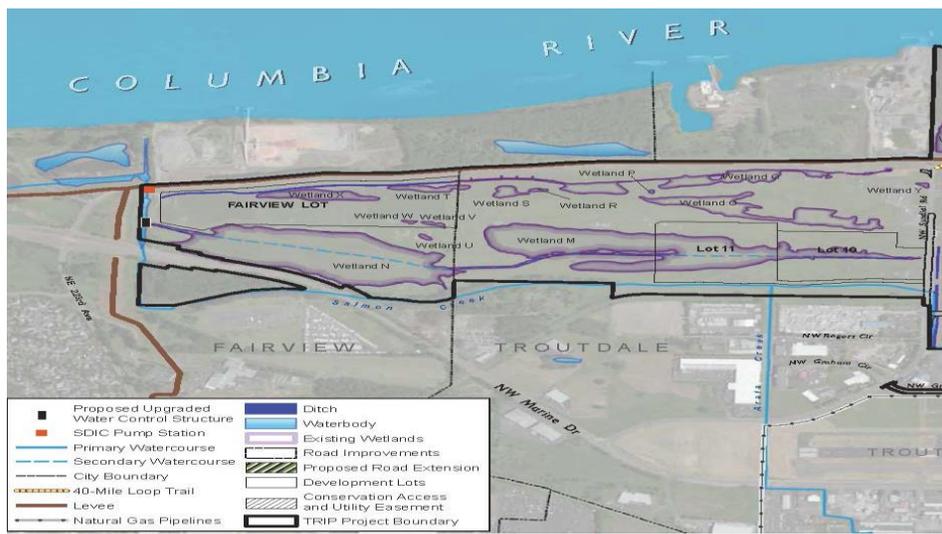
various concentrations mainly along the most southerly boundary of the site bordering Marine Drive.

Existing uses on the site include, private utilities, agriculture (north portion of the site is currently being utilized as a U-pick blackberry and raspberry farm) and floodwater conveyance/storage (south portion of site). Existing development on the site includes the SDIC pump station located in the northwest portion of the site, high voltage transmission lines (Bonneville Power, Pacific Power & Light, and Portland Gas & Electric) and associated easements crisscross through the project area west of NW Sundial Road.

Historic development and land use conversions have altered the natural structure, processes and functions of the majority of the riparian areas and associated buffers within the project site. Land use conversions from native forested vegetation cover types to existing uses such as farming and stormwater management have resulted in channelization and straightening of Salmon Creek, disconnection of the creek from its natural floodplain/elimination of associated wetlands, and elimination of most riparian buffers. In addition, the structure of these systems has changed from forested cover types to primarily emergent and shrub plant associations dominated by invasive nonnative plant species, such as reed canary-grass and Himalayan blackberry. These changes have altered the natural processes and generally diminish the functions and values provided by the remnant discontinuous configuration of the existing wetlands and associated riparian areas.

The site contains numerous wetlands which have been delineated in concurrence with Oregon Department of State Lands (DSL) (see Tab B, in Exhibit B).

Site Map of Existing Wetlands and Stream Flow (Figure 2)



PROPOSED FINDINGS:

FMC 19.25: Agricultural Holding Zone

19.25.010: Purpose

This zone is intended primarily as a holding zone to be used for agricultural uses until the land is developed for industrial purposes. (Ord. 6-2001 § 1)

19.25.020: Permitted uses

The following uses and their accessory uses are permitted in the F-2 zone:

- A. Grazing, agriculture, horticulture, or the growing of timber.
- B. Dwelling or dwellings for owner, operator and/or help required to carry out grazing, agriculture, horticulture or the growing of timber.
- C. Accessory building.
- D. Family day care providers and residential homes activities in existing buildings.
- E. Home occupations.
- F. Telecommunications facilities: monopoles and antennas pursuant to Chapter [19.245](#) FMC. (Ord. 6-2001 § 1)

19.25.040 Additional requirements

All land use shall be subject to the applicable requirements of appropriate overlays. (Ord. 6-2001 § 1)

FINDINGS: Application is consistent with applicable code language.

Historic uses on the site have been in accordance with allowed uses. After the grading, fill and riparian enhancements are complete in approximately 2016-2017 the site will be rezoned for industrial development and partitioned at a future date consistent with Comprehensive Plan designation.

FMC 19.100: Culturally Sensitive Lands

19.100.010: Purpose

The purpose of the culturally sensitive lands designation is to protect and conserve valuable cultural areas, while permitting appropriate development activities when carried out in a sensitive manner with minimal impacts on identified cultural resource values.

19.100.020: Area affected

This chapter shall apply to those lands designated culturally sensitive in the Fairview Comprehensive Plan.

19.100.030: Culturally sensitive permit required

All uses permitted under the provision of the underlying zone are permitted on lands listed as having a culturally significant site; provided, however, that the location and design of any use, or change or alteration of a use, except as provided in FMC 19.100.040, shall be subject to a culturally sensitive permit. Where an activity requires a permit or other approval from the state or other government entity, the applicant is encouraged to obtain final approval prior to submitting an application for a culturally sensitive permit.

19.100.050: Application for culturally sensitive permit

An application for a culturally sensitive permit for a use or for the change or alteration of an existing use on land designated culturally sensitive shall address the applicable criteria for approval and shall be filed with the city with the appropriate fees to be heard by the Fairview planning commission.

Applications for extraction of aggregates and minerals, depositing of dredge spoils and similar activities must, where applicable, include a copy of any necessary approval(s) from the Department of Environmental Quality regarding any applicable standards for water quality, noise, vibration and toxic or noxious matter as well as a copy of any necessary approval(s) from the Oregon Department of Geology and Mineral Industries for surface mining operations. Where such approvals are subject to conditions, the applicant shall provide a statement regarding compliance with those conditions. Where final approval is not obtained prior to submitting the application, the applicant will provide a statement from the relevant jurisdiction or other evidence that such approval is feasible.

19.100.060: Culturally sensitive permit – Required findings

A decision on an application for a culturally sensitive permit shall be based upon findings of consistency with the purposes of the culturally sensitive zone and with the criteria for approval specified in FMC 19.100.090.

19.100.070: Decision by Planning Commission

- A. A decision on a culturally sensitive permit application shall be made by the planning commission when an archaeological report demonstrates presence of culturally or historically significant materials.
- B. The planning commission may approve or deny the proposal or approve it with such modifications and conditions as may be consistent with the Comprehensive Plan and necessary to assure compatibility with FMC 19.100.090.

19.100.090: Criteria for approval of culturally sensitive permit

- A. Buildings, structures and sites of historic significance shall be preserved, protected, enhanced, restored, and/or maintained with issuance of the culturally sensitive permit.

- B. Archaeological sites shall be preserved for their historic, scientific and cultural value and protected from vandalism or unauthorized entry or, where preservation is not practical, inventoried.
- C. Development activity within culturally sensitive areas shall be the minimum necessary to allow lawful use of the overall site, as determined by the planning commission at the time of review, and based upon the standards and purposes of this chapter.
- D. Areas of erosion or potential erosion shall be protected from loss according to provisions specified in the city's erosion control ordinance.
- E. The Comprehensive Plan policies which pertain to natural resource sites shall be satisfied.

FINDINGS: Application is consistent with the applicable code language.

The north portion of the site has been identified as culturally significant by the City of Fairview.

Site investigations have since conducted on the Fairview site in accordance with Oregon State Historic Preservation Office (SHPO) by both pedestrian surveys (visually) and subsurface shovel probing. The locations of the shovel probes were determined by overlapping a map of areas proposed to be disturbed as part of the site development and wetland mitigation efforts. Areas outside the historic floodplain lakes and wetlands were the focus of investigations as these locations represented the highest probability of seasonal use by indigenous people. The field investigation focused on higher ground in close proximity to both permanent and seasonal lakes, ponds and the historical course of Salmon Creek, as well as locations at which substantial cut and fill activity is proposed.

To date there were 19 artifacts recovered and recorded by method of the subsurface probes which established a small area on the Fairview site as an archeological site, defined by Oregon by the presence of 10 or more artifacts. Historic artifacts recovered date back to the early 1900s.

The site is currently being evaluated through additional controlled excavations in order to determine if other significant deposits are present and to provide a recommendation on the sites eligibility for listing in the National Register of Historic Places. Should the site be considered eligible for listing, the project effects will need to be evaluated. If the proposed project is determined to have adverse effects to the site, appropriate measures will be developed. Development and implementation of any mitigation measures will be undertaken jointly by the Port, USACE, SHPO and the appropriate Tribes.

Prior to site disturbance the applicant shall apply for a City of Fairview Erosion Control Permit and Grading Permit (Condition 3).

The applicant shall follow procedures, measures and conditions of USACE, SHPO and appropriate agencies for all site disturbing activities (Condition 4).

FMC 19.105 Floodplain Overlay

19.105.010 Purpose

It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas.

19.105.020 Area affected

This section shall apply to all areas designated as areas of special flood hazard by the federal insurance administration on its current flood hazard boundary map (FHBM), applicable to and including all areas within the boundaries of the city of Fairview or more current information such as Metro flood management maps, if demonstrated to be accurate.

19.105.030 Compliance

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of Chapter 16.05 FMC

FINDINGS: Application is consistent with applicable code language.

The south portion of the site is located within Special Flood Hazard Areas AE and X. The applicant has provided a copy of the FEMA Firm Panel map in the application packet (see Tab C, in Exhibit B). Zone AE has a base flood elevation (BFE) of 20 feet MSL. Zone X has a 0.2% annual chance flood event with average depths of less than one foot also protected by levees from 1% annual chance of flooding. Generally Zone AE is located within the south and western portion of the site. This area is actively managed by Sandy Drainage Improvement Company (SDIC) who operates under federal guidelines, state statues, and local regulations to protect and maintain the levee, control flooding and manage storm-water.

The Port has provided a thorough analysis of the storm water conveyance system both on and offsite with concurrence from SDIC and FEMA for the proposed project. Throughout this project the Port has collaborated with SDIC and other consultants to ensure the project will result in a no net rise. Upon project completion flood storage capacity will be increased by 82,000 cubic yards (see Tab E, in Exhibit B, Cut and Fill Report) for flood storage calculations.

19.105.040: Procedures

A development permit shall be obtained before construction or development begins within any area of special flood hazard. Requirements for the permit as well as specific and general standards are outlined in Chapter 16.05 FMC.

19.105.050: Permitted uses

The following uses are permitted outright:

- A. Excavation and fill required to plant any new trees or vegetation.
- B. Restoration or enhancement of floodplains, riparian areas, upland and streams

FINDINGS: Application is consistent with applicable code language.

The proposed project is a use permitted outright. Construction activities include: grading, new native plantings and both restoration/enhancement of the floodplain and associated riparian area is proposed within a Special Flood Hazard Area. As previously mentioned the proposal will ultimately increase flood storage by 82,000 cubic yards.

19.105.090 Performance standards

- A. Any development should maintain or increase the capacity of the flood management area.
- B. All fill placed at or below design flood elevation shall be balanced with at least an equal amount of soil material removal.
- C. Excavation of areas that would be filled with water in non-stormwater conditions is not to be counted as part of the floodplain balance referenced in subsection B of this section.
- D. Temporary fills permitted during construction shall be removed in a timely manner.

FINDINGS: Application is consistent with applicable code language.

The Cut Fill Balance report located (see Tab E, in Exhibit B) demonstrates that the proposed project will increase flood storage capacity by 82,000 cubic yards. The project has been designed in accordance with Cut/fill balance requirements. The requirements of this section are met as proposed.

<i>FMC 19.106 Natural Resource Regulations</i>

19.106.010: Purpose

- A. The city has determined through review, investigation and development of appropriate regulation and guidelines to

promote the application and utilization of the city's Comprehensive Plan, that the city's major water features the Columbia River, Fairview Creek, Osburn Creek, No Name Creek, Raintree Creek, Salmon Creek, Clear Creek, Fairview Lake, Columbia Slough, and associated wetlands and riparian areas, and upland habitat areas, as defined herein, are a valuable and irreplaceable natural resource to the community. It is the intention of the Fairview city council to protect and regulate the city's natural resources with the following purposes:

1. To protect the natural functions of the city's natural resources, including its soil structure and vegetation, to maintain water quantity and quality, store recharge and discharge groundwater, and reduce needs for future stormwater treatment, collection and control facilities.
 2. To prevent property damage and degradation from storms and floods and to promote bank stabilization.
 3. To protect and enhance valuable fisheries and wildlife habitat.
 4. To provide an aesthetically pleasing and healthy environment.
 5. To implement the city's Comprehensive Plan.
 6. To allow for the storage and conveyance of stream flows through existing and natural flood conveyance systems.
 7. To minimize flood impacts, flood peak flows and wind and wave impacts.
 8. To maintain water quality by reducing and sorting sediment loads, processing chemical and organic wastes and reducing nutrients.
 9. To protect and enhance wildlife habitat.
 10. To maintain water quality through the implementation of total maximum daily load (TMDL) requirements.
 11. To promote recreational and education opportunities and public access to open spaces and natural resources.
 12. Find the appropriate balance between resource protection and enhancement and reasonable development. Variable riparian resource protection areas of 35 feet, 40 feet, 55 feet and 75 feet are established as shown on the city's adopted natural resources inventory map.
- B. The purpose of the upland habitat areas is to protect habitat and wildlife areas while permitting appropriate development when carried out in a sensitive manner with minimal impacts on identified natural resource values

- A. Implementation of this chapter is in addition to, and shall be coordinated with, FMC Title 19, Development Code, and FMC Title 16, Environmental Regulations.
- B. When this chapter conflicts with other sections of the Fairview Municipal Code, the more restrictive provision shall apply.
- C. The requirements of this chapter apply in addition to all applicable local, regional, state, and federal regulations, including those for wetlands and flood management areas. Where this chapter imposes restrictions that are more stringent than regional, state, and federal regulations, the more stringent regulation shall apply.
- D. Development in or near wetlands and streams may require permits from the Oregon Department of State Lands (DSL) and the U.S. Army Corps of Engineers (Corps). If a federal permit is required, a water quality certification from the Oregon Department of Environmental Quality (DEQ) may also be required. The public works director shall notify DSL and the Corps when an application for development within streams and wetlands is submitted. Applicants are encouraged to contact the above-mentioned agencies first before preparing development plans. (Ord. 3-2012 §§ 2, 3(Att. 2))

FINDINGS: Application is consistent with applicable code language.

The site contains riparian features (see Tab C, in Exhibit B) which are regulated by DSL and the US Army Corps of Engineers (US ACOE). The request to fill wetlands is dependent on concurrence from both agencies.

The Joint Permit Application (JPA) has been submitted to both agencies for review and approval. To date the applicant has received a LOA (refer to Tab I, in Exhibit B) from the Department of State Lands dated August 7, 2014. A LOA is expected from the Army Corps of Engineers in approximately the middle of November 2014. The letter from the ACOE will be promptly forwarded to the City of Fairview for consideration.

The applicant assumes approval from both Agencies as a Condition of Approval required by the City of Fairview prior to any site grading work occurring on the site.

Prior to the issuance of a City of Fairview Erosion Control and Grading Permit the applicant shall be required to submit to the City an approved Joint Permit Application from DSL and US Army Corps of Engineers to fill wetlands onsite.(Condition 5)

19.106.040: Resource protection area requirements

A. Standards outlined in this section apply to the city's riparian resources and upland habitats as shown on the city of Fairview natural resource map adopted by the city council on September 5, 2012, (hereon referred to as "the map") which includes the

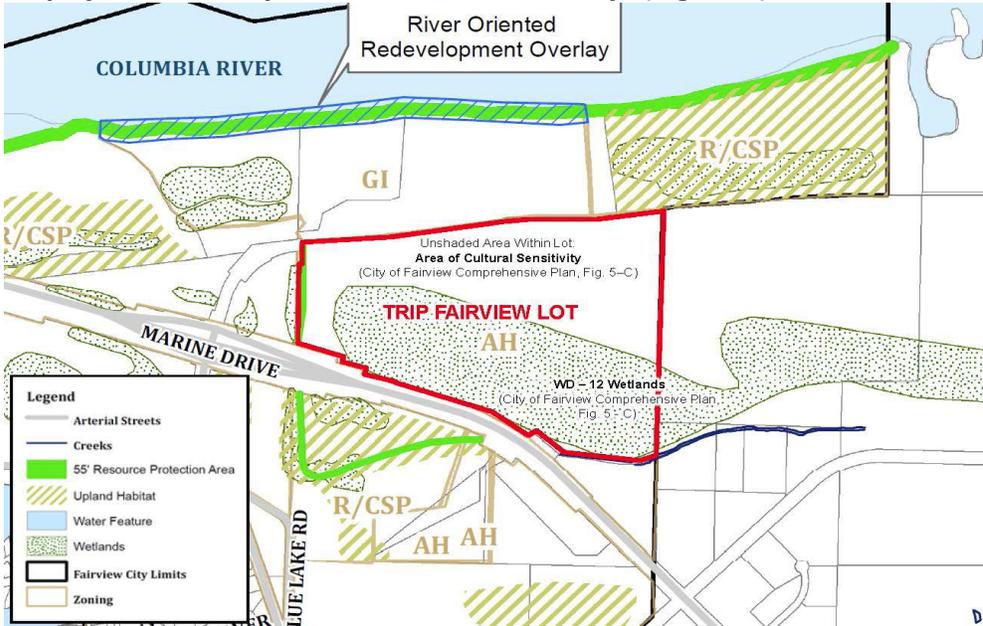
Columbia River and Fairview Creek, Osburn Creek, No Name Creek, Salmon Creek, Rain Tree Creek, and Clear Creek, and mapped wetlands and upland habitat.

B. Each resource has been designated with a specific protection area as shown on the map. The map above shows Fairview's riparian resources that are subject to a 35-, 40-, 55-, or 80-foot riparian buffer resource protection area. The protection areas are measured from the centerline of the creek in each direction either 35, 40, 55, or 80 feet as shown on the map. Where there are multiple reaches of water bodies the protection area shall be measured from the centerline of each reach.

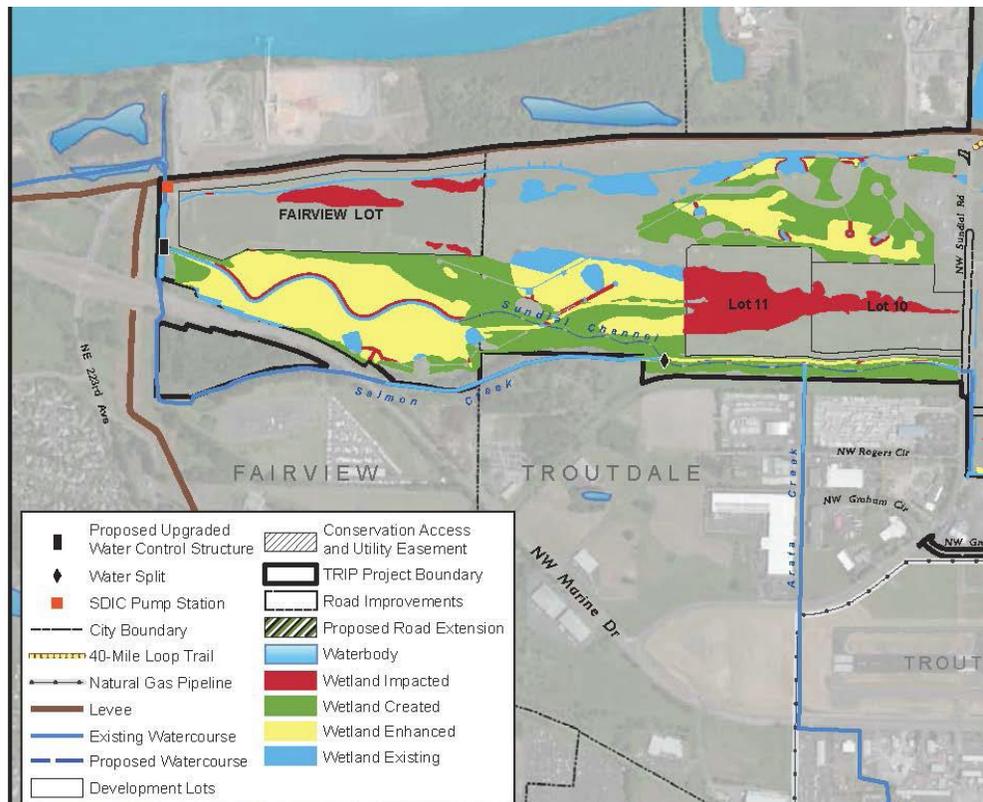
1. Riparian Resource Protection Areas. The riparian resource protection area includes the mapped resource and the area of land immediately adjacent to the edges of banks located along the Columbia River and Fairview Creek, Osburn Creek, No Name Creek, Salmon Creek, Rain Tree Creek, and Clear Creek. Each resource protection area has a specific required buffer of either 80 feet (160-foot total width), 55 feet (110-foot total width), 40 feet (80-foot total width), and 35 feet (70-foot total width) as set forth below and as shown on the adopted map. The resource protection area shall be measured from the centerline of the creek.
 - b. The 55-foot resource protection area applies to:
 - Salmon Creek
2. Wetland Resource Protection Areas. A buffer area which measures at least 50 feet shall be established between any mapped wetland areas identified on the natural resources map and any proposed development. Permitted uses within the underlying zone are allowed to be constructed on properties with mapped wetlands when the development is not located within the wetland or the 50-foot wetland buffer. However, development within 15 feet of a wetland buffer is subject to a Type I wetland boundary verification process (FMC [19.106.070\(A\)](#)). Mitigation shall be required for all development within the required wetland buffer (FMC [19.106.040\(E\)\(2\)\(b\)](#)).

FINDINGS: Application is consistent with applicable code language.

Map of Site with City Natural Resource Overlays (Figure 3)



Map of Impacted, Created and Enhanced Wetlands on Site (Figure 4)



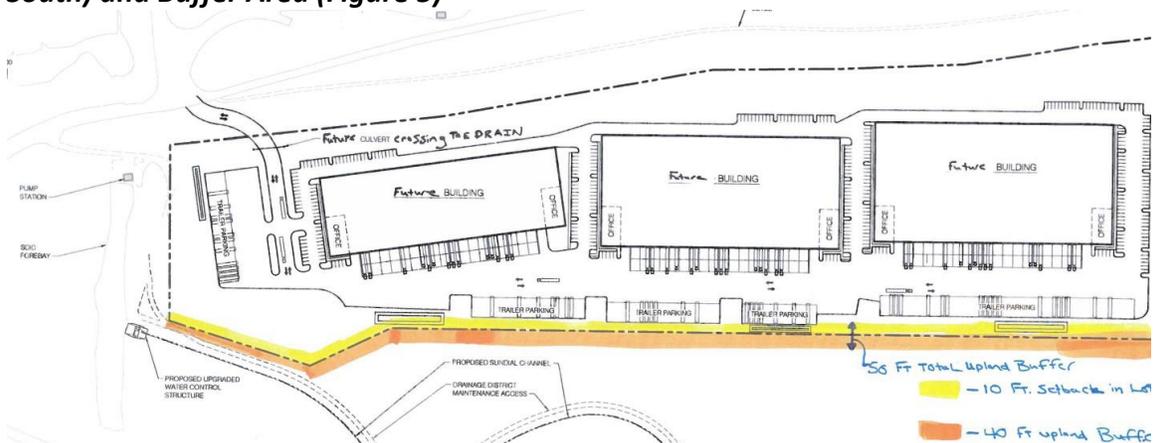
As shown on Figure 3 the site contains City designated mapped riparian resources. This include wetland N (28.67 acres) which is located in the south portion of the site and Salmon Creek (flows north/west along the most southern boundary of the site crossing under Marine Drive in two different locations and the heading due north to the SDIC pump station located on the western most boundary of the site) prior to being pumped into the downstream portion of Salmon Creek (See Figure 4)

The buffer standards implemented by the City of Fairview are related to a vegetated planted buffer to be located between the future development lot on the north portion of the lot and the regulated riparian features in the south portion of the site. There will be a large expansion of wetlands in the south portion of the site that will be reconnected with the floodplain of Salmon Creek. Much more complex wetland vegetation structure will be created than the monoculture of reed canary grass now present.

Multiple wetland hydrologic regimes and predominantly native plant associations that replace the nonnative reed canary grass will provide equivalent or greater water quality protection, flood control and attenuation, and wildlife habitat functions than existing degraded wetlands that are more isolated from the creek and disconnected from the floodplain.

As requested in the project proposal and pursuant to Condition # 31 of the DSL Letter of Authorization located (see Tab I, in Exhibit B) the applicant has requested the city preliminarily approve ten (10) feet of the required 50 foot upland buffer associated with wetland N to be located within a 10 foot side yard setback internally within the lot.

Proposed Future Site Development on Developable Portion (north of wetland to the South) and Buffer Area (Figure 5)



The other 40 feet of the upland planted buffer would be located within the open space area as detailed on the graphic above. At this time the City preliminary approves 10 ft. of the required 50 ft. setback to be located within the 10 foot side yard internal setback. The future development lot will require additional land use reviews (partition, rezone, and site development permits) therefore the requirement to provide a 50 foot upland buffer will be reviewed and approved by the city at the time the site is ultimately developed.

Also as part of this proposal the applicant also requests the City allow 20% of the upland buffer within the setback to contain water quality swales for the purpose of stormwater management. Due to site constraints such as existing utilities and the levee described in the existing conditions section of this narrative the future development lot must be graded to drain towards wetland N. Wetland N ultimately drains into the SDIC pump station located along the western boundary of the site. Prior to conveying stormwater into wetland N, it must be treated, detained and released in a controlled manner. This request would allow the buffer within the lot landward of the top of the graded slope within the future development lot to be utilized for both buffer and stormwater management and create more certainty for a marketing the lot to a prospective developer or site selector who will ultimately purchase develop the lot.

Installation of required storm management facilities are a Type III review process per FMC 19.106.040(B) Table. Since this is application is a Type III review the City will allow up to 20% of the upland buffer within the 10 foot setback (as shown on Figure 5 above) to contain water quality swales for the purpose of stormwater management. The applicant will have to submit a stormwater management plan for future site development that meets all applicable City codes.

The applicant requests the City to confirm a 15 foot setback requirement from the south edge of the toe drain which is located in the northern portion of the site. This feature is identified in the graphic below and is not mapped on Natural Resources Map and it is not regulated by DSL; however, it is regulated by the Army Corps of Engineers (USACE) for the purpose of stormwater conveyance. Currently there are no regulations stipulated with the City of Fairview Development Code in relation to this feature. The Multnomah County Drainage District stated in their submitted comments that this drainage ditch are part of the levee system to ensure stability of the levee and allow controlled seepage during high water on the Columbia River. Grading or other impacts to this drainage channel will require a 408 approval with Army Corps of Engineers that must be coordinated through the Sandy Drainage Improvement Co. (SDIC). To maintain compliance with USACE's levee safety program, SDIC requires that modifications to the flood control system meet USACE requirements. The authorization

request should be submitted to SDIC directly; SDIC will review and submit to USACE on behalf of the applicant (Condition 6).

To ensure these requirements are met riparian buffers will be reviewed and approved as part of Type 1 boundary verification process on the future development lot (Not part of this application process) and the city may request the applicant to place, at a minimum, a 15 ft. setback or a stormwater utility easement from the south edge of the toe drain which is located in the northern portion of the site.

The majority of the site will be graded and reconfigured, therefore significant grading and non-native plant removal is proposed within 50 feet of existing natural resources that will remain on the site. In the context of this proposal the isolated, fragmented and degraded wetlands T, V, W and X in the north portion of the site are proposed to be filled to allow for the creation of one 40+ acre future development lot.

Wetland N located in the south portion of the site will be restored and enhanced. The proposed project will create a more natural, sinuous configuration that recreates the floodplain wetlands and restores natural water quality and flood control. The proposed suite of improvements contributes to a net gain in wetland functions. The proposed improvements reflect the preferred development approach (i.e. preferred alternative) that resulted from the Port's planning process and are consistent with the City of Fairview Comprehensive Plan. Various stakeholders, including the City of Fairview, City of Troutdale, Multnomah County, SDIC, BPA, state and federal natural resource management agencies, and many others have been closely involved in this planning process.

Up to 20% of the upland buffer within the 10 foot setback (as shown on Figure 5 above) may contain water quality swales for the purpose of stormwater management. The applicant will have to submit a stormwater management plan for future site development that meets all applicable City codes (Condition 7).

The applicant shall adhere to the conditions of the DSL and US ACOE Joint permit application for the removal/fill of all wetlands onsite (Condition 8).

19.106.040(C) : Resource protection area requirements

C. Development and Construction Standards. The following standards apply to development and construction in the resource protection areas identified in this section. An applicant wishing to deviate from these standards to increase the allowable development footprint may make a request to the planning commission through the Type III review process and the exception process listed in subsection D of this section. The request may only be made for permitted uses listed in Table 19.106.040(B).

1. All plantings installed must be native plantings approved on the Metro Native Plant List and be deemed compatible with the environment in

which they are to be planted. Plantings shall be in compliance with subsection E of this section, Mitigation

- 2., 3, 4 & 5. – Not Applicable to application
6. Stream bank, bed, or water alteration proposals and applications shall be prepared by a qualified professional and must include submission of a copy of Fairview habitat assessment form.
8. Use of heavy machinery or herbicides for invasive and nonnative plant removal is not permitted unless special exception is granted by the public works director.
9. Erosion/sedimentation control devices shall be installed between the area to be disturbed by the proposed development and construction and the adjacent water feature; these devices shall comply with specifications and procedures outlined in the soil erosion control ordinance (Chapter [16.15 FMC](#)), must be installed prior to any soil disturbance, and remain in place during construction and afterwards until the soil has stabilized.
10. Stormwater detention and filtration facilities which are designed according to the best management practices described in the standard specifications ordinance and related ordinances and technical guidance manuals shall be provided when applicable.
11. Bridges, culverts and similar structures shall be designed and constructed to facilitate fish passage during periods of low stream flow.
- 12 & 13. - Not applicable
14. Protection of Resource Protection Area during Site Development. During development of any site containing an applicable resource protection area identified in this section, the following standards apply:
 - a. Work areas shall be marked to reduce potential damage to resource areas.
 - b. Trees within applicable resource protection areas shall not be used as anchors for stabilizing construction equipment.
 - c. Native soils disturbed during development shall be conserved on the property.
 - d. An erosion and sediment control plan is required and shall be prepared in compliance with requirements set forth by the city's public works standards.
 - e. Site preparation and construction practices shall be followed that prevent drainage of hazardous materials or erosion, pollution, or sedimentation to any applicable resource protection area adjacent to the project area.
15. Additional Development Standards for Mapped Wetlands. The following standards apply to all wetland areas identified on the map:
 - a. A buffer area which measures at least 50 feet shall be established between the wetland areas and the proposed

- development as a condition of development permit approval. The required buffer area width as well as its treatment or enhancement shall be established during the land use review process, after consultation with DSL or ODFW staff.
- b. Properties which contain wetland areas shall have a preliminary delineation of the wetland boundary approved by Division of State Land (DSL) or Department of Fish and Wildlife (ODFW) staff before any development permit is issued. If the preliminary delineation requires an additional “jurisdictional delineation” study of the boundary, this must be completed by the applicant’s biologist and approved by DSL staff before building permits are issued. If the preliminary delineation demonstrates that the development will occur outside of the 50-foot buffer, a Type I land use permit is required to demonstrate and document that the development is in fact outside the 50-foot buffer of the delineated wetland.
 - c. Wetland areas shall be protected in their natural state to preserve water quality and maintain water retention, overflow and natural functions as follows:
 - i. Activity within wetland areas is subject to the permit requirements of the Division of State Lands (DSL) and the U.S. Army Corps of Engineers. No building permit will be issued for such activity unless all pertinent state and federal requirements are met. The Division of State Lands will be notified of any regulated development proposed in a wetland area. Proposed activities within the wetland area are subject to a Type III land use application and mitigation requirements outlined in FMC [19.106.040\(E\)\(3\)](#).
 - ii. Any proposed dredging or filling of a wetland area will require issuance of a DSL permit or a finding by the agency that a permit is not necessary, before building permits are issued by the city. All such activity (which requires a DSL permit) will require the applicant to demonstrate, as part of
 - iii., iv,v & vi. Not applicable
 - d-19.107.060(C). Not applicable

FINDINGS: Application is consistent with applicable code language

Proposed plantings within the Mitigation area have been included with this application as an exhibit (see Tab G, in Exhibit B). Mitigation plant spacing and varieties have been selected with input from Port aviation natural resources staff to ensure that wildlife hazard planting standards will be met. In addition, native plant varieties have been selected to be compatible with existing and future anticipated electrical utility infrastructure (lines, towers and access roads). All plantings are native and compatible with the ecosystem they will be planted in.

Proposed grading and mitigation plans, reports and corresponding exhibits included within this application package have all been prepared by certified professionals. The City of Fairview defines "habitat assessment" as a general description of the site, physical characterization, water quality assessment and visual assessment of in stream riparian areas. Planning staff finds the habitat has been thoroughly assessed, in accordance with this section.

The site will be cleared and grubbed within the clearing limits which are shown on the grading plans (see Tab G, in Exhibit B). Site grading work includes stripping, removal of vegetation and roots, and removal or structures or obstructions, such as abandoned pipes and miscellaneous debris.

The site will be cleared and scarified, meaning to make cuts in the surface, to achieve a bare surface free of heavy vegetation growth and other foreign material. In the proposed mitigation area, non-native forage grasses and invasive reed canary grass are dominant. To reduce the invasive seed bank and the risk of contaminating the new native vegetation plantings, it is necessary to mow and spray the area with an herbicide treatment such as glyphosate. Invasive species are one of the primary maintenance concerns for the Port's wetland mitigation sites. These sites are under strict success criteria set by the regulatory agencies, and often contain criteria for the presence of invasive species.

Preventing the introduction and establishment of invasive species has been shown to be the most cost efficient long-term management strategy for native planting survival. However, for invasive species that are already established, management programs must be developed and implemented in an attempt to counter the impacts. Control methods generally fall into one of the following categories: manual (hand pulling, digging, etc.), mechanical (using machinery to mow, plow, weed-wack, etc.), chemical (herbicides), biological (live organisms) or hydrological (water level management). Each method has its advantages and disadvantages, and implementation must be carefully evaluated by the project manager.

With consideration of the project scope focusing on non-native plant removal a special exception the applicant request for the use heavy machinery for the purpose of mass site grading and herbicide for invasive and non-native plant removal.

FMC 19.106.040.(C)-8 states that the use of heavy machinery or herbicides for invasive and non-native plant removal is not permitted unless special exception is granted by the Public Works Director. Public Works Director and Planning Staff recognize the project scope and grant special approval to use heavy machinery for grading and herbicide for plant removal, when deemed appropriate by the project manager.

The applicant has submitted a preliminary Erosion Control Plan in accordance to FMC 16.15, as part of the application materials.

As stated above the applicant has submitted The Joint Permit Application (JPA) has been filed with both agencies – DSL and US Army Corps of Engineers. The applicant assumes approval from both Agencies as a Condition of Approval as written in this staff report prior to any site grading work occurring on the site.

19.106.070: Permit processes for permitted uses

- B. Boundary Verification Process. – Not applicable at this time
- C. Land Use Application Requirements.
- D. Expiration of Approved Applications. The approval of a land use application shall be valid for two years. Approved land use applications and plans may be renewed through the Type I review process for an additional two years upon demonstrating that the original approved plan still meets the applicable criteria provided in this chapter.

FINDINGS: Application is consistent with applicable code language

Development on the future development lot will ultimately require a Type I Boundary verification process after the new wetland boundaries are delineated in order to verify the proximity of the newly created wetlands to the future development proposal. The applicant submitted all requirements of the Land Use Application for a Type III review.

The applicant is requests that the approval of this application be valid for three years instead of two as stated in D above. Planning staff finds that this request is reasonable due to the type of mitigation work involved.

This land use application shall be valid for three years from the date of Planning Commission Approval. After three years this application may be renewed through the Type I review process for an additional two years upon demonstrating that the original approved plan still meets the applicable criteria provided in this chapter on this current date. (Condition 9)

19.106.080 -19.106.090:– Not applicable

19.106.100 Floodplain ordinance

Areas adjacent to any of the city of Fairview's water resources are also regulated by the city's floodplain overlay district. All riparian buffer alterations must be in compliance with the applicable standards of the floodplain overlay zone before permit issuance. Where regulations of the natural resource overlay zone differ from those found in the floodplain overlay zone, the more restrictive standards shall apply.

FINDINGS: *Application is consistent with applicable code language*

The site is located within a SFHA specifically the south and west portion of the site is within Zones AE and X. Proposed wetland mitigation enhancements will increase flood storage and conveyance capacity and not increase design elevations. A Cut/Fill balance report (see Tab E, in Exhibit B) has been prepared by a professional engineer registered in the State of Oregon verifying future build out of the site will not result in any increase in flood level during the occurrence of a storm event. In addition the Port has recently obtained approval of a Conditional Letter of Map revision (CLOMR-F) (see Tab E, in Exhibit B) from FEMA for the requested action.

ALTERNATIVES

- 1. Approve the application based on the findings of compliance with City regulations.**
- 2. Modify the findings, reasons, or conditions, and approve the request as modified.**
- 3. Deny the application based on the Commission's findings**
- 4. Continue the Public Hearing to a date certain if more information is needed.**

CONCLUSIONS AND RECOMMENDATIONS

Staff finds that the proposed application meets the requirements of the City Code with conditions, and recommends approval of the natural resource permit subject to the following conditions:

CONDITIONS OF APPROVAL

The application, as presented, meets or can meet applicable City codes and requirements, provided that the following conditions of approval are met.

- Approval for application shall be shown on:

Exhibits	"A"	Findings of Fact
	"B"	Land Use Application Submittals
	"C"	Referral Comments from Multnomah Department of Transportation and City of Fairview Public Works Department

Findings of Fact attached as Exhibit "A" are incorporated by reference and adopted in support of this decision. Any modifications to the approved plans or changes of use, except those changes relating to the Building Codes, will require approval by the Planning Director or Planning Commission.

2. Regardless of the content of material presented for this Planning Commission, including application text and exhibits, staff reports, testimony and/or discussions, the applicant agrees to comply with all regulations and requirements of the Fairview City Code which are current on this date, EXCEPT where variance or deviation from such regulation and requirements have been specifically approved by formal Planning Commission action as documented by the records of this decision and/or the associated Conditions of Approval.
3. Prior to site disturbance the applicant shall apply for a City of Fairview Erosion Control Permit and Grading Permit
4. The applicant shall follow all development and mitigation measures of US ACOE, SHPO and appropriate Tribes.
5. Prior to the issuance of a City of Fairview Erosion Control and Grading Permit the applicant shall be required to submit to the City an approved Joint Permit Application from DSL and US Army Corps of Engineers to remove and/or fill wetlands onsite.
6. To maintain compliance with USACE's levee safety program, SDIC requires that modifications to the flood control system meet USACE requirements – this includes the toe drain/drainage ditch. Requests should be submitted to SDIC directly; SDIC will review and submit to USACE on behalf of the applicant.
7. Up to 20% of the upland buffer within the 10 foot setback (as shown on Figure 5 above) may contain water quality swales for the purpose of stormwater management. The applicant will have to submit a stormwater management plan for future site development that meets all applicable City codes.
8. The applicant shall adhere to the conditions of the DSL and US ACOE Joint permit application for the removal/fill of all wetlands onsite.
9. This land use application shall be valid for three years from the date of Planning Commission Approval. After three years this application may be renewed through the Type I review process for an additional two years upon demonstrating that the original approved plan still meets the applicable criteria provided in this chapter on this current date.

Exhibit B -- Summary Only

To view complete application materials please visit City Hall Community Development Offices

1300 NE Village Street, Fairview, OR 97024

2nd Floor

TROUTDALE REYNOLDS INDUSTRIAL PARK

FAIRVIEW LOT

CITY OF FAIRVIEW

APPLICATION NARRATIVE

October 27, 2014

Exhibit B -- Summary Only

To view complete application materials please visit City Hall Community Development Offices
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2nd Floor

NARRATIVE OUTLINE

I. Project Information

II. Subject Tax Lot

- Table & Map of Tax Lot

III. Introduction

IV. Proposal

- Request
- Not Included in this Request
- Project Description

V. Background

- History
- Existing Conditions
- Surrounding Land Uses

VI. Analysis of Applicable Approval Criteria Fairview Municipal Code (FMC)

- FMC Title 16-Environmental Regulations
- FMC Title 19-Development Code

VII. Conclusion

Exhibit B -- Summary Only

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2nd Floor

I -PROJECT INFORMATION

Applicant/Owner: Port of Portland

Land Use Planning/Engineering/Surveying: Port of Portland

Address: Box 3529, Portland, OR 97208,

Contact: Steve Bloomquist

Phone: 503-415-6558

Project Proposal: The applicant requests approval for a Type III Natural Resource Permit to allow mass site grading and wetland fill in the north portion of the site and natural resource enhancements in and around the wetlands in the south portion of the site.

This work will lay the foundation for the future creation of one rough graded development lot. Before the site can be developed, it will need to be partitioned into two parcels and rezoned from Agricultural Holding Zone (F2) to General Industrial (GI).

Property Description: Multnomah County Assessor's Map 1N-3E-22, Tax Lot 300

Site Size: 85.83 Acres

Current Zoning: Per the City of Fairview Zoning map the site is currently zoned for Agricultural Holding or (F-2). The purpose of the F-2 zoning district is intended as a holding zone for agricultural uses until the land is ultimately developed for industrial purposes.

Comprehensive Plan Designation: General Industrial (GI)

Natural Resources located on site include: Trees, Wetlands & Salmon Creek

Overlays: Significant Environmental Concern Overlay (WD-12) & Cultural Sensitivity (SEC)

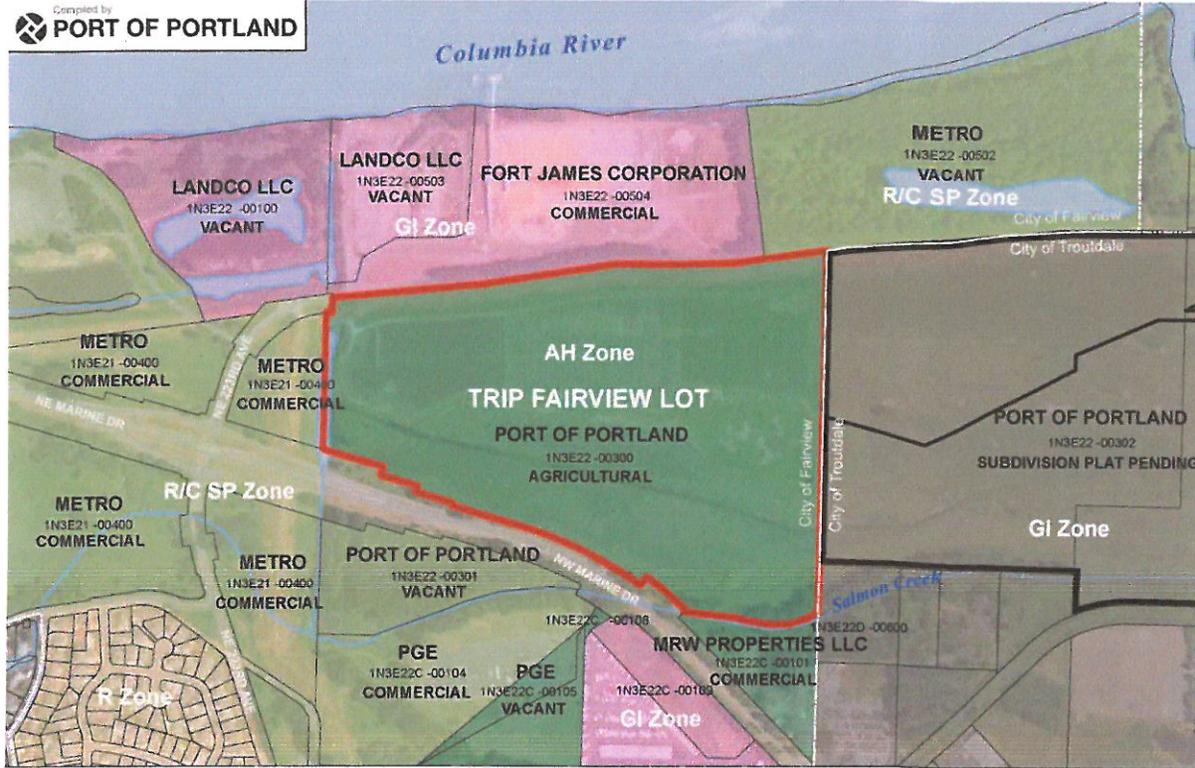
Special Flood Hazard Area: Yes-Zone Special Flood Hazard Area Zone AE & Zone X

Steep Slopes: No

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I I-SUBJECT TAX LOT

TAX LOT ID NUMBER	R-NUMBER	OWNER
1N3E22 -00300	R943220050	Port Of Portland



Fairview lot (subject site) is highlighted in above graphic.

III - INTRODUCTION

Historic development and land use conversions have altered the natural structure, processes and functions of the wetlands, streams and floodplains within the project site. Land use conversions from native forested vegetation cover types to existing uses have resulted in channelization of creeks that flow through the site, disconnection of the riparian areas associated with the floodplain and in some cases elimination of associated wetlands.

All of the past land use activities have altered the ecological structure of the ecosystems which have changed from forested cover types to primarily emergent shrub plants associations dominated by non-native invasive plant species. The changes have altered the natural processes and generally diminish the functions and values provided by the discontinuous configuration of the existing wetlands and associated riparian areas.

Proposed environmental enhancements related to the project will restore a more natural configuration and continuum of habitat types replacing non-native and invasive plant species, improving habitat structure, processes and functions and values of the entire ecosystem as a whole. Channel floodplain storage will be increased within Sundial Channel by widening wetland benches beside the newly enhanced meandering channel. Total flood storage volume in will be increased by 82,000+ cubic yards as a result of the proposed improvements. Invasive species in and around the wetlands will also be removed and replanted with native plants. This approach will improve the overall function of the habitat as a whole. The net functional benefits of the proposed mitigation enhancement project are described in more detail in following sections of this narrative.

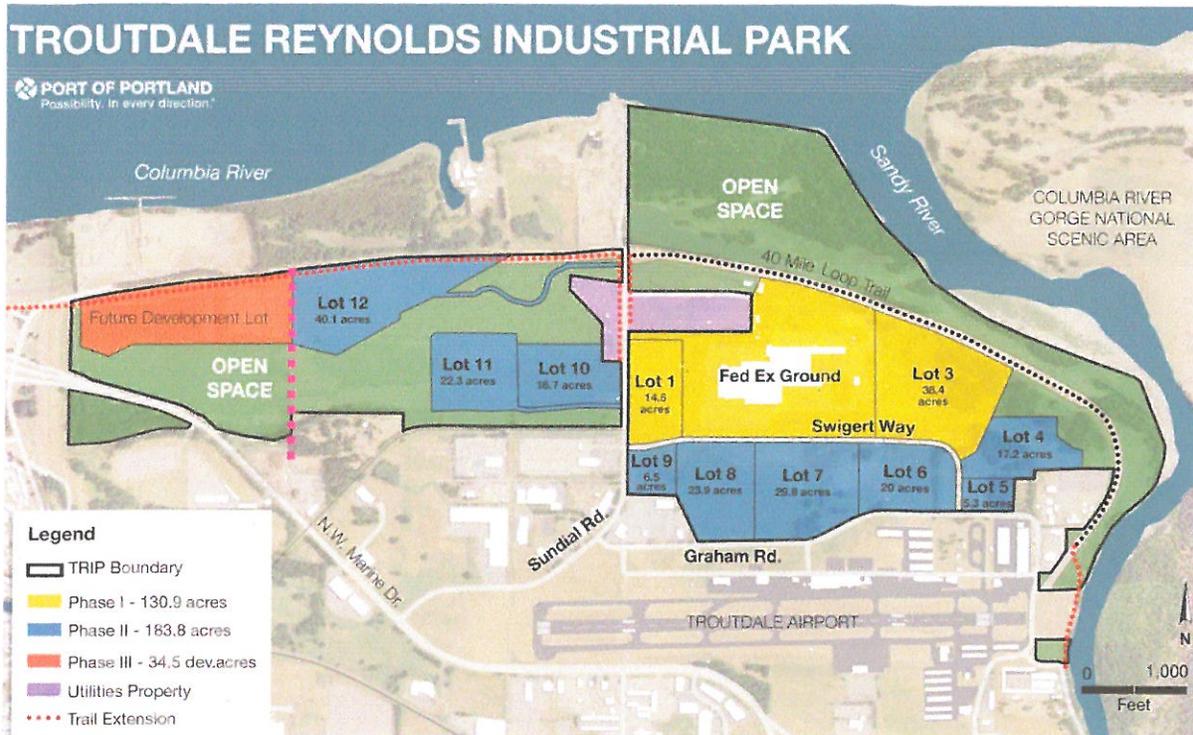
As briefly described above mass site grading will also lay the foundation for the future creation of one rough graded future development lot in the city of Fairview. It is important to note that the Portland metro area has faced a region-wide shortage of large lot industrial land. In 2004, Metro reported a substantial shortfall of industrial land in the 25 to 50-acre range (Metro 2004). A lack of readily available industrial land restricts the regions ability to attract large new employers or support major expansion efforts, constrains job growth, and places additional pressure on the urban growth boundary.

To date the shortfall of Industrial land availability continues and is a major issue for the greater Portland metropolitan area. This project will set the stage to provide 40+ buildable acres of land intended to support future industrial development opportunities in the City of Fairview. Taken as a whole the TRIP project area (identified in the graphic below) spans both the City of Fairview and the City of Troutdale and is the largest remaining contiguous industrially zoned property inside the region's urban growth boundary.

The proposed project will provide additional industrial zoned land and support the City of Fairview's Community Aspirations (reference Figure 3-A City of Fairview Comprehensive Plan in Tab C,) living wage jobs within East Multnomah County and is consistent with state, regional and local government planning policies, underlying zoning and strategies. Furthermore, the project site provides excellent access to multi-modal transportation facilities, including air, rail, and interstate highways (I-84, I-205 and I-5).

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Troutdale Reynolds Industrial Park (TRIP) entire project site is identified in above graphic. The dashed magenta line indicates city limits between Fairview and Troutdale.

IV – PROPOSAL TRIP PHASE III

Request:

The applicant requests approval for a Type III Natural Resources Review per section 19.106.070 of the City of Fairview Municipal Development Code. Herein below in this narrative and supporting exhibits the applicant will demonstrate compliance with applicable sections of the City of Fairview Development Code related to the proposed project.

This proposal includes concurrent requests for the following development related activities:

- Mass site grading and planting within the wetlands located in the south portion of the site for the purpose of wetland creation and enhancement;
- Re-grading, benching and realignment of Sundial Channel (channel of Sundial Creek) and associated wetlands for stormwater conveyance, drainage and flood control, water quality, natural resource enhancement to serve as on site mitigation for wetland impacts associated with the proposed project;
- Filling of wetlands T, V, W and X in the north portion of the site for the purpose of creating a future development lot;

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- Construction of 20 foot wide utility access roads to provide access for maintenance purposes to existing and future anticipated utility infrastructure and seasonal maintenance of areas managed by Sandy Drainage Improvement Company for flood control.
- Approval to allow three years to complete the project. Two years is typically allowed for a land use decision pursuant to Chapter 19.400.030 (Time limit on land use decision for approval).
- The applicant requests the city preliminarily approve an upland buffer setback in relation to the future wetland mitigation area and future the development lot. The request is to allow ten (10) feet of the required 50 foot upland buffer associated with wetland N to be located within a 10 foot setback in the lot. As part of this proposal the applicant also requests the City allow 20% of the upland buffer within the setback to contain water quality swales for the purpose of stormwater management. This request is pursuant to Condition # 31 of the Department of State Lands (DSL) Letter of Authorization letter (LOA) located in Tab I.
- Request the City to confirm access across and 15 foot setback from the south edge of the toe drain which is located in the northern portion of the site. The toe drain is identified in the graphic below. It is not mapped on Natural Resources Map and it is not regulated by DSL; however, it is regulated by the Army Corps of Engineers for the purpose of stormwater conveyance.

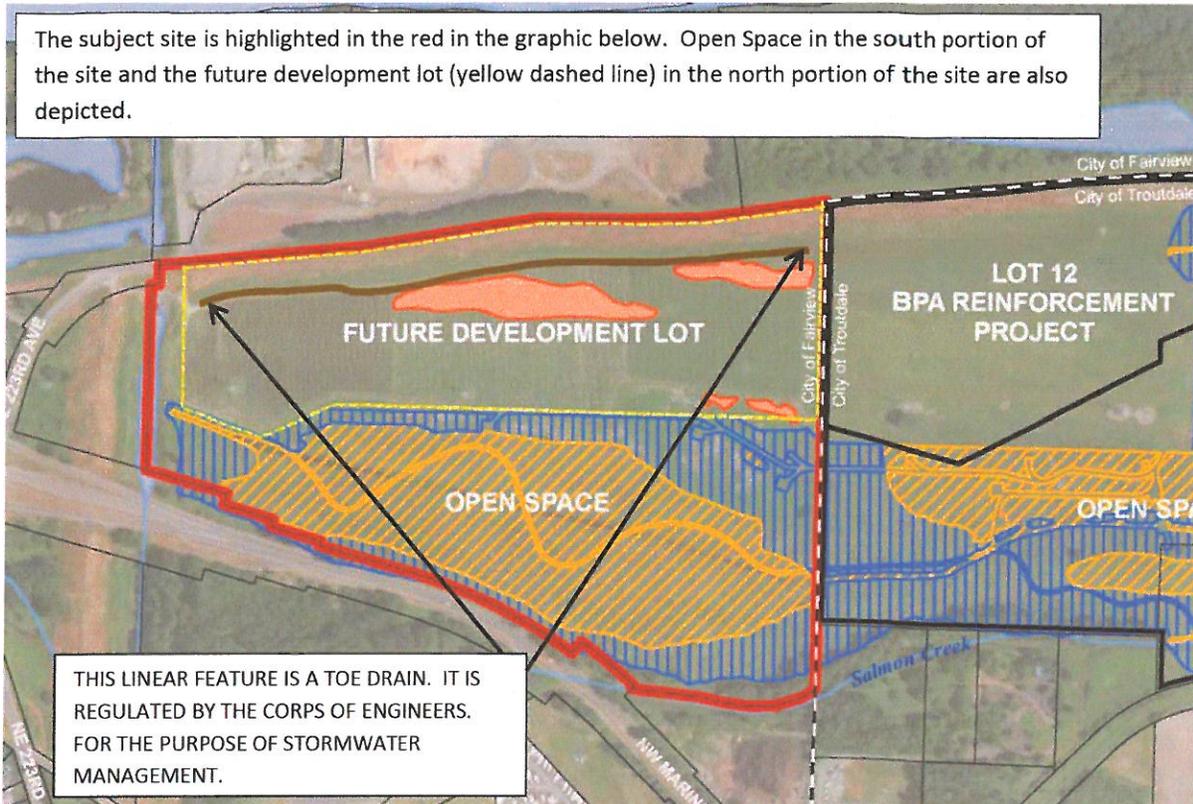
Not Included in this Request

- Tree removal
- Land Division (Partition)
- Rezoning
- Construction of the 40 Mile Loop Trail is not proposed as a part of this request. No design work has occurred and a specific alignment has not yet been identified. However, dedication of a trail easement is proposed once the trail has been constructed.

Applicable land use reviews for the work not included in this project request will occur at a future date.

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The subject site is highlighted in red in the above graphic. The site is located north of Marine Drive, east of NE 223rd Avenue and directly south of the levee. The site is 85+ acres and identified as tax lot 300 of Multnomah County Tax Assessors Map 1N-3E-22. It is important to note that the boundaries of the future development lot and open space areas shown on the above graphic have not yet been formally created, however the shape matches that identified in other city documents contained in the Fairview Community Vision (refer to Tab C for Community Vision document). A land division application will be submitted to the City of Fairview for approval after the site grading and wetland work is complete which is expected to occur in 2017.

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Project Description:

The primary purpose of this project is to complete a suite of environmental enhancements to the wetlands and other waterways within the south portion of the project area. The proposed improvements span two jurisdictions (City of Fairview & City of Troutdale) and are expected to improve floodplain and wetland connectivity, increase flood storage and storm water treatment capabilities and flood attenuation functions of the currently degraded wetlands. This project is also expected to enhance the overall stream habitat associated with Salmon Creek.

Part of this project will lay the foundation for the future creation of one rough graded development lot with associated wetland mitigation already in place. Before development can occur on the future development lot, it will need to be partitioned into two parcels and rezoned from Agricultural Holding Zone (F-2) to General Industrial (GI). The site will be partitioned and rezoned at a later date (approximately fall of 2016 or 2017) or after the grading, fill and site enhancements are complete.

As part of this request the applicant proposes to fill Wetlands S, T, V, W and X (wetlands impacted are identified in the graphic below) in order to create one future lot suitable for development in the northern portion of the site. The wetlands in the north portion of the site are isolated degraded riparian features located in an area which is currently being utilized as a berry farm.

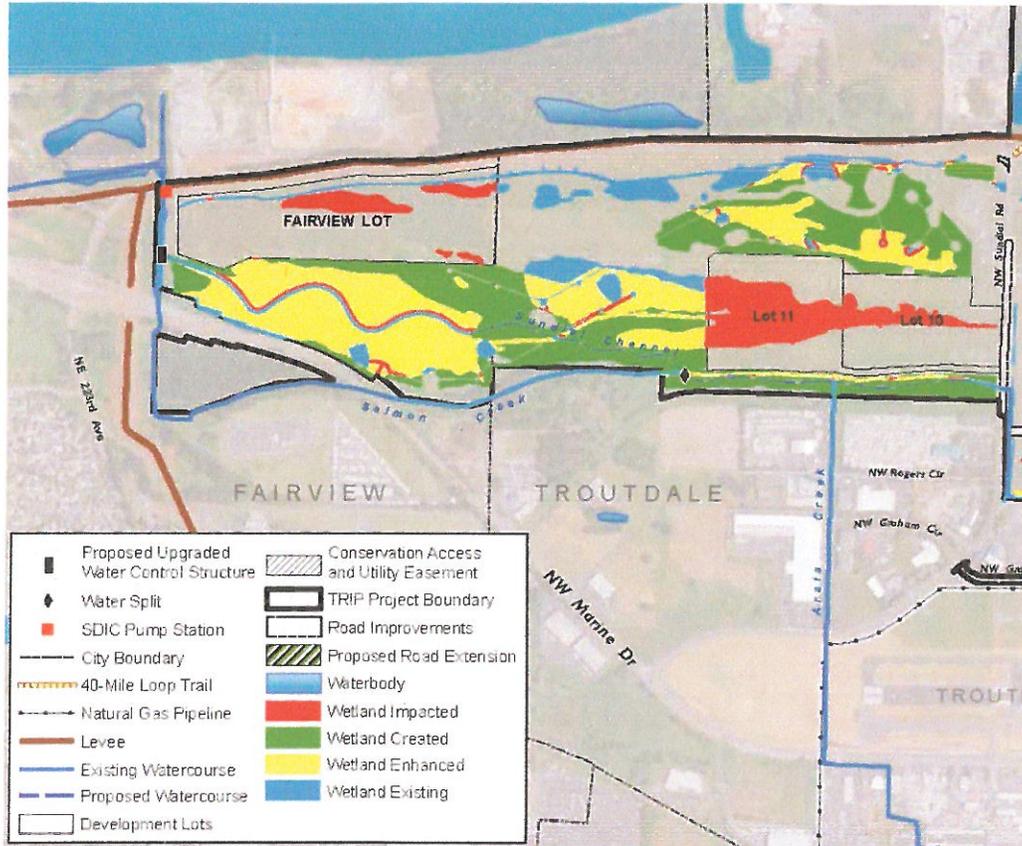
The south portion of the site will be utilized for both wetland enhancement and creation. The overall design of the wetlands mitigation area in the south portion of the site has been carefully developed in collaboration with the Sandy Drainage Improvement Company (SDIC). Additional wetland creation will allow for a more reliable flood control system which will create greater flood storage capacity.

The eastern half of the site is located within the 5000 feet of the Troutdale Airport. Mitigation plant spacing and varieties have been carefully selected with input from Port Aviation natural resources staff to ensure wildlife hazard planting standards will be met. In addition, plant varieties have been selected to be compatible with existing and future anticipated electrical utility infrastructure which includes; lines, towers and access roads.

In addition to the requested City approval; impacts associated with filling wetlands, will also require review and approval by the Department of State Lands (DSL) and the Corps of Engineers. A Joint Permit Application (JPA) has been filed with both agencies. The Port has received a Letter of Authorization (LOA) from the Department of State Lands. The LOA is has been included in Tab I as an exhibit. A LOA is expected from the Army Corps of Engineers (ACOE) in the mid November 2014. The applicant assumes approval recommendations from both Agencies as a Condition of Approval required by the City of Fairview prior to any site grading work occurring on the site.

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Wetland mitigation is in direct support of all riparian impacts associated with the entire project. The general approach for the mitigation project is to consolidate piecemeal wetland impacts into one comprehensive interconnected, mitigation area in the south portion of the Fairview site.

The north boundary of the site is protected from flooding by a levee. The levee is a man-made earthen embankment, designed and constructed to contain, control, protect and divert potential flooding from the Columbia River which flows westward along the north boundary of the site as shown on the above graphic. There are 28.2 miles of levees along the Columbia River, Sandy River and the lower Columbia Slough system. The site is located south of the levee and protected from frequent flooding but the south portions of it is located within the Special Flood Zone Hazard Area (SFHA) as shown on the FEMA Firm panel map which has been included with the application narrative as an exhibit in Tab C. The levee is owned and maintained by the Sandy Drainage Improvement Company (SDIC) who actively manages both the levee and the wetlands in the south portion of the site for the purpose of flood storage, conveyance and protection.

Additional wetland creation west of Sundial Road will allow for a more reliable flood control system which creates greater flood storage capacity. Meandering and benching of both Sundial Channel and the main channel of Salmon Creek is a new technique which has been implemented to improve storm water flow channels without disturbing vegetation on the banks. An access road for SDIC maintenance purposes along the north bank of realigned Salmon Creek and other areas actively managed by SDIC is

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also required to allow this agency the ability to maintain stormwater conveyance features for the purpose of stormwater conveyance and flood control.

It is important to note that the subdivision applications including approval for the formal creation of open space, individual lots, tree removal, mass site grading, wetland fill, wetland enhancements and associated public improvements have already been submitted, reviewed and approved concurrently by the City of Troutdale per case file(s) 12-031 and 12-032. The Port is currently in the process of satisfying conditions of approval related to the project. The Port anticipates breaking ground in the spring of 2015.

At a future date that after the site grading work and wetland mitigation work is complete, the site will be rezoned and formally subdivided to create a designated 45 acre Open Space Tract and one 40+ acre future development lot. The future development lot will be marketed for industrial development and the Open Space Tract designation within the mitigation area will ensure the newly created riparian areas are protected. The Open Space will still contain many existing electrical powerlines and associated towers within the mitigation site. The mitigation and grading plan has also been carefully designed to accommodate existing as well as future anticipated electrical utility infrastructure of Bonneville Power, PGE and Pacific Power, including access roads for maintenance purposes.

This project when fully implemented would also contribute to local and regional recreational opportunities and provide an off-road alternative for bicycle and pedestrian commuters along the levee. A trail easement will be provided for the future extension of the 40 Mile Loop Trail along the levee from Sundial Road west towards 223rd Avenue. This trail, when complete, will complete a missing link in the 40 mile loop trail system between the City of Troutdale and City of Fairview.

V – BACKGROUND

History

Originally, the site and surrounding area was a floodplain with a mix of riparian woodlands and wet prairie. Numerous small lakes and ponds were present in the area. Larger lakes included Company Lake and Sundial Lake, the latter of which occupied much of the present Fairview Farms area (west of Sundial Road) and had an outlet to Salmon Creek. Pre-European use of the site is unknown and no evidence of use on the site from that timeframe has been discovered. Prior to construction of the levee this area was subject to regular flooding by the Columbia River.

In 1842 James Madison Townsend arrived in the Willamette Valley region from South Carolina crossing the Oregon Trail. The temperate climate and fertile soil attracted him to the region. In the early 1900's, Jack Townsend (Grandson of James) moved his family to the Fairview area and starting farming the site. To date Townsend Farms continues to provide fruit locally.

Because the area was routinely flooded, a levee was constructed between 1916 and 1918 by Charles Swigert and his partners to protect the land from frequent flooding and to facilitate subdividing the area

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into smaller farm tracts. In 1918 they formed the Sandy Drainage Improvement Company in order to provide for on-going maintenance of the levee.

In 1941, most of the area within the TRIP project area within the City of Troutdale was acquired by the U.S. Government for construction of a plant to produce aluminum ingots for the war effort. In 1941, the BPA substation was constructed to provide power for plant operations. The federal government operated the aluminum plant—first known as the Troutdale Aluminum Plant—until 1946, when it was leased to Reynolds Metals Corporation (RMC). RMC leased the plant in 1946 and purchased it in 1949. In 2000, Alcoa acquired RMC and permanently closed the plant. Alcoa demolished the plant and subsequently sold the property to the Port of Portland.

The eastern portion of the site or that portion within the City of Troutdale (east of Sundial Road) where the Aluminum Plant had been constructed was listed by the EPA as a Superfund site in 1994. Since then, environmental investigations and removal activities have been performed on Alcoa's property, under agreement and oversight by the EPA, to address contamination caused by past plant operations and disposal practices. More recently, EPA issued a final Record of Decision for the site in September 2006, which concluded that the site soils no longer posed an unacceptable risk, but groundwater monitoring and treatment would need to continue.

In 2004, the Port Commission approved the Port of Portland's purchase of 700 acres of industrial property in the City of Fairview and Troutdale. The Port's long term preferred plan for the site was originally an intermodal rail yard. However, due to community concerns and lack of market interest, the Port made the decision to redevelop and market the property for industrial purposes.

Most recently a new FedEx ground facility was completed on Lot 2 in the City of Troutdale. The FedEx facility has been a success and now employs approximately than 800 people. FedEx is now currently in the process of expanding its facilities. Public streets, water, sanitary sewer, stormwater, and other infrastructure improvements were also completed in as part of Phase I in Troutdale.

Proposed Phase II and III improvements are anticipated to begin in the summer of 2015 and have been incorporated as part of the Port's master plan. Various stakeholders, including the City of Fairview, City of Troutdale, Multnomah County, Sandy Drainage Improvement District (SDIC), Bonneville Power Administration (BPA), state and federal natural resource management agencies, and many others have been involved in this planning process.

Existing Conditions

The site is generally flat with a high elevation of approximately 25 feet above mean sea level (msl), in the middle of the site to a low elevation of 15 feet along the north and south boundaries of the site.

The site is located within the Salmon Creek Watershed. Salmon creek flows in a north westerly direction along the south portion of the site. The entire area including Salmon Creek and the wetlands within the site are actively managed by the Sandy Drainage Improvement Company (SDIC) for stormwater conveyance and flood control purposes. Currently, all of the drainage within the SDIC district which

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includes the Salmon Creek watershed is pumped to the Columbia River by a pump station, immediately adjacent to the west boundary of the Fairview lot. The pumped water is discharged into Salmon Creek slough (located along western boundary of the site), which enters the Columbia River about ½ miles downstream from the point of discharge. The site contains a few trees scattered in various concentrations mainly along the most southerly boundary of the site bordering Marine Drive.

Salmon Creek is a heavily urbanized stream which has been modified for the purpose of providing stormwater conveyance. Several small ditches connect into Salmon Creek which conveys storm and process water from Troutdale, Wood Village and Fairview, draining adjacent roadways, wetlands and agricultural areas.

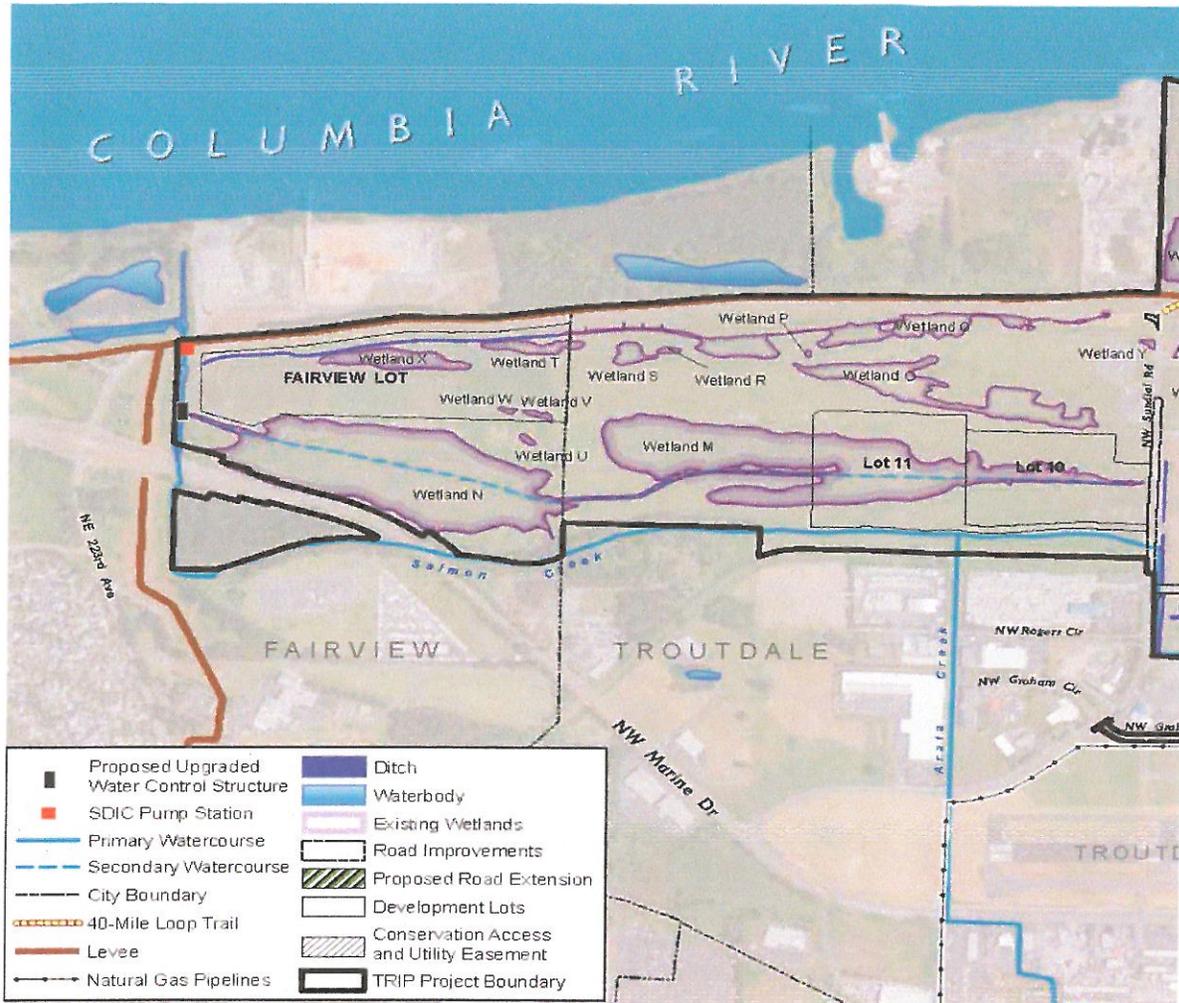
Existing uses on the site include, private utilities, agriculture (north portion of the site is currently being utilized as a U-pick blackberry and raspberry farm) and floodwater conveyance/storage (south portion of site). Existing development on the site includes the SDIC pump station located in the northwest portion of the site, high voltage transmission lines (Bonneville Power, Pacific Power & Light, and Portland Gas & Electric) and associated easements crisscross through the project area west of NW Sundial Road.

Historic development and land use conversions have altered the natural structure, processes and functions of the majority of the riparian areas and associated buffers within the project site. Land use conversions from native forested vegetation cover types to existing uses such as farming and stormwater management have resulted in channelization and straightening of Salmon Creek, disconnection of the creek from its natural floodplain/elimination of associated wetlands, and elimination of most riparian buffers. In addition, the structure of these systems has changed from forested cover types to primarily emergent and shrub plant associations dominated by invasive non-native plant species, such as reed canarygrass and Himalayan blackberry. These changes have altered the natural processes and generally diminish the functions and values provided by the remnant discontinuous configuration of the existing wetlands and associated riparian areas.

As shown on the graphic below the site contains numerous wetlands which have been delineated in concurrence with DSL and the Corps of Engineers. Wetland delineation maps (please refer to Tab C) and other applicable documentation has been included with this application narrative as exhibits.

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The north boundary of the site is bounded by the levee which is owned and maintained by the Sandy Drainage Improvement Company. The western portion of the site is bounded by NE 223rd Avenue. The south portion of the site is bounded by Marine Drive. The east boundary of the site is the jurisdictional boundary between the City of Fairview and Troutdale. North and east of the levee, the topography slopes toward the Columbia River and Sandy River respectively. The Columbia River flows westward north of the levee along the north portion of the site.

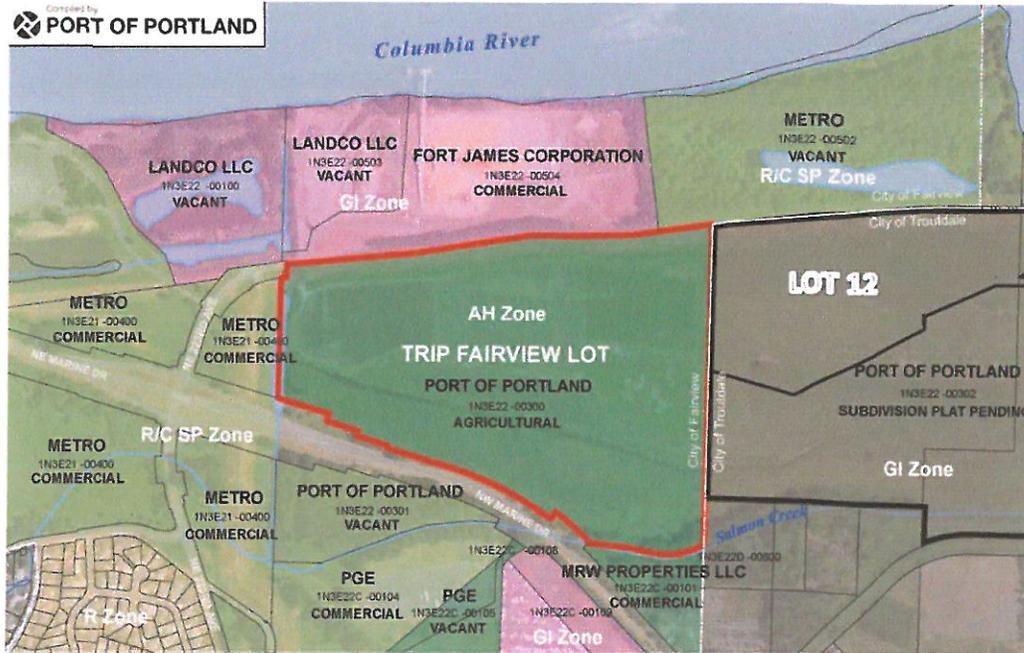
PacifiCorp/Pacific Power & Light (PP&L), and Portland Gas & Electric (PGE) currently crisscross through the project area. Some of these easements and associated power lines/towers will need to be relocated and or created as part of the future development of the substation on Lot 12 and the Fairview lot.

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Surrounding Land Uses

Surrounding land uses are shown in the graphic below.



- The Fort James Corporation is located north of the levee situated along the Columbia River and abutting the north boundary of the site.
- TRIP Phase III (Subdivision Plat Currently Pending) Open Space Tract and Lot 12 located east of the Fairview Lot. BPA has selected Lot 12 which is directly adjacent to the Fairview Lot as a key location for their I-5 Corridor Reinforcement Project. Lot 12 will essentially be a “utility lot” which will help to support the Pacific Northwest’s electrical power needs. High voltage transmission lines and associated easements owned by Bonneville Power Administration (BPA),
- Vacant Commercial Zoned property owned by Metro located north east of the site.
- Undeveloped land to the southwest, across Marine Drive under various ownerships as shown in the graphic below.
- The south eastern boundary of the site directly abuts MRW Properties which has been developed for a commercial related use.

MEMORANDUM

TO: Erika Palmer, Development Analyst

CC: Brian Vincent, County Engineer
Pat Hinds, Program Manager
Greg Kirby, Engineer
Alan Young, ROW Permit Specialist
Katherine McQuillan, Transportation Planner

FROM: Joanna Valencia, AICP, Senior Transportation Planner *JV*

DATE: December 16, 2015

SUBJECT: Type III Natural Resource Permit for natural resource enhancement, wetland creation and grading and wetland fill as part of the TRIP (Troutdale Reynold Industrial Park) development. Subdivision application will be made at a later date. This work will lay the foundation for the future creation of one rough graded development lot. Before the site can be developed, it will need to be partitioned into two parcels and rezoned from Agriculture Holding Zone (F2) to General Industrial.
1N3E22 -00300. R943220050
County Case No: EP-2012-2653b

The Multnomah County Transportation Program has reviewed the submitted narrative and site plans for the proposed project. The subject property is adjacent to and accessed off of NE 223rd Ave which is a County road with a Major Collector and Urban Local functional classification. We submitted comments on January 30, 2013 for the preliminary site design review for mass grading and fill for a future development lot and preliminary partition plan review for a future development lot and two open space tracts. As County staff understands it this Type III Natural Resource Permit is related to this project and follows-up on the preliminary review. Staff also understands the application only as Natural Resources permit to address mass site grading, wetland fill, natural resource enhancement and wetland creation. This project doesn't include any partition or specific development related work. County Transportation does not object to this proposal provided that the measures outlined are addressed as part of the land use permit process.

Road Rating

- 1. Conduct a pre-project and post-project road rating of the road conditions and address impacts to the road as applicable.**

The applicant shall conduct a road rating of the condition of the county roads being used to access the project before any project activity commences and after project activity ends to identify road conditions before the project and impact to the road after the project. The applicant shall work with the county to address impacts resulting from the project and bringing the road conditions back to the levels that they were pre-project activity. The applicant should contact the County Engineer, Brian Vincent (503-988-0221 or brian.s.vincent@multco.us), before conducting the road rating to clarify scope of the roads affected based on the access information provided by the applicant.

Future Development and Improvements

- 1. County Transportation does not require any improvement requirements or conditions of approval related to future development and improvements based on what is being proposed at this time as it is found that a transportation impact will not result as part of grading and fill of the project site. However, on-site and/or off-site improvements, right-of-way dedication, and/or permits for access or construction within the County right-of-way may be required for future approval of any future development or newly created lots. This may include the requirement to prepare a Traffic Study. Further review will be required at the time of future development of the property.**

Access and Vehicle Permits

- 1. Clarify access locations and acquire a driveway permit for the access points for the proposed project for grading and fill of the site.**

Multnomah County Road Rules Section 18.250 requires an access/encroachment permit for all new or reconstructed driveway approaches to roads under County jurisdiction. Please contact Alan Young at (503) 988-3582 to obtain access permit.

- 2. Acquire overweight/over-dimensional permits for any applicable vehicles being used for the project.** Please contact Alan Young at (503) 988-3582 to obtain these permits

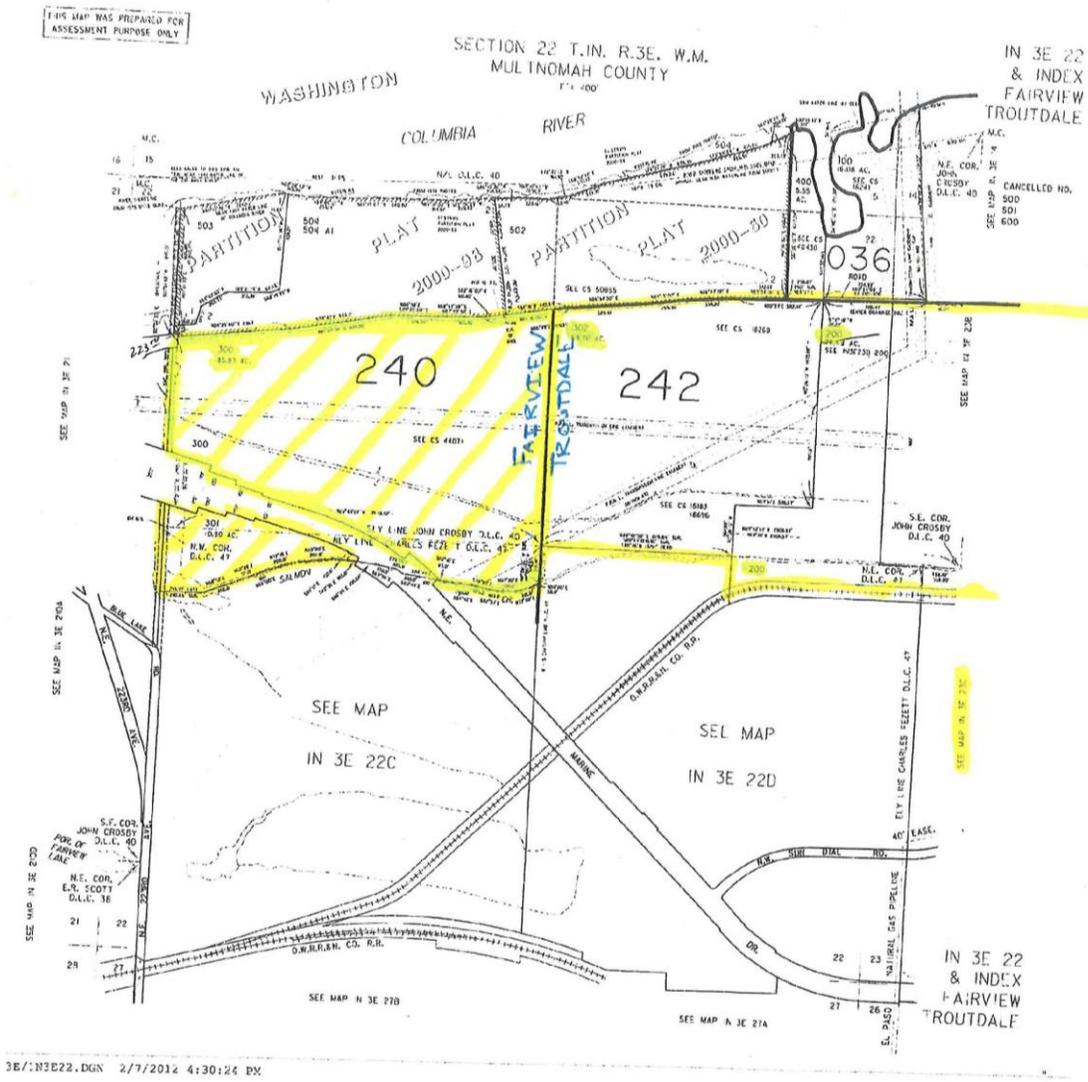
Other:

- 1. Note that any work in the right of way, including the removal of trees, or any increase in storm-water drainage from the site to the right of way will require review and a permit from Multnomah County. [MCRR 18.750, DCM 5.1]**
- 2. Any deviation from the County Standards, as set forth in the Road Rules or the County's Design and Construction Manual, shall be reviewed through the variance process as described under Road Rules Section 16.000.**

Please contact Joanna Valencia at (503)988-3043 extension 29637 or via email at joanna.valencia@multco.us regarding these requirements.

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The comments provided in this memorandum are based on the documents and site plans received from the Type III Plan routing packet from the City of Fairview. While every effort has been made to identify all related standards and issues, additional issues may arise and other standards not listed may become applicable as more information becomes available.



Erika Palmer

From: Zaldy Macalanda
Sent: Wednesday, November 26, 2014 11:23 AM
To: Sarale Hickson; Peter Armans; Shawn.Durham@greshamoregon.gov; Robert.Mottice@greshamoregon.gov; joanna.valencia@multco.us; ssimpkins@mcdd.org; jane.vandyke@columbiaslough.org
Cc: Erika Palmer; Allan Berry; Zaldy Macalanda
Subject: RE: Review and Comments_2014-39 NR Port of Portland Type III Natural Resource Permit

Follow Up Flag: Follow up
Flag Status: Flagged

Greetings, everyone:

The Troutdale Reynolds Industrial Park (TRIP) Fairview Lot, owned by Port of Portland is a development to be partitioned into two parcels and to be rezoned from Agricultural Holding (AH) to General Industrial (GI). The Applicant's proposal is to perform a **mass site grading and wetland fill** (thus, involving considerable amount of earthwork activities proportioned to the acreage) and natural enhancements in and around the wetlands (will involve **balanced "Cut and Fill" ratio**).

In Oregon, the NPDES storm water permitting program is administered by the Oregon Department of Environmental Quality (DEQ). Generally, projects that disturb one or more acres are required to comply with the NPDES 1200-C General Permit, which applies to construction activities including **clearing, grubbing, grading, excavation, and stockpiling activities** conducted by project owners or operators, except projects conducted by public agencies.

A separate permit (**Permit 1200-CA, where CA refers to COLS Agencies**) has been issued by DEQ that applies to **construction land disturbance activities conducted by public agencies**. This is an "umbrella" permit that covers all construction operations conducted by the agency.

Under **1200-COLS permit > 1 acre, but < 5 acres**, requirement criteria as follows:

- Prohibits visible or measurable quantities of sediments from the leaving the construction site and entering directly to any receiving water bodies.
- Requires the Registrant to implement EPSC plan to meet applicable BMPs.
- Requires daily monitoring and inspections of erosion control measures when run-off is present.
- Requires all EPSC measures to remain in effect through the construction duration of the project.

For Construction projects having **> 5 acres**, requirement criteria follows:

- Permit applications and EPSC plans will be subject to public notification for a **two-week public review and comments**.

For **Construction projects that discharge to 303(d) listed water bodies** [such as the Columbia Slough, Columbia River, Sandy River, Lower Willamette Basin and Streams {FV creek, Osburn Creek, Johnson Creek, FV Lake, Blue Lake, Salmon and Kelley Creek}] for turbidity or sedimentation or any receiving water bodies covered under state TMDL pollutant limits:

- Permit registrants must implement additional BMPs on the site to treat, control or prevent sediment discharges to "impaired" (303d listed receiving water bodies) water bodies.

Should you have any questions, concerns or comments; please feel free to contact me.

Regards,

Zaldy Macalanda
 Engineering Associate
 City of Fairview
 Public Works Department
 503.674.6234
macalandaz@ci.fairview.or.us

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From: Sarale Hickson
Sent: Tuesday, November 25, 2014 4:14 PM
To: Zaldy Macalanda; Peter Armans; Shawn.Durham@greshamoregon.gov; Robert.Mottice@greshamoregon.gov; joanna.valencia@multco.us; ssimpkins@mcdd.org; jane.vandyke@columbiaslough.org
Cc: Erika Palmer
Subject: 2014-39 NR Port of Portland Type III Natural Resource Permit

Attached please find an application for Natural Resource Review for Port of Portland. If you wish to get a hard copy let me know as soon as possible. Planning Commission will be hearing this application on January 13, 2015 and comments need to be to Erika Palmer (palmere@ci.fairview.or.us) by December 12.

Sarale Hickson
 Development Analyst
 City of Fairview

 503-674-6230
hicksons@ci.fairview.or.us

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Chapter 19.105 Floodplain Overlay

The site location is classified as FEMA Zone X because it is protected from flooding by levees that are maintained and operated by SDIC. SDIC is a federally authorized and non-federally operated and maintained urban flood damage reduction system that was authorized under the 1936 and 1950 Flood Control Acts. Under these statutes, SDIC is obligated to operate and maintain the levees in accordance with U.S. Army Corps of Engineers (USACE) federal flood-control regulations. SDIC is a special-purpose local government that is organized under Oregon Revised Statute 554 to carry out flood control operations.

Page 8 of the permit application includes a site map with a description and location of a toe drain. The line shown is not the toe drain but a ditch that drains the levee toe drain system. The toe drains and ditch are part of the levee design to ensure stability of the levee and allow controlled seepage during high water on the Columbia River.

Any grading or other impacts to the toe drain ditch or the area north of the ditch will require a 408 approval with USACE that must be coordinated through SDIC. To maintain compliance with USACE's levee safety program, SDIC requires that modifications to the flood control system meet USACE requirements. The authorization request should be submitted to SDIC directly; SDIC will review and submit to USACE on behalf of the applicant.

The current USACE guidance for levees can be found at:

<http://www.publications.usace.army.mil/USACEPublications/EngineerRegulations.aspx> .