

## CITY COUNCIL FINDINGS AND DECISION

### I. GENERAL INFORMATION

**File No.:** LU 02-146814 CUMS CU AD

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**Hearings Officer:** Gregory J. Frank

**BDS Staff Representatives:** Sylvia Cate, Douglas Hardy & Stacey Wenger

**Site Address:** 7000 NE AIRPORT WAY

**Plan District:** Portions of the site lie within the Columbia South Shore Plan District

**Other Designations:** Some parcels within the Master Plan boundary have a future Comprehensive Plan Designation of **ME** [Mixed Employment]

**Zoning:** The **Base Zones** within the Master Plan boundary include: **IG2** [General Industrial 2], **EG2** [General Employment 2], and **OS** [Open Space], with the following **Overlay Zones**: *c* [Environmental Conservation], *h* [Aircraft Landing], *p* [Environmental Protection], *s* [Scenic], and *x* [Portland International Airport Noise Impact]

**Land Use Review:** Type III, CUMS CU AD: Conditional Use Master Plan, Conditional Use, and Adjustments

**BDS Staff Recommendation to Hearings Officer:** Approval with conditions

Hearings Officer's Decision: Approval with Conditions

**City Council Decision:** Approval with conditions.

**Proposal:**

The Port requests an approval of an 8-year *Conditional Use Master Plan* for the Portland International Airport (PDX) District, and approval of 37 building and site improvement projects. Concurrent land use requests include a *Conditional Use* approval to add up to 25,000 square feet of retail sales and service and/or office development in the IG2 zone; Approval of a PDX District bicycle/pedestrian system as required by the regulations for Conditional Use Master Plans; Adoption of PDX Non-Conforming Upgrades and Compliance Plan by reference; and approval of a proposed landscape management program that requires *Adjustments* to five applicable landscaping standards for the site in order to implement a proposed landscaping management program specific to the site. These adjustments are described in more detail below.

Development of land side facilities at the Portland International Airport are subject to the regulations of the Portland Zoning Code, Title 33. Aviation and Surface Passenger Terminal is a *land use category* that requires a conditional use review in all Employment and Industrial base zones, per Table 33.140-1. In addition, the Portland International Airport has an existing, approved 10-year Conditional Use Master Plan [case file number LUR 93-00194] that expires in August 2003. Therefore, a new Conditional Use Master Plan [CUMS] application is required to allow for review and approval of proposed new development not approved in the 1993 land use decision. The new Conditional Use Master Plan will update and replace the existing Conditional Use Master Plan. Thus the CU MS application request must be reviewed against both the approval criteria for Master Plans as well as the approval criteria for the Conditional Use of an Aviation and Surface Passenger Terminal. The specific code citations for these criteria are found below, under the heading *Approval Criteria*.

The *Staff Report and Recommendation to the Hearings Officer* contains a Table that describes a summary of 37 potential new development projects that are anticipated to occur during the life of the requested 8-year Conditional Use Master Plan, as well as anticipated demand triggers that would initiate each project and the estimated dates of construction and completion.

In summary, 13 projects are proposed for the *Passenger Terminal Complex* sector of the site. These projects include: the addition of two proposed parking structures [P-2 and P-3 to be built in two phases with an anticipated completion in 2007 and 2016 respectively]; the extension of two existing concourses [D and E] within the passenger terminal to provide additional square footage and gate areas in accommodation of a projected increase in passengers; the realignment of portions of existing roadways, ramps, exits and return roadways and Light Rail [MAX] tracks from their current locations; and a new Terminal Expansion East [TEE] project that is anticipated to occur if and when the existing configuration of the Passenger Terminal cannot meet airline or passenger

growth demand. The TEE project is expected to be initiated circa 2010 and completed by 2016 when the passenger load are projected to reach 20 Million Annual Passengers [MAP]. A relatively small expansion of the terminal, up to 50,000 gsf to the west, is proposed to house a portion of the now permanent explosive detection bag screening equipment. This new facility will comply with a post-September 11 mandate by the Transportation Security Administration [TSA] to screen 100% of all baggage.

In addition, the applicant is proposing two projects within the AirTrans Center sector of the site, with phased development of up to 151,500 gross square feet [gsf] of air cargo, aircraft maintenance or similar aviation-related uses. This new development is proposed to replace, in part, the demolition of 49,500 gsf of existing older hangers. The second proposed development project would include improvements to the intersection of NE AirTrans Way and NE Cornfoot Road when signal warrants are met.

Fourteen projects are proposed for the North Airport Way/South Cargo sector of the site. These include: demolishing 56,000 gsf of existing Flightcraft hangers to provide room for a future expansion and widening of NE Airport Way; an expansion of up to 103,000 gsf of Business Aviation facilities on 10 acres along the north side of Airport Way, which includes replacement of an existing 35,000 gsf building for a net increase of 68,200 gsf in Business Aviation uses; the development of up to 25,000 gsf of commercial and/or office uses, that are not accessory to the Airport use, along Frontage Road west of the Economy Parking lots. Because this portion of the proposal includes the development of non-industrial uses in the General Industrial 2 zone, a concurrent Conditional Use review for Specified Uses in the Industrial zones is required, and will be processed with the Conditional Use Master Plan. The specific approval criteria citation is found below, under the heading Approval Criteria.

Other proposed projects in the North Airport Way/South Cargo sector of the site include the development of up to 140,000 gsf of belly-hold cargo facilities on land both to the north and south of Airport Way; the development of up to 36,000 gsf on a 3.25 acre area at the corner of NE Alderwood and NE 82<sup>nd</sup> Avenue for uses allowed by right in the IG2 zone; an expansion of up to 9,500 gsf to an existing maintenance facility on NE Alderwood Road; an expansion of the existing Economy Parking Lot to accommodate up to 550 new parking spaces; construction of pedestrian and bicycle connections between the west terminus of Frontage Road and the Passenger Terminal and addition of a secure, long-term bicycle parking facility adjacent to Concourses D and E; construction of a pedestrian and bicycle connection from the east end of Frontage Road to the 40-Mile Loop system along NE Marine Drive; construction of pedestrian and bicycle improvements along NE 82<sup>nd</sup> Avenue between Airport Way and Alderwood Road; modifications and intersection improvements at NE 82<sup>nd</sup> and Alderwood when warrants are met; widening Airport Way between NE 82<sup>nd</sup> Avenue and the Terminal roadway to three lanes in each direction; construction of a grade-separated interchange including light rail grade separation and multi-modal access to Frontage Road from NE 82<sup>nd</sup> Avenue; and installation of new Airport Way landscaping on Airport Way between I-205 and the Terminal, including a new water feature at the airport complex entry just west of the NE Mt. Hood Avenue overpass.

An additional six projects are proposed for the *SW Quadrant* sector of the site. These include: the development of up to 981,000 gsf of air cargo, air maintenance and similar aviation-related uses on approximately 150 acres in this sector; development of up to 103,200 gsf for a business aviation operation on approximately 10 acres within this sector; the filling of jurisdictional wetlands and tree removal from adjacent upland areas, subject to local, state, and federal permitting requirements and mitigation; the filling of 160 acres of upland areas in the SW Quadrant to an elevation of at least one foot above the flood plain elevation in preparation for future development; construction of a new access road and associated utilities from NE 33<sup>rd</sup> Avenue to serve the proposed new development in the *SW Quadrant*; and an expansion of existing airside uses and development of new airside uses up to 50,000 gsf, including an expansion of the existing tank farm and fire station, and the development of up to 103,200 gsf for a business aviation operation in an alternative location and to accommodate interim uses such as construction staging, material stockpiling and outside storage. Some of these latter projects may be located within the *NW Quadrant/Airside* sector, immediately adjacent to the *SW Quadrant*.

The final proposed development includes the request to allow construction of up to 50,000 gsf of accessory buildings within *any Activity Sector* to include non-habitable structures hosting above-grade electrical, mechanical and fiber optic equipment, mid-airfield security checkpoints and fire training airplane mock-up areas, and a potential development of any future facilities as may be mandated by federal law to implement additional safety and security measures.

In order for the proposed landscaping management program to be implemented, five Adjustments to the applicable landscaping development standards found in Title 33, the Portland Zoning Code, are necessary. These adjustments include:

- Adjustment to replace the L1 landscaping standard [defined at 33.248.020 A 1-2] with Airport-specific, alternative landscaping configurations and densities to be installed on site. The L1 standard is required to be installed, per 33.140.225 and Table 140-3, to 15 percent of the site area;
- Adjustment to 33.266.130 H, which regulates the required landscaping materials for parking lot landscaping;
- Adjustment to 33.515.215, Marine Drive Streetscape and landscape standards; and
- Adjustment to 33.515.278, Columbia South Shore Plan District development standards; both of these requirements would be replaced with the adoption of a PDX specific plant list for landscaping in areas where installation of landscaping will not impinge on safety requirements for Airfield operations;
- Waive the requirement to replace lost perimeter landscaping, as required by 33.266.130 G, in the Economy Lot along NE Marine Drive if landscaping is lost as a result of the Portland Water Bureau's future installation of wellheads.

**Procedural History:**

Three neighborhood associations, Cully Association of Neighbors, East Columbia Neighborhood Association, and Rose City Park Neighborhood Association, appealed the Hearings Officer

Decision rendered May 9, 2003. That decision contains an exhaustive analysis of the issues in this case.

The City Council held an on-the-record hearing on the three appeals on June 25, 2003. At the conclusion of the hearing, the Council made a tentative decision to deny the appeals and approve the application, thereby affirming the Hearings Officer Decision, and amended the Hearings Officer Decision by adding four additional conditions of approval, which are discussed in this decision.

Three primary issues were the subject of the appeal notices and were the subject of the hearing before the City Council. Those issues are:

1. The appropriate term of the Conditional Use Master Plan;
2. Issues related to noise impacts and the relevant scope of review by the City of Portland; and
3. The balancing of public benefits and unmitigated impacts arising from the approval.

Each of those issues is discussed in this decision.

A fourth issue related to a procedural issue arose as a part of the Hearings Officer Decision. The Hearings Officer received a letter from the Federal Aviation Administration after the record was closed. While it is not entirely clear, it does not appear the Hearings Officer relied on the letter in making his decision, although he quoted part of the letter at page 62 of his decision. The Council agrees with the appellants that the Hearings Officer erred in accepting and quoting from the letter and hereby excludes the FAA letter from the record. The City Council's decision in this matter does not take into consideration the FAA letter and is based upon the other evidence in the record related to the approval criteria.

**Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The applicable approval criteria are:

- 33.820.050, Conditional Use Master Plans Criteria (includes 33.820.070, Components of a Master Plan)
- 33.815.200, Conditional Use Criteria for Aviation and Surface Passenger Terminals
- 33.815.125 Conditional Use Criteria for Specified Uses in Industrial zones
- 33.805.040, Adjustments
- Transportation Element of the Comprehensive Plan

It is important to note that applications are vested in the regulations in effect at the time of application as long as the application is deemed complete within the 180-day period for completeness, per 33.700.080 A 1 b. The applicant submitted this application to the City on October 21, 2002. The application was deemed complete on December 3, 2002. Therefore, this application

is reviewed against the Transportation Element of the Comprehensive Plan, and not against regulations that were revised with the adoption of the Transportation System Plan, effective December 14, 2002.

## II. ANALYSIS

The Portland International Airport is a unique and multi-faceted land use that is subject to a complex hierarchy of federal, state and local regulations. While the site is quite large in area, encompassing approximately 2,990 acres, it is important to understand that the land uses that occur on the site fall into two categories: *Airside* and *Landside*.

This distinction is important to draw because of the regulatory hierarchy under which the airport operates. In general, Airport operators are primarily governed by federal law, particularly the Federal Aviation Administration (FAA) and Transportation Security Administration (TSA) laws, regulations and directives which, at times, may conflict with, and/or pre-empt state or local regulations. The Port further describes the regulatory environment within which it must operate on page I-4 of Exhibit A-1,<sup>1</sup> but an excerpt of the Port's description of the regulatory structure is included below, because it is important for the City of Portland to implement local land use regulations that are, in fact, applicable, while recognizing that other governing agencies, such as the FAA and Oregon's Department of Transportation/Aviation as well as Department of Environmental Quality have authority over many of the uses, and their operations, and the impacts, that are located on-site, particularly *Airside*.

*“PDX is subject to a vast array of federal, state and local regulations. The most important of these are the regulations of the FAA and TSA that govern all aspects of aircraft operations, flight paths and airfield improvements, and security; all of which are referred to as “airside” activities. These regulations generally supersede all state and local regulations. The Oregon Department of Aviation (ODA), part of the Oregon Department of Transportation (ODOT), governs some aspects of general aviation airports, in addition to or in conjunction with the FAA. Similarly, the U.S. Department of Defense (DOD) in collaboration with the FAA and TSA governs the airside operations of the U.S. Air Force Reserves/Oregon Air National Guard base within the PDX District. Pursuant to federal law, the City and the Port have agreed that airside activities at PDX are not subject to local land use review or building code regulations. However, the City has some authority to regulate certain “landside” operations, including land use, transportation, infrastructure and building and fire code requirements. Landside activities include additions to the Passenger Terminal and related facilities, construction and expansion of cargo and general aviation facility improvements, roadway system, parking facilities and other airport- and non-airport related uses within the PDX District.”*

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<sup>1</sup> All references to exhibits are to exhibits identified in the Hearings Officer's decision and staff report, both of which are part of the record of this CUMP application.

*“Several other aspects of Airport operations are governed by complex regulations. For example, air quality is regulated by the Oregon Department of Environmental Quality (DEQ), which ensures compliance with the federal Clean Air Act (CAA). Water quality is primarily regulated by DEQ, which is responsible for compliance with both state and federal environmental regulations, although the City of Portland regulates certain aspects of stormwater treatment and discharge. Natural resource protection of rivers, wetlands and other water bodies is the primary responsibility of the Oregon Division of State Lands (DSL,) on behalf of the U.S. Army Corps of Engineers (USACOE), in compliance with an array of federal and state regulations. Part of the Columbia Corridor, which is a “managed floodplain”, is also regulated by the Multnomah County Drainage Districts. In addition, through its environmental (“e”) zone requirements, the City regulates sensitive environmental areas, including both riparian and upland habitats.”*

It is also important to note that the Port is currently in the process of complying with federal requirements pertinent to the site, via two separate FAA processes that are outside of and independent from this land use review. One process is the ‘*Part 150 update*’ that is currently in process, the second is the annual ‘*Part 139 certification*’ that is also in process. Both of these processes are described below. Although these Federal Aviation Regulation [FAR] compliance programs are reviewed and approved by the FAA, it is important to note how each of them are relevant to this Conditional Use Master Plan land use review. The *Part 150* process is relevant to the approval criterion 33.815.200. A. 3 that asks, in part, if ‘...[a]n airport noise abatement plan...[has] been developed...’ Findings to this criterion are found below, in this decision. Additionally, the proposed airport specific landscaping management plan, which is a subpart of the *Wildlife Hazard Management Plan* that is part of the annual *Part 139* certification, triggers concurrent Adjustments to the applicable landscaping development standards in Title 33 in order to be implemented on the airport site. A full discussion of the requested adjustments is found below, in this decision.

The Federal Aviation Regulation [FAR] Part 150, *Noise Compatibility Planning*, is a voluntary program administered by the FAA. Generally, the Part 150 noise plan is developed based on forecasts of aircraft operations, evaluating the fleet-mix of airplane models expected to utilize the facility, and evaluates potential noise impacts to the surrounding communities. The Part 150 plan is reviewed and approved by the FAA. When recommendations for noise abatement strategies are approved by the FAA, the Port becomes eligible to apply for FAA grants to fund implementation of these strategies. It is important to note that the Port is approximately half way through this two year update process. Potential noise abatement strategies include alternation of flight operations, such as increased glide slopes, relocation of flight tracks, etc., which must be reviewed and approved by the FAA. Additional information about noise abatement efforts at Portland International Airport are found in the Year 2000 Annual Report on Noise Abatement found in the Appendices section of Exhibit A-1. While the current master plan review addresses noise abatement, it only does so in asking if a noise abatement plan has been developed. As will be discussed in findings to the relevant criteria below, a noise abatement plan was approved in 1996. It remains in effect until it is updated, with the completion of such update anticipated to be in 2004. As mentioned previously,

issues related to noise as a result of flight operations and noise abatement, and any recommendations or strategies to deal with such noise impacts are reviewed by the FAA only.

In addition, the Port is in the process of developing an update to the *Wildlife Hazard Management Plan* that is part of the annual *Part 139* certification. The current version of the *Wildlife Hazard Management Plan* can be found attached to Exhibit H.70. The final draft of the updated *Wildlife Hazard Management Plan* will be submitted to the FAA for review and acceptance by early summer. Part of the *Wildlife Hazard Management Plan* will include a site-wide vegetation management program designed to help reduce conflicts between wildlife and flight operations. The proposed landscaping/vegetation management plan requires adjustments to applicable City of Portland landscaping standards for the site. These adjustments are discussed in detail, below, in this decision. Implementation of the proposed landscaping management program within the environmental zones found within the Master Plan Boundary will require a future environmental review.

The *Airside* portion of the site includes the airfield and all related development, which includes, but is not limited to runways, taxiways, aviation approach lighting systems, navigational beacons, associated equipment sheds and security fencing. Activities occurring in this portion of the site are considered flight operations and are subject to the requirements of the Federal Aviation Administration [FAA] and Federal Aviation Regulations [FAR] which are issued by the FAA. This area, depicted on a map found at Exhibit G-7, is not subject to City code administration. Accordingly, development related to the *Airside* portion of the site is neither subject to the development regulations of the City, nor does the City review or issue building permits for development within the Airfield.

The portion of the site that falls within the *Landside* category is subject to the regulations of the City of Portland, and the land use is regulated as a Conditional Use and subject to the applicable development regulations of Title 33, Portland Zoning Code. The Landside portion of the site includes the Passenger Terminal and a number of other uses and development, which the applicant has described and categorized in a system of Activity Sectors. These Activity Sectors are depicted graphically on the map labeled Figure II-8 in Exhibit A-1, the application narrative. In summary, there are eight broad activity quadrants: the Passenger Terminal Complex, the North Airport Way sector, the South Cargo Area, the Military sector [which is not subject to Title 33 regulations] the AirTrans Center, the Southwest Quadrant, the Northwest Quadrant, and the Airfield. There are also additional small areas of land that are generally undeveloped, and are within the Master Plan Boundary, but are not included as part of any of the identified Activity Sectors noted above. The applicant is proposing development projects that primarily and generally fall within five of the identified Activity Sectors: the Passenger Terminal Complex, AirTrans Center, North Airport Way, South Cargo and SW Quadrant areas. A summary of the proposed development projects subject to the Conditional Use Master Plan review are found in Table V-3 of Exhibit A-1, the application narrative.

A large variety of tenants as well as a number of separate airport-related operations are located within the Master Plan Boundary, and these operations frequently span across both the *Airside* and

*Landside* portions of the site. These operations are complex, and include multiple airport users, such as commercial airlines; general aviation facilities users, including corporate and charter aircraft service operators; the US Air Force Reserves/Oregon Air National Guard base; US Postal Service; airport- and non-airport related commercial and industrial tenants located at the Airport; on-Airport hotels; and other Airport service providers and suppliers.

This variety of users and operational needs creates significant challenges in determining specific physical configurations of new development, acreage requirements, and transportation access and circulation and parking for the site. There are also potential additional challenges, particularly in regard to physical design and configuration of development on site, in the form of future ‘homeland security’ measures as mandated by the federal government. Given the complexity of regulations that govern the uses and activities found on this site, it is important to recognize and address, during this land use review, areas of potential conflict between local zoning regulations and federal regulations.

It is also important to recognize that the variety of uses and the unique characteristics of air transport combine to generate a number of impacts, both on the immediately surrounding area to the Airport, but also on neighborhoods some distance away. The most notable impact that is not typically associated with a mixed-use, large-scale urban development that has an approved conditional use master plan is that of noise. However, many impacts associated with the airport are typical of large-scale development: there are demands associated with public infrastructure, such as stormwater management, water supply, sanitary sewer loads, and transportation/traffic impacts. Discussion of those impacts can be found below in this decision under criteria 33.815.200 A 2 a through c, and under criteria 33.815.125 B.

The impact of airport noise is a unique characteristic to this development, and stretches far beyond the approved Master Plan Boundary. The most significant source of noise impacts are the result of aircraft flight operations. ‘Flight operations’ include all aircraft movements within the *Airfield* sector of the site, as well as all approach, take off and airborne maneuvers. The City has no jurisdiction over noise related to the airside operations at PDX, including the landing, take-off and taxiing of aircraft, due to Federal preemption. Military operations are also exempt from local and state regulations. Preparation of a noise abatement plan, per the requirements of the FAA’s Part 150 regulations, is voluntary under Federal law. DEQ makes the preparation of such a noise plan mandatory, per OAR 340-035-0045. The Port has prepared such reports in 1983, 1990 and 1996, and currently is undertaking a study to update the 1996 plan, to be completed in 2004. Thus, the development of new or more effective strategies for noise abatement or reduction as a result of flight operations must be addressed via the Part 150 process, and approved by the FAA.

It is important to note that Title 33 has no applicable regulations to either the *Airfield* or to flight operations. However, noise occurring within the Master Plan Boundary and outside of the *Airfield* [i.e. noise resulting from activities occurring from the *Landside* portion of the site] is subject to the regulations of Title 18. Objectionable noise levels associated with aircraft that can occur on the *Landside* portion of the site are generally limited to so-called ‘engine run-ups’ that are a necessary part of aircraft maintenance procedures. As part of this regularly scheduled maintenance, the

Federal Aviation Administration requires that aircraft engines be tested at high power levels to ensure their proper operation. These tests typically occur at night when the aircraft are through flying for the day. While necessary for safety, engine run-up operations can be a disturbance at a time when area residents are trying to sleep. The most significant recent reduction in Landside noise impacts has been accomplished through the completion of the Ground Run-up Enclosure (GRE), which is used for testing of aircraft engines following maintenance. Prior to its construction, monitoring suggested that the noise level at the Master Plan Boundary was nearly exceeding the DEQ noise standards. Since the construction of the GRE, noise levels related to post-maintenance testing as measured by the Port have been significantly reduced at the Master Plan Boundaries and now comply with DEQ standards.

**Site:** The site, as defined by the Master Plan Boundary, is comprised of almost 3,000 acres in area, or nearly 5 square miles. It is the largest Conditional Use Master Plan site in the City of Portland, and has the most complex assembly of uses of any site within the City, as discussed in further detail below. Generally bounded on the north by the Columbia River and on the south by the Columbia Slough and NE Cornfoot Road, the site area stretches from I-205 at its most easterly reach, to beyond NE 33<sup>rd</sup> Avenue at its most westerly point.

The site is developed with a variety of structures and uses, located in the following ten Activity Sectors: Airfield, Passenger Terminal Complex, North Airport Way, South Cargo Area, Air Trans Center, Military base, Southwest Quadrant, Northwest Quadrant, Waterfront and a few parcels that are Undeveloped and vacant. Figure II-8 in Exhibit A-1 depicts these Activity Sectors. The following is a summary of development and uses in these sectors:

#### Airfield Sector

This Activity Sector comprises almost 1,190 acres and is developed with an Airfield consisting of two main and one cross-wind runways, multiple ramps and taxiways for aircraft movement, and associated aviation support structures that include a perimeter security fence, avionics lighting and navigational systems, and related equipment. The Airfield is overlaid with FAA regulations requiring runway protection areas, safety areas and height restriction elevations to ensure a clear flight path and safety area for ascending and descending flight operations. Title 33 has no regulations specifically applicable to the Airfield.

The Airfield is the largest Sector of the site, and this substantial footprint is due to the enormous dimensions required for runway lengths, separation, and runway widths so that sufficient clearances are obtained. The existing main runway at PDX, 10R/28L, is 11,000 feet in length, for example, and 150 feet in width. Design criteria for runway/taxiway safety includes 400 feet of separation between runways and parallel taxiway centerlines. These dimensions are considered adequate to serve the current class of large transport planes, including the Boeing 747-400. However, the next generation of new large airplanes are anticipated to include planes designed with wingspans in the 260-280 foot range, roughly 50 to 70 feet wider than the current models flown. Therefore, if future market conditions in the aviation industry ultimately support the future development of the 'next generation' of large planes, some reconfiguration of the Airfield would likely follow. However, the development of such future large planes is not anticipated to occur during the life of this requested

Conditional Use Master Plan. The most optimistic projections indicate that an additional runway to provide increased capacity would not be necessary until 2020 at the earliest.

#### Passenger Terminal Complex Sector

This Activity Sector, roughly 144 acres in area, is developed with a primary structure of the Passenger Terminal and associated parking structures and parking lots, rental car operations, the FAA control tower and offices and a Central Utility Plant. This portion of the site is the most intensely developed with more than 1.5 million gross square feet [gsf]. The Passenger Terminal is the largest facility in this sector and is the portal through which Airside and Landside operations interface. Currently, the Passenger Terminal is configured to have 46 gates with loading bridges and an additional 20 at-grade gates [regional aircraft parking positions] for a total of 66 gates serving 15 commercial air carriers. Title 33 defines the land uses in this sector as an Aviation and Surface Passenger Terminal [33.920.510] and the accessory uses associated with this category include freight handling areas, concessions, offices, parking, maintenance and fueling facilities and aircraft sales areas. Although some of these accessory uses are found in this Activity Sector, many of these uses are located in other Activity Sectors, as described below.

#### North Airport Way

This Activity Sector is the second most developed segment of the site, including approximately 40 buildings located between the north side of NE Airport Way and the north runway. Developed with approximately 1.2 million gsf, these buildings house a range of airport related uses and activities, including the Flightcraft Business Aviation Terminal, hangars and related facilities, private company hangars, Delta and United Airline cargo, cabin services and kitchen facilities, offices for rental car agencies and fleet parking lots. Most of these businesses have direct access to the Airfield via Taxiway A. This area also includes two hotels [215-room Sheraton and 130-room Hampton Inn] and the Economy Parking Lot, which is linked to the Passenger Terminal building via shuttle buses.

#### South Cargo Area

Across NE Airport Way to the south is a 109 acre area developed with approximately 322,000 gsf that includes the US Post Office mail-handling facility, two major cargo handling facilities and the Port's maintenance complex of office and shops. This area has direct access to the Airfield via two taxiways, therefore development in this sector is limited to airport-support facilities. The southern most portion of this Activity Sector is outside the Airfield Security fence, and therefore has more flexibility for future development with a broader range of uses that don't require direct Airfield access.

#### Air Trans Center

This Activity Center is approximately 122 acres in area and is located between NE Cornfoot Road and the cross-wind runway to the west and the main runway to the north. To the east is the Military Base. This Activity Sector is the heart of the airport's cargo operations and is developed with 11 buildings totaling nearly 800,000 gsf. All of these buildings are leased to air transportation-related companies, such as Emery, Federal Express, UPS and Horizon Air maintenance facilities. This

sector has close proximity to the Airfield and has direct access via multiple taxiways. Due to this location this sector is reserved for direct airside and airport–support facilities.

#### Military Base

Immediately east of the AirTrans Center, this area is approximately 270 acres in size and is leased to the Oregon Air National Guard, and a portion is subleased to the US Air Force Reserve Command. As long as this area is leased for the exclusive use of these military entities, local regulation of this area is pre-empted by federal law and while included inside the Master Plan Boundary as part of the site, this Activity Sector is not subject to this Conditional Use Master Plan review.

#### Southwest Quadrant

This Activity Sector comprises approximately 364 acres and is mostly an undeveloped area lying southwest of the Airfield and between NE 33<sup>rd</sup> Avenue and the AirTrans Center. Developed with three hangar buildings for a total of about 100,000 gsf, this area is reserved for future development with airside and airport-support related uses and facilities. Because the majority of this area is undeveloped, future development will require substantial installation of basic infrastructure [water and sewer lines, stormwater facilities and roads] before major buildings can be developed. In addition, most of this area will require filling before it can be developed.

#### Northwest Quadrant

This Activity Sector lies to the northwest of the Airfield and north of the Southwest Quadrant, stretching from NE 33<sup>rd</sup> Avenue to the Airfield itself. Comprising 208 acres, this area is generally undeveloped except for a few key uses and buildings totaling 45,000 gsf. This area hosts the Airport's Fire Station, US Weather facilities, a Port construction office and a jet fuel tank farm that receives and distributes jet fuel to the appropriate gate areas via an underground pipeline system. This area also has direct access to the Airfield, and thus is reserved for future airside and air-support uses and development.

#### Waterfront

This sector comprises a narrow strip of land between NE Marine Drive and the south shore of the Columbia River. This area is zoned as Open Space with the Environmental Conservation overlay zone and is developed with a recreational trail and a small marina.

#### Vacant/Undeveloped

There are six parcels that are within the Master Plan Boundary, but are not included in the above ten Activity Sectors. Three of the parcels are west of NE 33<sup>rd</sup> Avenue, one will likely be developed during future development in the North Airport Way/South Cargo Sectors, one, known as the Meyers Drum site east of NE 82<sup>nd</sup> near the Columbia Slough is expected to remain undeveloped during this Master Plan, and the sixth parcel, located west of NE 42<sup>nd</sup> Avenue near Buffalo Street is a mitigation site for the Port and will be used as Open Space in perpetuity.

Environmental Resources on site

The environmentally zoned areas within the approved Master Plan Boundary were identified through the Inventory and Analysis of Wetlands, Water Bodies, and Wildlife Habitat Areas for the Columbia Corridor, adopted April 20, 1989 (the Inventory). This document identifies four resource sites and two water features that were inventoried and described within the Master Plan Boundary.

The four resource sites are:

- Site 32, a remnant slough and floodplain forest, between Marine Drive and Airport Way, east of the north runway;
- Site 37, a 50 acre wetland within the *Southwest Quadrant*;
- Site 38, a remnant slough and riparian forest remnant in the center of the *Southwest Quadrant*; and
- Site 71, the Columbia River bank line.

The two identified and inventoried water features are remnant sloughs/drainageways that form the north and south boundaries of the *Southwest Quadrant* area within the Master Plan Boundary. One is just south of the runways and flows to the west. The second is just south of NE Elrod Road and also flows to the west. Detailed descriptions of these resource sites and water features can be found in the approval criteria findings below (see 33.815.200.4).

Just outside of the Master Plan Boundary and south of the airport is the Columbia Slough and a series of wetland complexes, blind [dead end] sloughs, and ponds and lakes. All of these areas are also within the environmental overlay zone and were identified through the Columbia Corridor Inventory.

Stormwater from the entire Airport master plan site drains to the Columbia Slough. However, the airport has just completed an elaborate system to monitor storm drainage from the site for the presence of de-icing chemicals used on airplanes and runways. If de-icing chemicals are detected the runoff can either be treated on-site (low-concentrations) or the runoff can be directed to the Columbia Boulevard Wastewater Treatment Plant (high concentrations). The airport facility is also equipped with conventional stormwater treatment facilities to treat runoff before being discharged to the Columbia Slough.

**Vicinity:** The Portland International Airport is located entirely within the City of Portland, bordered by the Columbia River to the north, I-205 to the east, the Columbia Slough and NE Cornfoot Road to the south and NE 33<sup>rd</sup> Avenue to the west. The Airport [PDX] is located in the heart of the Columbia Corridor and in the middle of the City's largest industrially-zoned area. In general, abutting properties to the site are also industrially zoned, with a few exceptions as noted below.

Adjacent to the Airport are four golf courses, generally to the south and west of the site, as well as a concentration of office, hotel, retail and light industrial uses along NE airport Way east of I-205. Southeast of the Airport is the Cascade Station/Portland International Center Plan District,

comprising approximately 200 acres for future development of office, hotel, retail and similar uses. Although immediately adjacent to the Airport site, the CS/PIC is a separate Plan District and is not within the Master Plan Boundary. Immediately south of the Airport, between NE Cornfoot Road and Columbia Boulevard are parcels zoned IG2. The only exceptions to properties in close proximity south of the Airport that are not industrially zoned are the CS/PIC Plan District, as previously noted, a small area of residentially zoned lots directly south of the Oregon Air National Guard complex [these lots are zoned RF and R20, all have a Comprehensive Plan designation of Industrial Sanctuary], and two areas of Open Space zoning, one near NE Cornfoot and west of 42<sup>nd</sup> Avenue, and the other near NE Cornfoot and NE Alderwood.

To the north of the Airport is the Columbia River with a number of islands in proximity. To the northwest, Hayden/Tomahawk Islands contain a mix of industrial and commercial, single- and multi-family residential uses, and some undeveloped areas. The island, west of the Burlington Northern Railroad tracks, is vacant. Six undeveloped islands are found to the northeast and east of PDX. These islands include Lemon, Sand, Government, and McGuire Islands on the Oregon side, and Ackerman (previously known as Sand) and Lady Islands on the Washington side. Across the Columbia River, in the state of Washington is the City of Vancouver and unincorporated portions of Clark County. Significant development and land uses across the Columbia and to the east of Interstate 5 include Pearson Airfield, Fort Vancouver National Historic Site, Clark College, and Vancouver Central and Marine Parks. Further east are unincorporated portions of Clark County that are mainly developed in single-family residential uses or are undeveloped. Some commercial and multi-family residential uses also exist in this area.

Directly to the east of the Airport is Interstate 205 and a portion of the Cascade Station Portland International Center. Immediately east of I-205 are properties zoned EG2. To the west of the Master Plan Boundary, across NE 33<sup>rd</sup> are parcels zoned IG2, further to the west is the Columbia Edgewater Country Club, zoned OS, and residential development to the south of the Edgewater Club, in the R20 zone. These residential properties are approximately four-tenths of a mile [2,315 feet] from the westerly extent of the Master Plan Boundary of the airport.

**Zoning:** The **Base Zones** within the Master Plan boundary include General Industrial 2, General Employment 2 and Open Space base zones:

The Employment and Industrial zones are for areas of the City that are reserved for industrial uses and for areas that have a mix of uses with a strong industrial orientation. The zones reflect the diversity of industrial and business areas in the City. The zones differ in the mix of allowed uses, the allowed intensity of development, and the development standards. The regulations promote areas which consist of uses and developments which will support the economic viability of the specific zoning district and of the City. The regulations protect the health, safety and welfare of the public, address area character, and address environmental concerns. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is allowed.

**IG2 [General Industrial 2]:** The General Industrial zones are two of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zones provide areas

where most industrial uses may locate, while other uses are restricted to prevent potential conflicts and to preserve land for industry. The development standards for each zone are intended to allow new development which is similar in character to existing development. The intent is to promote viable and attractive industrial areas. The General Industrial 2 [IG2] areas generally have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverages and buildings which are usually set back from the street.

Uses which are allowed if approved through the conditional use review process are listed in Table 140-1 with a "CU". Aviation And Surface Passenger Terminals are listed as a Conditional Use in all Industrial zones. This conditional use is allowed provided it complies with the conditional use approval criteria for that use, the development standards, and other regulations of this Title.

In addition, a use or development listed in the 200s series of chapters is also subject to the regulations of those chapters unless adjustments to these regulations are approved. Some examples of such uses or development found on the subject site that must meet regulations found in the 200s include Parking and Loading [33.266]; Landscaping and Screening [33.248]; and Non-conforming Situations [33.258]. The conditional use review process and approval criteria are stated in Chapter 33.815, Conditional Uses. It is important to note that 33.209.020 A, *Aircraft Landing Facilities*, states that interior and exterior alterations to the Portland International Airport are governed by the base zone requirements and the Portland International Airport Master Plan.

In general, the IG2 zone covers the majority of the land area within the Master Plan Boundary, including the Passenger Terminal Building, the Airfield and adjacent parcels to the west of the Airfield.

**EG2 [General Employment 2]:** The General Employment zones implement the Mixed Employment map designation of the Comprehensive Plan. The zones allow a wide range of employment opportunities without potential conflicts from interspersed residential uses. The emphasis of the zones is on industrial and industrially-related uses. Other commercial uses are allowed to support a wide range of services and employment opportunities. The development standards for each zone are intended to allow new development which is similar in character to existing development. The intent is to promote viable and attractive industrial/commercial areas. The General Employment 2 [EG2] areas have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverage and buildings that are usually set back from the street. EG2 zoned lands will generally be on larger areas than those zoned EG1.

In general, the EG2 zone is limited to a relatively small area within the Master Plan Boundary, and consists of five lease lots that abut the north side of NE Airport Way. The most significant existing development in the EG2 zone within the Master Plan Boundary includes the Sheraton Portland Airport Hotel, associated parking, the Hampton Inn and associated parking, and a Delta air cargo facility.

**OS [Open Space]:**

The Open Space zone is intended to preserve and enhance public and private open, natural, and improved park and recreational areas identified in the Comprehensive Plan. These areas serve many functions including: providing opportunities for outdoor recreation; providing contrasts to the built environment; preserving scenic qualities; protecting sensitive or fragile environmental areas; preserving the capacity and water quality of the stormwater drainage system; and providing pedestrian and bicycle transportation connections.

In general, the OS zone is limited to relatively small but significant areas within the Master Plan Boundary. The primary area of Open Space zoning runs along the Columbia River frontage paralleling NE Marine Drive, and two additional small areas lie west of NE 33<sup>rd</sup> Avenue, along the western most edge of the Master Plan Boundary.

The *Overlay Zones* within the Master Plan boundary include:

**c [Environmental Conservation]:**

Environmental zones protect resources and functional values that have been identified by the City as providing benefits to the public. The environmental regulations encourage flexibility and innovation in site planning and provide for development that is carefully designed to be sensitive to the site's protected resources. The environmental regulations also carry out Comprehensive Plan policies and objectives. The Environmental Conservation zone conserves important resources and functional values in areas where the resources and functional values can be protected while allowing environmentally sensitive urban development.

The Environmental Conservation overlay zone generally covers the area within the Master Plan Boundary running along the Columbia River frontage, north of NE Marine Drive as well as the site area abutting the Columbia Slough, running roughly parallel to the southerly Master Plan Boundary line. Additional small areas of the conservation overlay zone follow some drainageways, generally running east-west, across the westerly half of the site.

**h [Aircraft Landing]:**

The Aircraft Landing overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. The Aircraft Landing zone is shown on the Official Zoning Maps with a letter "h" map symbol (for height). All structures and vegetation within the Aircraft Landing zone are subject to the height limits shown on the Aircraft Landing Zone Map. When the base zone height limit is more restrictive than the Aircraft landing zone height limit, the base zone controls. A request for an exception to the Aircraft Landing zone height limits may be approved, denied, or approved with conditions by the Federal Aviation Administration in consultation with the Port of Portland. An application for a building permit where the structure will exceed the Aircraft Landing zone height limit, or an application for an adjustment to the base zone height limit which will exceed the Aircraft Landing zone height limit, must be accompanied by a letter of approval from the Federal Aviation Administration. The application for FAA approval may be obtained from the Aviation Department of the Port of Portland.

The Aircraft Landing overlay zone covers the entire area within the Master Plan Boundary.

**p [Environmental Protection]:**

The Environmental Protection zone provides the highest level of protection to the most important resources and functional values. These resources and functional values are identified and assigned value in the inventory and economic, social, environmental, and energy (ESEE) analysis for each specific study area. Development will be approved in the environmental protection zone only in rare and unusual circumstances.

The p overlay zone is found on a small area of land in the SW Quadrant Activity Sector of the site.

**s [Scenic]:**

The Scenic Resource zone is intended to: Protect Portland's significant scenic resources as identified in the Scenic Resources Protection Plan; Enhance the appearance of Portland to make it a better place to live and work; Create attractive entrance ways to Portland and its districts; Improve Portland's economic vitality by enhancing the City's attractiveness to its citizens and to visitors; Implement the scenic resource policies and objectives of Portland's Comprehensive Plan.

The purposes of the Scenic Resource zone are achieved by establishing height limits within view corridors to protect significant views and by establishing additional landscaping and screening standards to preserve and enhance identified scenic resources. The Scenic Resource zone is shown on the Official Zoning Maps with a letter "s" map symbol. The Scenic Resource zone is to be applied to all significant scenic resources identified in the Scenic Resources Protection Plan. Any changes to land or development, including rights-of-way, within the Scenic Resource zone are subject to the regulations of this chapter.

The S overlay zone is found along the northerly edge of the site, running parallel with the Columbia River shoreline and the southerly edge of NE Marine Drive. This includes designated Scenic Drive from NE 33<sup>rd</sup> Avenue and NE Marine Drives [SD 12-04] as well as designated View of Bridge VB 13-06, that is the view of Interstate 205 Bridge looking east from NE Marine Drive [near the Economy Parking Lot], and View of Bridge VB 07-02, that is the view of Interstate 5 Bridge from Marine Drive near 33<sup>rd</sup> Avenue, looking west.

**x [Portland International Airport Noise Impact]:**

The Portland International Airport Noise Impact overlay zone reduces the impact of aircraft noise on development within the noise impact area surrounding the Portland International Airport. The zone achieves this by limiting residential densities and by requiring noise insulation, noise disclosure statements, and noise easements. The Portland International Airport Noise Impact zone is also referred to as the PDX Noise zone, and is shown on the Official Zoning Maps with a letter "x" map symbol (for PDX). The Ldn 65 noise contour, as shown in the 1990 Portland International Airport Noise Abatement Plan Update is the boundary for the PDX Noise zone. All land within that noise contour, including land within a higher contour, is in the PDX Noise zone and subject to these regulations. A set of quarter-section maps, known as the PDX Noise Zone Maps, is available for review at the Permit Center. The maps are the official reference maps for the PDX Noise zone

regulations. The maps show the Ldn 65 noise contour and each successively higher noise contour in one Ldn increment. The location of the noise contours are based on the 1990 Portland International Airport Noise Abatement Plan Update. The Ldn 68 noise contour location was established by the Port of Portland. Revisions to the x overlay zone as shown on the official zoning maps can be achieved either through a legislative or quasi-judicial process.

### **Land Use History:**

Portland's airport has a history stretching back to the 1930's, before the City annexed the land area where the Portland International Airport is presently located. The following is a brief summary of the airport's origins and history prior to land use review history:

In 1930, the Port constructed Portland's first municipal airport, located on the east side of the Willamette River at Swan Island. Charles Lindbergh flew the "Spirit of St Louis" to the new airport to help formally dedicate the facility. However, with the introduction of the new DC-3 twin-engine airplane, commercial aviation soon outgrew the Swan Island airfield. In 1935, the federal government ordered the Port to find a new site for the airport. Realizing the economic importance of the emerging aviation industry, Portland voters approved a \$300,000 bond issue to purchase 700 acres east of the city in what is now known as the Columbia Corridor. It took four years, \$3 million and the assistance of the Federal Works Progress Administration (WPA) to complete the Portland-Columbia Airport. The new airport opened in 1940, in its present location.

Shortly after the 1940 opening, the Port began construction of a new \$6 million passenger terminal complex, dedicated in 1958. The new terminal was designed to handle 1.5 million passengers annually and was served by seven domestic airlines. Portland entered the Jet Age in 1959 when the Pan American World Airlines Boeing 707, known as the "Liberty Bell", inaugurated twice-weekly Portland-Honolulu jet service.

By the 1970s, the Portland-Columbia Airport, by now officially known as Portland International Airport (PDX or Airport), was undergoing another major expansion its facilities, which was completed in 1977. This expansion program included an approximate doubling of the space in the terminal building; construction of an 11,000' runway to handle fully loaded, wide-body jets; and a new air cargo complex.

City records indicate the following prior land use reviews or land use actions:

#### Multnomah County land use actions:

- *MCF 35-63*: Extension of runway approved circa 1963 by Multnomah County.

#### City of Portland Planning Commission actions:

##### *Street dedications and vacations:*

- *PC D 33-68*: Approval of a proposed dedication for an unnamed street extending south from NE Cornfoot Drive.

- *PC V-26-69*: Approval of a proposed street vacation of portions of NE 47<sup>th</sup> Avenue north of NE Cornfoot Road at the City boundary.
- *PC V 52-69*: Approval of a street vacation request for a portion of NE 55<sup>th</sup> Avenue south of NE Cornfoot Road.
- *PC V 37-77*: Approval of a street vacation request for portions of NE Lombard Street and NE Alderwood Drive west of NE 82<sup>nd</sup> for purposes of consolidating property for future expansion of the airport.
- *PC V 12-81*: Approval, with conditions, of street vacation requests for portions of NE Lombard Street, NE 92<sup>nd</sup> Avenue, NE 96<sup>th</sup> Avenue, NE Saratoga Street, NE 105<sup>th</sup> Avenue and NE Liberty Street, consistent with City Council Resolution No. 32307, which approved, in November 1978, the *Airport Development Plan* and *Airport Access Plan* for Portland International Airport.
- *PC V 3-83*: Approval, with conditions of a street vacation request of a portion of NE Marine Drive right-of-way south of a 60-foot wide strip containing Marine Drive and lying between the County Boat Ramp and a point east of vacated NE Lombard Street in order to prevent unauthorized entry and vandalism to landing lights and other Port property.
- *PC V 10-85*: Approval, with conditions for a street vacation request of a portion of NE Elrod east of NE 33<sup>rd</sup> Avenue to provide better security to adjacent airport property.
- *PC V 2-87*: Approval of a street vacation request to vacate a portion of NE Alderwood at NE Lombard near NE 82<sup>nd</sup> Avenue to control dumping and improve security for adjacent properties.
- *PC V 12-87*: Approval of a street vacation request to vacate a portion of NE 82<sup>nd</sup> Avenue north of NE Alderwood Road and Airport Way in order to realign 1,500 feet and modify existing street to the east for cargo and vehicle access to airport property.
- *PC V 17-87*: Approval of a street vacation request to vacate NE McConnell from the east line of NE 33<sup>rd</sup> Drive east approximately 940 feet for the purpose of increasing airport security in an area entirely within the airport boundaries.
- *PC V 20-87*: Denial of a request to vacate two portions of the south side of NE Marine Drive east of NE 33<sup>rd</sup> Avenue.

*Planning Commission Annexation and Zoning actions:*

- *PC 6626*: Planning Commission Action regarding Portland International Airport annexation area in 1977. No additional information regarding this case (such as the Final Decision or Ordinance Number, if any) is found under this case number.
- *PC 6861*: Planning Commission initiation of a Zone Change from County Zoning M3CS, R10, R40, F2 & M2 to City of Portland Zoning MSL for recently annexed areas. Approved by City Council without conditions in 1979 via Ordinance Number 148199. (See also CU 56-79 for Airport Master Plan, described below).
- *PC 6926*: Planning Commission initiation of City Zoning for an annexed area in 1979, applied City Zoning on area west of Portland International Airport at NE 33<sup>rd</sup> Avenue, north to NE Marine Drive. Approved by City Council via Ordinance Number 150239.
- *PC 7178*: Planning Commission initiation of City Zoning for an area annexed from Multnomah County. Approved by City Council in 1982 for various tax lots in the vicinity of Portland International Airport, Ordinance Number 154028.

City of Portland Land Use Reviews:

- *CU 56-79*: Conditional Use for Portland International Airport Master Plan. Approved for use through the year 2000 by City Council, with conditions for subsequent renewal of a Master Plan for the airport every six years.
- *CU 113-81*: Conditional Use for fill and revocable permit for stockpiling; Continuance expired and case terminated per Hearings Officer in June, 1983.
- *CU 25-83*: Approval of 25,000 cubic yards of fill for a maximum of 10 years, subject to conditions of approval, for an area near NE 33<sup>rd</sup> Avenue and NE Marine Drive.
- *CU 29-86*: Conditional Use Master Plan for the Portland International Airport through June 30, 1992. Approval for aviation, non-aviation and recreational/open space uses on the submitted "Airport Land Use Plan", and as more fully explained in the applicant's exhibits and use summary documents. Conditions of approval included a requirement for the Port of Portland to work with the City on transportation issues, dedications of trail easements, construction of trails, no obstruction of views from Marine Drive into the airport property, and Hearings Officer jurisdiction in resolving irresolvable difficulties which may arise during implementation.
- *CU 61-86*: See File Number CU 25-83; approval for fill of up to 25,000 cubic yards near NE 33<sup>rd</sup> Avenue and NE Marine Drive.
- *CU 43-87*: Conditional Use for stock pile and fill of up to 2.02 million cubic yards, in an area near NE Elrod, 47<sup>th</sup>, NE Cornfoot and NE 55<sup>th</sup>, approved by Hearings Officer with conditions.
- *SRZ 8-89*: Approval with conditions for a water outfall into the slough at NE 55<sup>th</sup> and NE Cornfoot Rd.
- *SRZ 40-88/ADJ 10-88*: Construction of a surface parking lot for 5,331 cars along the north side of NE Airport Way east of the airport terminal building. Administrative approval granted per the submitted drawings and descriptions in 1989.
- *SRZ 13-90*: Approval for a conduit system for ASR near N Elrod Road.
- *CU 24-90*: Conditional Use request by the Port of Portland to alter condition C of CU 29-86 regarding dedication of easements and construction for the 40-Mile Loop trail. Request was denied by the Hearings Officer in 1990.
- *V 3-83*: Street Vacation request for a portion of the NE Marine Drive right-of-way south of a 60-foot-wide strip containing Marine Drive and lying between the County boat ramp and a point east of vacated NE Lombard Street. Approved with conditions regarding dedication of recreational trail easements, no visual obstructions to block views of the airport from Marine Drive or adjacent viewing areas, and that the Port continue to cooperate with the Park Bureau to implement the 40-mile-loop trail in the area.
- *LUR 91-00158 EN*: Environmental review and approval, with conditions, for construction of an additional taxiway and the removal of 400 feet of drainage ditch.
- *LUR 91-00262 EN IR*: Environmental and Interim Resource Review to allow the construction of a new 1,506-space employee parking lot for employees at and near Portland International Airport. Approved with conditions of approval regarding maintenance of the storm sewer system, planting and maintenance of specific native vegetation required per this decision, and with limitations on exterior lighting and construction work areas.
- *LUR 91-00790 VA*: Street vacation approval to vacate NE 47<sup>th</sup> Avenue north of Cornfoot Road; Approved by City Council via Ordinance Number 165800 in 1991.

- *LUR 91-00820 AD* approval, with conditions, to eliminate on-site pedestrian circulation system for two properties [8855 & 8975 NE Airport Way] along the north side of NE Airport Way, across from NE 82<sup>nd</sup> Avenue.
- *LUR 93-00174 MS AD*: Conditional Use Master Plan for the Portland International Airport. Approved with an adjustment to eliminate required landscaping within 300 feet of an aircraft operating, and with conditions of approval. Conditions were imposed regarding transportation impact monitoring, contributions to nearby right-of-way improvements, dedications of trail easements, and trail-related signage. Conditions also required the Port of Portland to return through a Type II review to address specific issues related to community involvement, citizen complaints and noise-related issues.
- *LUR 93-00539 EN*: Approval, with conditions, of an environmental review for resource enhancement as mitigation for development in the Southwest Quadrant as previously approved by LUR 91-00158 EN.
- *LUR 94-00614 MS AD*: Adjustment request to waive the requirement that trees be provided at the interior of the existing Employee and Economy parking lot, and to comply with a community involvement and noise-related condition from LUR 93-00174 MS AD (condition F). Approval demonstrated compliance with Condition F of the Airport Master Plan, and allowed a reduction in the amount of required interior parking lot trees to a minimum of 132.
- *LUR 94-00980 EN IR ZC*: Environmental Review, Interim Resource Protection Review and Zoning Map Amendment required in order to develop an 1,800-space addition to the economy/long-range surface parking facility for Portland International Airport. Approval granted based on the Environmental, Planting, Site, Grading and Drainage Plans submitted by the applicant (several attached exhibits with decision).
- *LUR 95-00359 ZC*: Approval of a Zone Change-Map Error Correction to change a portion of the 'p' overlay zone to 'c' and to modify the 'c' zone.
- *LUR 96-00213 EN IR AD*: Environmental Review, Interim Resource Protection Review and Adjustment required to construct the Inverness Force Main pipeline. Approval granted per the applicant's statements, and in accordance with the approved exhibits in 1996.
- *LUR 97-00125 EN*: Approval to construct a Recreational Trail within the Environmental conservation zone.
- *LUR 97-00803 ZC*: Approval of a Zoning Map Error Correction to the Environmental zone designations within the Columbia South Shore Plan District, and extending over a large area generally following nearby sloughs and water bodies. Appeal of the approval was denied, and the original City approval, rendered September 5, 1997, was upheld.
- *LUR 99-00071 EN*: Environmental Review for the Airport Max light-rail extension from Gateway Station to the Portland International Airport. Approval was granted for the project with multiple conditions and other enhancement activities in 1999.
- *LUR 01-00135 AD*: Approval to increase the maximum allowed parking spaces from 50 to 224 for an air-cargo freight warehouse expansion.
- *LUR 00285 CU*: Conditional Use approval, with conditions, for a wireless telecommunications facility mounted on existing utility pole near boat ramp.
- *LU 02-123596 AD*: Approval of adjustments to landscaping and required pedestrian system for the development of a Water Bureau well on Port of Portland property south of Marine Drive and adjacent to the long[range parking at Portland International Airport.

- *LU 02-146338 AD*: Approval of an adjustment to allow fencing 7.5 feet in height within the front landscape setback for the development of a Water Bureau well on Port of Portland property south of Marine Drive and adjacent to the long-range parking at Portland International Airport.

Intergovernmental Agreement [IGA] for a future PDX Plan District: Although not a prior land use review, it is important to note that the City and the Port have entered into an agreement to develop a land use vehicle for the Airport, such as a plan district or an airport zone through a legislative process. The IGA anticipates that this legislative effort will be completed by 2008. This IGA also directs the Port and the City to complete a second IGA by the end of 2003 wherein terms for funding this planning process and a specific timeline will be defined. Thus, although 33.820.060 allows the duration of an approved Master Plan to extend to ten years or remain in effect until development allowed by the plan has been completed or the plan amended or superceded, the Port is requesting a duration for the proposed Master Plan to run for eight years in anticipation that a future Plan District or airport zone will be adopted and in effect prior to the expiration of this Master Plan.

Summary of prior land use actions: The Port has submitted a detailed report of the land use history for the site, as well as narrative describing compliance with previous conditions of approval. This information can be found on pages III-1 through III-8 of Exhibit A-1.

**Notification Procedures for this review**: The public notification efforts for this land use review have exceeded the requirements of Title 33, Portland Zoning Code. Agencies received the non-mandatory Request for Response Notice more than the customary 30 days prior to the Public Hearing. In addition, a digital announcement about the review and the information contained in the Request for Response was sent out by the Office of Neighborhood Involvement via their email list serve. A copy of the email that went out can be found at Exhibit G-3. A digital version of the 'Request for Response' and the 'Notice of a Public Hearing' were also posted on the Bureau of Development Services [BDS] web page so that interested members of the public could view the information at <http://www.bds.ci.portland.or.us/zlu/airport.htm>.

A dedicated email box at [AirportMasterPlan@ci.portland.or.us](mailto:AirportMasterPlan@ci.portland.or.us) was also established by BDS to provide another avenue by which the public could respond to the proposed Conditional Use Master Plan, and request to be placed on the notification mailing list. A full set of printed out emails received by February 20, 2003, 2:30 PM Pacific Standard Time can be found at Exhibit F-7.

The site was also properly posted on January 27, 2003 as required by Title 33, with 142 posting signs. A copy of the Posting Letter and Posting acknowledgment can be found at Exhibits D-2-4. A memo confirming that 142 signs is the correct number, not 148 as originally instructed in the posting letter [Exhibit D-2] is found at Exhibit G-6.

**Agency Review**: A "Request for Response" was mailed **January 10, 2003** to city agencies, city-recognized neighborhood organizations, appropriate state and federal agencies as well as interested

members of the public who requested receipt of mailed notices regarding this review. The following Bureaus have responded with no issues or concerns:

- Water Bureau responds that there is water available to the site from various water systems and water mains in multiple rights of way adjacent to the site. Future development will be reviewed during permitting to determine if any improvements or extensions to the existing system[s] will be required. The Water Bureau recommends no conditions of approval for the Conditional Use Master Plan review. A detailed response is found at Exhibit E-3.
- Fire Bureau responds that the conditional use master plan development must comply with policy B-1 regarding access and water availability. The Fire Bureau will review actual water and access issues at the time of building permit stage. A detailed response is found at Exhibit E-4, including a copy of Policy B-1.
- The Bureau of Environmental Services responded with the following comments: There are numerous public and private sanitary/storm facilities which can serve the needs of the proposed development. The Port of Portland has supplied BES with the information regarding existing facilities within the area covered under LUR 02-146814 CUMS CU AD. BES will address issues and concerns regarding sanitary disposal, storm disposal and current stormwater management manual requirements during the building permit process on a case by case basis. BES also notes that the proposed development is located on property near areas previously found to contain contaminants in the soils and/or ground water. In some cases site remediation and/or clean-up is required and needs to be completed before development can proceed. Additional comments pertain to future development and permitting requirements. BES has no requests to be included as conditions of approval. A detailed response is found at Exhibit E-1.
- The Bureau of Transportation Engineering responded with the following comments: The site has frontage on various public streets including NE Marine Drive, NE 33<sup>rd</sup> Drive, NE Sunderland Avenue, Interstate I-205, NE Alderwood Drive, NE 82<sup>nd</sup> Avenue, NE Cornfoot Road, NE Buffalo Street, NE 42<sup>nd</sup> Avenue, and NE Alderwood Road. All streets listed, with the exception of I-205, are City streets. Not all frontages meet current standards. Title 17.88.020 requires frontages be brought up to current standards with development or increase in occupancy. The applicant was provided the opportunity to develop a schedule for the completion of all frontage improvements within the life of the proposed master plan. At this time the proposed schedule does not include all improvements, therefore, Transportation will be determining frontage improvement requirements under Title 17 on the basis of each building permit. For the purposes of adequacy of services, all frontages can be improved through Title 17 building permit requirements.

Transportation recommends approval of this land use request subject to the conditions of approval as described below, in this decision. A detailed response is found at Exhibit E-2.

- The Plan Review Section of BDS responded with the following comments: Permits [where permits are required on the site, Exhibit G-7 contains additional information regarding permit areas] will be required for all building construction, repairs, alterations, additions or site improvements, any

demolition of existing structures, any changes of use not previously approved by the Bureau of Development Services which occur on private or Port property, and to show compliance with any conditions of approval as may be required by Planning and Zoning. Work within a dedicated right of way is not subject to building permit requirements but may require a Planning and Zoning permit if improvements are a requirement of approval of the master plan. A detailed response is found at Exhibit E-5.

- The Bureau of Parks-Forestry Division responded with the following comment: City code Title 20.40 requires street trees to be planted for new construction or improvements that exceed \$25,000 in value. Street trees may be required along all developed public street frontages. All existing trees on private property that are 12 inches in diameter and greater may not be removed unless specifically permitted through Title 33 (land use review) or through a written permit issued from the City Forester as detailed in Title 20/Chapter 20.42. A detailed response is found at Exhibit E-6.
- The Bureau of Planning has responded with the following comments: The Bureau of Planning has been actively involved in airport planning in cooperation with the Port, citizens, and other City bureaus. The response summarizes the activities to date, as well as outlines future planning efforts as stated in an intergovernmental agreement [IGA] between the City and the Port. The Bureau of Planning also requests that the Port follow discovery protocols for cultural resources protection as construction occurs at the airport. A detailed response is found at Exhibit E-7.
- The Site Development Section of BDS responded with the following comments: Portions of the site are located below the 100-year flood elevation. Development within those areas must comply with applicable provisions of Chapter 24.50, Flood Hazards. Projects will require geotechnical reports, and certain sized development will require a stormwater discharge permit from DEQ. Activities involving excavating, filling or grading 10 cubic yards of soils will require a Site Development Permit during building permit phase. A detailed response is found at Exhibit E-8.
- Oregon Department of Transportation responded with the following comments: We have reviewed the traffic impact study and development proposed for the 10-year Master Plan update. ODOT has several facilities that will be impacted by anticipated traffic generated by expanded airport operations, and therefore has an interest in ensuring that the proposed land use is compatible with its safe and efficient operation. To ensure compatibility with state standards and requirements, we request that the City incorporate the mitigation and recommended triggers for improvements as conditions of approval. A detailed response is found at Exhibit E-9.
- The Noise Control Officer of BDS responded with comments regarding the authority of the City to enforce local noise limitations at PDX. A detailed response is found at Exhibit E-10.

## **ZONING CODE APPROVAL CRITERIA**

### **33.820.010 Purpose**

A conditional use master plan is a plan for the future development of a use that is subject to the conditional use regulations. Expansions of the use may have impacts on surrounding

neighborhoods and on public services that are better addressed through the review of the master plan than through reviewing the expansions individually over time. In addition, by creating long term plans, some impacts may be prevented that would have occurred with uncoordinated piecemeal expansions. The development of a master plan is intended to provide the surrounding neighborhoods and the City with information about, and an opportunity to comment on, the use's plans for future development. The plan also enables the operator of the use and the City to address the effects of the future development. Finally, an approved master plan is intended to ensure that the use will be allowed to develop in a manner consistent with the plan. Master plans may be completed at various levels of detail. Generally, the more specific the plan, the less review that will be required as the future uses and development are built.

### **33.820.020 What Is Covered by a Master Plan**

- A. Present uses.** A conditional use master plan is for the entire use, including portions of the use on lands where the use is allowed by right, and all affiliates on or abutting the site. For the purpose of this chapter, an affiliate means any entity that is related to the use in such a way that either the use or the entity controls the other, or both are under control of a third party. Control means the power to decide and direct the use of land, structures, and other resources.
- B. Proposed and potential uses.** The conditional use master plan covers any specific uses or development proposals being requested, called the "proposed use" in this chapter, and possible future uses or development, called the "possible future uses."
- C. Boundaries.** The conditional use master plan may encompass lands not presently controlled by the use. The plan will not take effect for those lands until they are under control of the applicant.

### **33.820.030 When a Master Plan Is Required**

A conditional use master plan is required as part of a conditional use review in the situations listed below.

- A. Large conditional uses.** The conditional use contains over 500,000 square feet of floor area and either:
  - 1. The use proposes to expand the amount of floor area over 10 percent from the amount that existed at the last conditional use review, or if there was no review, then January 1, 1991 or
  - 2. The use expands its site area beyond the site area that existed on January 1, 1991. For this regulation, site area means all land used by the use and its affiliates including vacant land within the ownership.

- B. When required as part of a conditional use review.** The review body, as part of a conditional use review, may require a master plan in conjunction with any future expansions of the use if there has been a history of site area expansions and these are likely to continue. Also, the master plan may be required for future expansion of the use if there has been a history of floor area expansions for functions of the use which draw additional people to the site, and these are likely to continue.
- C. Voluntarily.** An applicant may also voluntarily submit a master plan as part of a conditional use review.

### **33.820.040 Procedure**

Conditional use master plans are processed through a Type III procedure as part of the conditional use review. The applicant is encouraged to work with surrounding property owners, residents, recognized organizations, and City bureaus during the formulation of the master plan.

### **33.820.050 Approval Criteria**

Requests for conditional use master plans will be approved if the review body finds that the applicant has shown that all of the following approval criteria are met:

- A.** The master plan contains the components required by 33.820.070;

**Findings:** The master plan includes discussion of all the components required by Section 33.820.070, Components of a Master Plan, as addressed later in this decision. In particular the proposed master plan includes a description of the boundaries of the use, a general statement describing the expansion plans and impacts, describes the uses and functions of the uses, includes a discussion of the application of the development standards, phasing of the proposed development, transportation and parking impacts, street vacations, adjustments, and other discretionary reviews and review procedures. This criterion is met.

- B.** The proposed uses and possible future uses in the master plan comply with the applicable conditional use approval criteria; and

**Findings:** Compliance with the applicable conditional use approval criteria is addressed in the findings below in this decision. Based on these findings, and with recommended conditions of approval, the proposed development projects in the new Master Plan are in compliance with all applicable conditional use approval criteria. This criterion is met.

- C.** The proposed uses and possible future uses will be able to comply with the applicable requirements of this Title, except where adjustments are being approved as part of the master plan.

**Findings:** The proposed uses and identified future uses are anticipated to meet all of the requirements of Title 33, including all development standards, with the exception of the applicable landscaping requirements. However, the applicant has requested a concurrent

adjustment to these development standards, which are discussed below in this decision. With approval of the adjustments, all of the proposed uses and possible future uses are expected to comply with all applicable regulations of Title 33. Therefore, this criterion is met.

### **33.820.060 Duration of the Master Plan**

The master plan must include proposed uses and possible future uses that might be proposed for at least 3 years and up to 10 years. An approved master plan remains in effect until development allowed by the plan has been completed or the plan is amended or superceded.

**Findings:** The applicant has proposed uses which may see construction start within 8 years. The applicant specifically requests “approval of an 8-year Conditional Use Master Plan (CUMP) for the Portland International Airport (PDX) District...”

Under 33.820.060 an applicant “must include proposed uses and possible uses that might be proposed for at least 3 years and up to 10 years.” The code does not say that the uses must be mathematically certain to occur within 10 years. It requires identification of proposed uses and possible uses up to 10 years. The applicant has proposed uses which might occur within 8 years. Since 8 years is within the 10-year limitation, the applicant has satisfied the requirements of 33.820.060.

The applicant requested an 8 year term for the CUMP. The applicant acknowledges that this CUMP, using a quasi-judicial process, is intended to act as a bridge between the existing CUMP (1993 Port CUMP) and an anticipated legislative plan district (expected to be enacted in 2008). The applicant, BDS and the City of Portland Bureau Planning staff agree that the 2008 target date is a target but not a contractually agreed or mandated date.

The existing IGA directs the Port to apply for, and receive approval of, a Conditional Use Master Plan under applicable regulations. The decision on this CUMP application was, therefore, anticipated as part of the existing/original Port/City of Portland airport IGA. The existing IGA further instructs the applicant Port of Portland to submit this application with certain limits and constraints; this CUMP application, for example, can not include a “decentralized terminal building” or a “3<sup>rd</sup> runway” as part of the proposed future development (See Recital 7, existing IGA attached to Exhibit E.7, agency response from the Bureau of Planning). The City and the Port also agreed in the existing IGA that the Port would ‘submit a conditional use permit for the approximate uses permitted under the 1993 permit, specifically excluding a 3<sup>rd</sup> runway and decentralized terminal.’ It is noted that some testimony was received in opposition suggesting that this CUMP application should be denied because the “decentralized terminal” and “3<sup>rd</sup> runway” were not included as ‘possible future uses.’

The City Council disagrees that these projects must be within the scope of the Master Plan. The existing IGA prohibited the Port from including a new third runway and decentralized terminal as part of this CUMP application. The Port has indicated it does not seek approval, directly or indirectly, of either project as part of this application. Nothing in the code

requires the Port to include either or both projects in this CUMP application. Finally, by condition of approval the Council expressly stated that a third runway is not a part of this approval.

The existing IGA includes agreements that outline the 'roles and responsibilities with respect to future planning activities for PDX,' and that both the City and the Port will work diligently on 'future land use approvals for PDX, after the 2003 permit...and follow the general timeline in Exhibit 2 of the IGA, Target Timelines for PDX Land Use Approvals.' Exhibit 2, Target Timelines provides estimates, as clearly footnoted, "...which appear to be reasonable at the time this IGA was approved. Due to the many variables inherent in these studies and programs, the dates may vary considerably from these estimates. The Port and the City agree to make a good faith effort to initiate these studies and programs approximately as indicated on this exhibit." (See IGA attached to Exhibit E.7)

The Exhibit 2 Target Timeline shows an estimated start date, for example, for this conditional use application of Spring 2002, and such application is identified as the Port's responsibility; the conditional use decision is estimated, in the Target Timeline, to occur in Winter 2002, with this portion of the process identified as the City's responsibility. The Target Timeline further identifies a second future IGA that will develop the Legislative process to eventually enact the airport plan district (or other legislative zoning process), as beginning in August of 2002 and concluding in December of 2003. The Target Timeline further estimates that the next PDX Master Plan update and the final adoption of new land use regulations (i.e. the airport plan district) will occur in June, 2008.

Although the Target Timeline indicates a new Plan District or similar legislative enactment will be in place in the summer of 2008, the requested 8-year term by the applicant for the current proposed CUMP appears to be reasonable as it is supported by sufficient projections and allows for modest but not considerable variations in the Target Timeline schedule. However, regardless of the term of the CUMP approval, the CUMP will remain in effect until it is superseded by the future Plan District or other zoning vehicle adopted through a future legislative process, unless the term expires before the future zoning regulations.

Some opponents to this application are requesting a maximum three year plan approval. Others have suggested a 5 year term and even others a 3 year term with an additional 3 year renewal "as corrected deficiencies dictate." (See Exhibit H.58) The appellants summarized many of the opponents arguments related to why the City Council should not grant the requested 8 year term for the CUMP. (See Exhibit H.58)

The City Council finds that the opponents request for a term shorter than the requested 8 years is intended, at least in part, to put political pressure upon the City and Port to get the legislative process moving and then completed in a timely manner. It is clear that the opponents believe that the legislative process will allow them an opportunity for more meaningful political input into the final product. The City Council will not approve a 3 year

term or 5 year term simply to put the City of Portland's and Port of Portland's "feet to the fire."

BDS staff also commented that given that this CUMP process is already behind schedule as estimated in the Target Timeline the granting of a 3 year term for the CUMP would create a high likelihood that the term will expire before the new PDX Plan District or other legislative zoning vehicle, is implemented. Because the exact timeline of implantation of the future PDX Plan District or other legislative zoning vehicle is currently unknown, and given that a legislative process may extend beyond base line time schedules, it is prudent to recommend a condition of approval that the term of this CUMP remains in effect for 8 years, or until development allowed by the plan has been completed, or until the CUMP is superceded by a future legislative process that is adopted by the City, whichever occurs first.

With such a length of term, both the applicant and the City will have some certainty that this review is not rendered futile by an overly brief term, and that a re-review of the proposal is not required prematurely. In addition, an 8-year term provides the public with some surety that what is approved under this proposal and is actually developed during the term meets all applicable current conditions.

Finally, there is absolute certainty that once this CUMP is superceded by a future zoning vehicle this CUMP will no longer remain in effect. Thus, if the future PDX Plan District is adopted within five years, as targeted, the remaining three years of the eight-year approval term become moot. However, if the term of the proposed CUMP expires prematurely, constrained financial and staffing resources of both the Port and the City would be diverted from the future legislative project in order to re-review and extend the term of the CUMP approval and potentially creating unnecessary delays to the future legislative process.

The City Council notes that a condition of approval limits the term of the Master Plan to 8 years, or until development allowed by the Plan has been completed, or until the Conditional Use Master Plan is superseded by a future legislative process that is adopted by the City Council, whichever occurs first. This condition, as phrased, limits the term of the Conditional Use Master Plan in such a way as to allow adequate time for the adoption of the PDX Plan District and, at the same time, not unduly stretch out the timeframe for the effectiveness of the CUMP. The City Council finds that limiting the timeframe for the application to eight years in this circumstance adequately addresses the issues of concern raised by opponents. This condition, in conjunction with other conditions of approval discussed in this decision, operate to provide adequate protection to the neighborhood and the opponents.

This criterion is met.

### **33.820.070 Components of a Master Plan**

The applicant must submit a master plan with all of the following components. The review body may modify the proposal, especially those portions dealing with development standards and review

procedures. The greater the level of detail in the plan, the less need for extensive reviews of subsequent phases. Conversely, the more general the details, the greater the level of review that will be required for subsequent phases.

- A. Boundaries of the use.** The master plan must show the current boundaries and possible future boundaries of the use for the duration of the master plan.

**Findings:** The applicant has identified the Master Plan Boundary as that previously approved; no expansion or contraction of the boundary is proposed. A graphical depiction of the Master Plan Boundary is found in Figure 1, page 2 of the Executive Summary Section of the Application Narrative [Exhibit A-1], and is shown in greater detail in Figure 11-7 of the application. The entire area within the Master Plan Boundary is owned by, and under the control of, the Port of Portland. This criterion is met.

- B. General statement.** The master plan must include a narrative that addresses the following items:

1. A description in general terms of the use's expansion plans for the duration of the master plan;
2. An explanation of how the proposed uses and possible future uses comply with the conditional use approval criteria; and
3. An explanation of how the use will limit impacts on any adjacent residentially zoned areas. The impacts of the removal of housing units must also be addressed.

**Findings:** The Port has submitted as part of their application, a binder (Exhibit A-1) with multiple documents describing the proposed new Conditional Use Master Plan, which is intended to supercede and replace the existing Conditional Use Master Plan that was approved in 1993. In addition to the information contained in the initial application submittal, the Port has provided two sets of additional information, Exhibits A-2 and A-3. The additional information is provided to clarify and augment the original Conditional Use Master Plan proposal. Other additional information submitted, Exhibits A-4 and A-5 address transportation issues and provide additional information regarding transportation mitigation data and Transportation Demand Management programs.

Exhibit A-1 addresses the proposed and projected expansion of the Airport's uses and development anticipated to occur during the next eight years. A summary of the proposal can be found in the section labeled *Summary of Proposal* (pp. S-1 through S-2 of Exhibit A-1) which describes the overall proposed Conditional Use Master Plan in general terms. A more detailed description of the current conditions and the proposed development plan can be found in Section II, *Current Conditions* and Section V, *Proposed Development Plan*, respectively. Exhibit A-1 also addresses all applicable approval criteria of the Portland Zoning Code in Section VII, *Legal Justification*. A discussion of how the proposal meets the

Transportation Element of the Comprehensive Plan is found in Section VII. A discussion of the impacts of the use and the methodologies by which those impacts will be limited are discussed on page VII-3 of Exhibit A-1. No removal of housing units is proposed as part of this Conditional Use Master Plan application. This criterion is met.

- C. Uses and functions.** The master plan must include a description of present uses, affiliated uses, proposed uses, and possible future uses. The description must include information as to the general amount and type of functions of the use such as office, classroom, recreation area, housing, etc. The likely hours of operation, and such things as the approximate number of members, employees, visitors, special events must be included. Other uses within the master plan boundary but not part of the conditional use must be shown.

**Findings:** The Conditional Use Master Plan proposal includes a description of present uses, in Section II, *Current Conditions*, and proposed and possible future uses in Section V *Proposed Development Plan*. Descriptions of both present and proposed uses include information on the existing and potential future development in terms of floor area, buildings, and specific uses. The *Current Conditions* narrative includes a detailed inventory of existing buildings, structures, and uses in each of the ten Activity Sectors found within the Master Plan Boundary. The *Proposed Development Plan* narrative describes potential development and uses in each of the Activity Sectors that are slated for additional projects and development. The Portland International Airport itself is a 24 hour, 7 days a week operation. Associated uses and support activities found on the site and within the approved Master Plan Boundary may also operate 24/7, depending on the specific function and use.

The submitted information also discusses the anticipated growth projections associated with the proposed development projects, including forecasting of enplaned passengers, cargo and aircraft operations through 2020. The narrative notes that these growth forecasts were developed using an FAA-approved methodology. A discussion of this can be found in Section V, *Proposed Development Plan*, starting on page V-1. For purposes of this application, the Port has based the growth projections and forecasts on a conservative 'Low Forecast' due to a number of factors, including the current economic recession, the loss of some air carrier flights and services from PDX, and the effects of the September 11<sup>th</sup> attacks on both air travel and the aviation industry in general. The FAA has approved the Port's election to use the more conservative 'Low Forecast' model.

Appropriate transportation and traffic related information has also been submitted, as well as other uses [Airfield] that are within the Master Plan Boundary, but is not part of the conditional use review, is described.

In addition, the application discusses a conceptual framework for implementation and administration of the proposed projects approved within the Conditional Use Master Plan, including notification by the Port to interested stakeholders during building permitting phases [such notification is not required by Title 33, Portland Zoning Code] as well as a proposed framework of documentation to be submitted with building permit reviews to

facilitate City staff in their plan check functions, and a proposal for future amendments to the Conditional Use Master Plan if and when necessary. The applicant submitted a traffic impact analysis prepared by a licensed traffic engineer. This analysis looked at intersections potentially impacted by the proposed master plan based on trip estimates and trip distributions of visitors and employees to the facility. As the proposed Conditional Use Master Plan application contains sufficient information describing existing and proposed uses and functions, and possible future uses, this criterion is met.

Some opponents have argued that the scope of the uses allowed by the CUMP is too broad, and that some of the projects should not be allowed in the CUMP. However, the City Council finds that the code allows an applicant to include whatever projects it may determine are existing, affiliated, proposed and possible uses within the scope of the CUMP. Nevertheless, the City Council believes that in order to adequately assure compatibility with the neighborhood, the development of one project should be limited by condition in the CUMP. That project is the construction of structures comprising Project 29 (Southwest Quadrant). In response to testimony concerning cargo plane noise, the Council finds it is appropriate to impose a condition that will allow construction of structures comprising Project 29 to begin only after the Port submits to the City the FAA-approved Part 150 – Noise Compatibility Study Update. Further, the City Council expressly approves this application with the understanding that the CUMP does not address airfield improvements and shall not be construed as City Council approval of, or any predisposition by City Council to approve, a future third runway at Portland International Airport. Finally, a condition of approval will require that the Port follow the public involvement process proposed in the CUMP application before initiating those major projects which are referenced for the public involvement process proposed in the application.

**D. Site plan.** The master plan must include a site plan, showing to the appropriate level of detail, buildings and other structures, the pedestrian, bicycle, and vehicle circulation system, vehicle and bicycle parking areas, open areas, and other required items. This information must cover the following:

1. All existing improvements that will remain after development of the proposed use;
2. All improvements planned in conjunction with the proposed use; and
3. Conceptual plans for possible future uses.

**Findings:** An overall site plan, depicting existing development and identifying the Master Plan Boundary can be found at Figure II-7 in Section II, Current Conditions. Figure II-8 depicts the Activity Sectors within the Master Plan boundary and the existing land uses on the site. More detailed maps of specific Activity Sectors slated for additional new development can be found at Figure II-10 through Figure II-12. Additional site maps depict the street system within and abutting the Master Plan site [Figure II-13]. This figure also depicts a future road extension in nearby Cascade Station/Portland International Center and

the locations of the intersections studied for this Conditional Use Master Plan review. Tables II- 5 and II-6 describe the classifications of appropriate streets and the parking areas and capacities within the Master Plan Boundary. Additional Tables [Table II-7] and site maps [Figure II-14A and Figure II-14 B] in this section of the applicant’s narrative depict planned, under construction, and completed pedestrian and bicycle facilities. Additionally, the Port has proposed additional revisions to the proposed bicycle and pedestrian facilities in Exhibit A-3. This criterion is met.

4. Pedestrian, bicycle, and transit facilities including pedestrian and bicycle circulation between:
  - a. Major buildings, activity areas, and transit stops within the master plan boundaries and adjacent streets and adjacent transit stops; and
  - b. Adjacent developments and the proposed development.

**Findings:** Specific discussion of such facilities are addressed in Figures II-14, A and B of the Master Plan Amendment document, Exhibit A-1. Additional information and supplemental amendments to proposed bicycle and pedestrian plans are contained in Exhibit A-3, with narrative describing the anticipated timing of these improvements in conjunction with the proposed development projects as described in Table V-3, revised. This criterion is met.

- E. Development standards.** The master plan may propose standards that will control development of the possible future uses that are in addition to or substitute for the base zone requirements and the requirements of Chapters 32.32 and 32.34 of the Sign Code. These may be such things as height limits, setbacks, FAR limits, landscaping requirements, parking requirements, sign programs, view corridors, or facade treatments. Standards more liberal than those of the code require adjustments.

**Findings:** A *Wildlife Hazard Management Plan* was developed in 1998 (See Exhibit H.70) The Port is in the process of updating the *Wildlife Hazard Management Plan* that is part of the annual *Part 139* certification. In addition, the Port prepared “*A Biological Assessment of Portland International Airport with Recommendations to Alleviate Wildlife Hazards to Aircraft Operations.*” (See Exhibit H.70) The 1998 *Wildlife Hazard Management Plan* has been formally incorporated into the PDX Airport Certification Manual. FAA protocol, found in 14 CFR Part 139 requires an annual recertification of PDX including the Airport Certification Manual. A current plan is in place and operational until the revised version is authorized and incorporated into the Airport Certification Manual. The Port testified that the *Wildlife Hazard Management Plan* is currently under revision in response to the increased number of bird strikes. Bird strikes are a significant safety hazard at the airport. (See Exhibits H.34 and H.70)

The final draft of the revised *Wildlife Hazard Management Plan* will be submitted to the FAA for review and acceptance by early summer. Part of the *Wildlife Hazard Management Plan* will include a site-wide vegetation management program designed to help reduce conflicts between wildlife and flight operations. The proposed landscaping/vegetation management plan requires adjustments to applicable landscaping standards of Title 33 for the site. As previously discussed in the Analysis section of this decision, the FAA is the review body for the FAA *Part 139* certification; however, the proposed landscaping management program and proposed alternative standards are subject to Title 33 regulations and therefore require an Adjustment review. These adjustments are discussed below, in this decision. With approval of the requested adjustments, as recommended in this decision, this criterion is met.

- F. Phasing of development.** The master plan must include the proposed development phases, probable sequence for proposed developments, estimated dates, and interim uses of property awaiting development. In addition the plan should address any proposed temporary uses or locations of uses during construction periods.

**Findings:** The applicant has identified ‘demand triggers’ for each of the proposed projects in Table V-3, *Summary of Proposed Development Projects* in the Master Plan narrative, Exhibit A-1. The proposed development projects are not planned in discrete phases, but are estimated by date and forecasted demand triggers as shown in Table V-3. Some of the projects will be developed in clusters, as certain projects are dependent on one another, such as the precursor projects for the proposed Terminal Expansion East, for example. The Council finds the Port has adequately identified the probable sequence, estimated dates (including demand triggers) and interim, ongoing uses of the property, as required by this criterion.

The criteria considered in identifying demand triggers, such as growth forecasts and economic conditions, are discussed in detail on pages V-1 through V-5. In addition, the Master Plan narrative discusses the phasing and length of time from initiation to design, construction and completion of each project is discussed on page VII-5 of Exhibit A-1. This criterion is met.

- G. Transportation and parking.** The master plan must include information on the following items for each phase.

1. Projected transportation impacts. These include the expected number of trips (peak and daily), an analysis of the impact of those trips on the adjacent street system, and proposed mitigation measures to limit any projected negative impacts. Mitigation measures may include improvements to the street system or specific programs to reduce traffic impacts such as encouraging the use of public transit, carpools, vanpools, and other alternatives to single occupancy vehicles.

2. Projected parking impacts. These include projected peak parking demand, an analysis of this demand compared to proposed on-site and off-site supply, potential impacts to the on-street parking system and adjacent land uses, and mitigation measures.

**Findings:** The Port has included a detailed Transportation Impact Study [TIS] prepared by DKS & Associates in the application, that can be found in the Appendices section of the Master Plan narrative, Exhibit A-1. This study analyzes traffic impacts in 2013, per Portland Transportation's request [PDOT], assuming a scenario of full build-out of all facilities, with projected increases in background traffic based on Metro's transportation modeling. This full build-out scenario is not likely to become a reality as the Port anticipates that it is unlikely that full build-out of all proposed development will actually be completed during the term of this Conditional Use Master Plan. The TIS submitted includes an analysis of existing conditions, future needs, a parking analysis, alternative modes analysis, a discussion of compliance with applicable policies, traffic count data, level of service analysis for existing and future conditions, a discussion of accident incidence, signal warrants and an evaluation of mitigation measures at identified intersections.

Portland Transportation has reviewed the submitted transportation analysis and has responded in detail in Exhibit E-2. A full discussion of Transportation's response can be found below, in this decision, under the Transportation Element of the Comprehensive Plan. This criterion is met.

- H. Street vacations.** The master plan must show any street vacations being requested in conjunction with the proposed use and any possible street vacations which might be requested in conjunction with future development. (Street vacations are under the jurisdiction of the City Engineer. Approval of the master plan does not prejudice City action on the actual street vacation request.)

**Findings:** The Port does not propose to vacate any public rights of way within the Master Plan Boundary. This criterion is met.

- I. Adjustments.** The master plan must specifically list any adjustments being requested in conjunction with the proposed use or overall development standards and explain how each adjustment complies with the adjustment approval criteria.

**Findings:** As mentioned previously in this decision, the applicant is requesting five adjustments in order to implement a proposed airport specific landscaping management plan. These adjustments are discussed below in this decision. The applicant's narrative and description of the proposed landscaping management plan can be found in Exhibit A-3. This criterion is met.

- J. Other discretionary reviews.** When design review or other required reviews are also being requested, the master plan must specifically state which phases or proposals the reviews

apply to. The required reviews for all phases may be done as part of the initial master plan review, or may be done separately at the time of each new phase of development. The plan must explain and provide enough detail on how the proposals comply with the approval criteria for the review.

**Findings:** The Port also requests a concurrent conditional use review, as noted previously in this decision, to add up to 25,000 square feet of retail sales and service and/or office development in the IG2 zone. A full discussion of this concurrent review is found below, in this decision. The applicant's narrative discussing this concurrent conditional use request can be found on pages VII-16 through VII-17 of Exhibit A-1. In addition, the applicant notes that a future Environmental discretionary review will be submitted for review and approval prior to undertaking any development or actions that requires such a review. This criterion is met.

- K. Review procedures.** The master plan must state the procedures for review of possible future uses if the plan does not contain adequate details for those uses to be allowed without a conditional use review.

**Findings:** The Conditional Use Master Plan for the airport is based on projected needs for the next eight years. The Port describes the proposed development in adequate detail, including demand triggers, timing, type of use, maximum floor area at full build out, location within the approved Master Plan Boundary and within specific and identified Activity sectors, and impacts of the development, including transportation, parking and natural resources.

There is no requirement nor any need for future design reviews for the proposed development as there is no d overlay zone within the approved Master Plan Boundary. The development projects proposed in this Conditional Use Master Plan are not anticipated to require a future review unless future adjustments are required on a project by project basis. The projects proposed can be developed, as approved, as long as all applicable conditions of approval are met, all appropriate building and development permits are issued and all applicable zoning code requirements are met. This criterion is met.

### **33.815.010 Purpose**

Certain uses are conditional uses instead of being allowed outright, although they may have beneficial effects and serve important public interests. They are subject to the conditional use regulations because they may, but do not necessarily, have significant adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose mitigation measures to address identified concerns, or to deny the use if the concerns cannot be resolved.

**33.815.200 Aviation And Surface Passenger Terminals**

These approval criteria allow Aviation and Surface Passenger Terminals at locations where their impacts on surrounding land uses, especially residential, are limited. The approval criteria are:

**A. Airports.**

1. Master plan. A conditional use master plan is required. Facilities that are not related to the airport within the airport boundaries must be included in the master plan. See Chapter 33.820, Conditional Use Master Plans;

**Findings:** The Port has submitted a conditional use master plan, and as previously discussed above, in this decision, has met all of the applicable criteria for a Master Plan. Existing facilities and proposed future development projects are included in the application. This criterion is met.

2. Public services.

- a. The proposed use is in conformance with either the Arterial Streets Classification Policy or the Downtown Parking and Circulation Policy, depending upon location;

**Findings:** The existing airport and proposed uses are in a location that is served with direct links from I-205, NE Airport Way, NE 82<sup>nd</sup> Avenue. The surrounding streets providing service to land within the approved Master Plan Boundary are classified as follows:

Street Classifications

	Traffic	Transit	Pedestrian	Bicycle	Truck
NE Alderwood Dr	Local Service Street	Local Service Street	Local Service Street	Local Service Street	Local Service Street
NE Alderwood Rd	Neighborhood Collector Street	Local Service Street	Off-Street Path	City Bikeway	Truck District
NE Buffalo St	Local Service Street	Local Service Street	Local Service Street	Local Service Street	Local Service Street
NE Cornfoot Rd	Neighborhood Collector Street	Local Service Street	Off-Street Path	City Bikeway	Truck District
NE Marine Dr	Neighborhood Collector Street	Local Service Street	Off-Street Path	City Bikeway	Truck District
NE Sunderland	Local Service Street	Minor Transit	Local Service	Local Service	Truck District

Ave		Street	Street	Street	
NE 33 <sup>rd</sup> Dr	Neighborhood Collector Street	Minor Transit Street	City Walkway	City Bikeway	Truck District
NE 42 <sup>nd</sup> Ave	Local Service Street	Local Service Street	Local Service Street	Local Service Street	Local Service Street
NE 82 <sup>nd</sup> Ave	Major City Traffic Street	Major City Transit Street	Local Service Street	City Bikeway	Truck District
I-205	Regional Trafficway	Regional Transitway	Off-street Path	Off-Street Path	Regional Truck Route

Transit Service is available on NE 33<sup>rd</sup> Drive, NE Sunderland Avenue, and from the Airport MAX.

The proposed conditional Use Master Plan is in conformance with the Arterial Streets Classification Policy. This criterion is met.

- b. The transportation system is capable of safely supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity and level of service, access to arterials, transit availability, on-street parking impacts, access requirements, neighborhood impacts, and pedestrian safety; and

**Findings:** The applicant submitted a traffic impact analysis prepared by a licensed traffic engineer. The TIS looked at intersections potentially impacted by the proposed master plan by developing trip estimates and trip distributions, combined with system growth. The City uses the following for measuring street capacity at intersections:

-LOS D for signalized intersections (excepting signalized intersections where LOS is worse than LOS D today, then the lesser LOS is acceptable as long as no additional vehicles are added to the intersection)

-LOS E for individual movements at unsignalized intersections (excepting movements where LOS is worse than LOS E today, then the lesser LOS is adequate as long as no additional vehicles are added to the movement)

Intersections on State facilities must meet State requirements for service adequacy.

The applicant's study identified intersections where LOS does not appear to meet adequate standards (as described above) in the year 2013. Subsequent review and analysis has shown that all of these intersections will actually operate at an adequate LOS in 2013, can be mitigated to reach the adequate level of service, or have policy reasons for not mitigating. The Council finds the applicant's study, and the review of that study by the City's Office of Transportation, to be thorough, professional and

credible. In the absence of any persuasive evidence to the contrary, the Council relies on the applicant's study, and the Office of Transportation's evaluation of it, as the basis for finding this criterion is satisfied.

Each intersection listed in the original TIA (p 4-5) as not being acceptable is addressed below:

Airport Way/I-205 southbound ramps (ODOT jurisdiction)- Adequate with mitigation.

ODOT has evaluated this intersection and determined that it will work at an acceptable capacity with the addition of a second southbound left turn lane.

Airport Way/I-205 northbound ramps (ODOT jurisdiction)- Adequate with mitigation.

ODOT has evaluated this intersection and determined that it will work at an acceptable capacity with reconstruction and restriping to modify lane assignments to provide two receiving lanes.

Airport Way/Holman Road - Adequate with mitigation.

Modification of the signal cycle length from 120 seconds to a greater length is proposed for mitigation. This mitigation can be done by the City when needed, without conditioning the applicant.

Airport Way/122<sup>nd</sup> Avenue – Adequate with mitigation.

The addition of a 2<sup>nd</sup> northbound left turn lane is proposed for mitigation. Signal modifications and island reconstruction would also be needed. In order to implement these changes, additional off-site right-of-way will be needed. The applicant would be responsible for right-of-way acquisition.

82<sup>nd</sup> Avenue/Alderwood Road – Adequate with mitigation.

The applicant has demonstrated that this intersection will operate at an acceptable level of service by modifying the westbound leg to include two left turn lanes and one through/right lane for westbound traffic (lane reassignment only) and restriping to change the left turn storage and transition. For the eastbound leg an additional left-turn lane is needed. In order to implement these changes, additional off-site right-of-way will be needed. The applicant would be responsible for right-of-way acquisition.

47<sup>th</sup>/Columbia Boulevard – Adequate with mitigation.

This intersection can operate at an acceptable level of service with the addition of right-turn pockets for southbound and for northbound traffic (note that the applicant's narrative information misapplied the pocket lengths – the northbound pocket should provide 150 feet of storage and the northbound pocket should provide 500 feet of storage). Signal modifications will also be needed. In order to implement

these changes, additional off-site right-of-way will be needed. The applicant would be responsible for right-of-way acquisition.

Killingsworth/Columbia Boulevard – Adequate with improvements carried out through the funded State East end connector project (scheduled for completion before 2008).

Killingsworth/I-205 southbound (ODOT jurisdiction) – Adequate.  
ODOT has indicated that this intersection operates acceptably under ODOT criteria.

Killingsworth/I-205 northbound (ODOT jurisdiction) – Adequate.  
ODOT has indicated that this intersection operates acceptably under ODOT criteria.

33<sup>rd</sup>/Marine Drive – Adequate in current configuration.

Marine Drive is classified as a neighborhood collector and has no direct connections to the Airport. There have been longstanding issues with the use of Marine Drive because most of the traffic on that street is through or regional and should be on Columbia Boulevard, however, existing connections to Marine Drive from the regional transportation network and the lack of good connections to Columbia cause traffic to use Marine Drive. For improvement purposes it is assumed that improvements to Marine drive must be limited to options which will not encourage additional use of Marine Drive. Because signalization would favor heavier traffic movements, it is not an acceptable option due to policy conflict. Transportation notes that mitigation can be done but will not be implemented for policy reasons.

122<sup>nd</sup>/Marine Drive – Adequate in current configuration.

Marine Drive is classified as a neighborhood collector and has no direct connections to the Airport. There have been longstanding issues with the use of Marine Drive because most of the traffic on that street is through or regional and should be on Columbia Boulevard, however, existing connections to Marine Drive from the regional transportation network and the lack of good connections to Columbia cause traffic to use Marine Drive. For improvement purposes it is assume that improvements to Marine Drive must be limited to options which will not encourage additional use of Marine Drive. Because signalization would favor heavier traffic movements and draw traffic from Airport way, it is not an acceptable option due to policy conflict. Transportation notes that mitigation could be done but would not be implemented for policy reasons.

Airport Way/Frontage Access Road (private) – Not subject to capacity analysis.  
This location is the intersection of private driveways and is not subject to TIA capacity analysis.

Cornfoot/Airtrans Way (private) – Not subject to capacity analysis.

This location is the intersection of a driveway with a public street. The leg of the intersection with a poor level of service is the driveway, which is not subject to LOS requirements (the public street operates acceptably).

Alderwood/Columbia Boulevard – Adequate.

This intersection experiences a poor level of service for southbound left turns, which experience significant delay. In this scenario, potential additional traffic diverts to other, better functioning intersections. The applicant has demonstrated that no additional traffic will be added to the southbound left turn movement.

Columbia/82<sup>nd</sup> Avenue southbound – Adequate with mitigation.

The applicant has proposed the addition of a southbound right turn lane, one additional through lane in each direction on Columbia, and signalization. With these changes the intersection will operate at an acceptable level of service.

Columbia/82<sup>nd</sup> Avenue northbound – Adequate.

This intersection experiences problems due to the lack of gaps for traffic attempting to turn left (northbound) from Columbia Boulevard to 82<sup>nd</sup> Avenue. Due to the delays experience by traffic currently attempting to make this move it is anticipated that any future demand will divert to more acceptable locations, adding no additional traffic to this movement.

Columbia/92<sup>nd</sup> Avenue - Adequate with improvements carried out through the State funded East end connector project (scheduled for completion before 2008).

Alderwood/Cornfoot Road – Adequate with mitigation.

The applicant has determined that addition of a right-turn pocket would cause this intersection to operate at an acceptable level of service. In order to implement this change, additional off-site right-of-way will be needed. The applicant would be responsible for right-of-way acquisition.

Summary of intersections needing improvements:

1. Airport Way/I-205 southbound – condition for improvements.
2. Airport Way/I-205 northbound – condition for improvements.
3. Airport Way/Holman Road – City has the ability to modify signal cycle without Port participation.
4. Airport Way/122<sup>nd</sup> Avenue – condition for improvements
5. Alderwood/82<sup>nd</sup> Avenue – condition for improvements
6. 47<sup>th</sup> Avenue/Columbia – condition for improvements
7. Columbia/82<sup>nd</sup> southbound – condition for improvements
8. Alderwood/Cornfoot – condition for improvements

Improvements needed to meet capacity criteria should be constructed as needed to address the anticipated traffic impacts. The applicant has proposed a methodology

for identifying when improvements should occur, using building permits for certain buildings listed in Table V-3 of the application. Transportation concurs with this approach. The following table lists trigger projects for proposed mitigations:

<b>Mitigation Project</b>	<b>Primary Activity Sector</b>	<b>Proposed Development Trigger Project # <sup>(1),(2)</sup></b>
Airport Way/I-205 SB	Passenger Terminal Complex (incl. North Airport Way/South Cargo)	5, 6, 17
Airport Way/I-205 NB	Passenger Terminal Complex (incl. North Airport Way/South Cargo)	2, 3, 5, 6, 7, 16, 17, 18, <sup>(3)</sup>
Airport Way/122 <sup>nd</sup> Ave	Passenger Terminal Complex (incl. North Airport Way/South Cargo)	7
Alderwood/82 <sup>nd</sup> Ave	Passenger Terminal Complex (incl. North Airport Way/South Cargo)	5, 6
47 <sup>th</sup> /Columbia Blvd	SW Quadrant	30
Columbia/82 <sup>nd</sup> Ave SB	SW Quadrant	29
Alderwood/Cornfoot Rd	AirTrans Center	13
<sup>(1)</sup> Project # from Table V-3, 10/02 Conditional Use Master application.		
<sup>(2)</sup> Mitigation must be guaranteed prior to issuance any project building permit as listed in this table. Mitigation must be completed prior to occupancy of any of the resulting projects as listed in this table.		
<sup>(3)</sup> Airport Way/I-205 NB must be completed prior to completion of Airport Way/I-205 SB.		

Transportation recommends approval of this land use request subject to the following conditions:

1. The applicant must continue all transportation demand management measures as listed in the PDX Employee TDM Study and as described under policy 6.13 on page VII-20&21 of the Conditional Use Master Plan application.
2. The site shall be subject to base zone requirements for on-site pedestrian facilities. The applicant shall construct the following projects, per the requirements of the City Engineer or the Oregon Department of Transportation prior to occupancy of the associated projects as listed:

<b>Mitigation Project</b>	<b>Proposed Development Trigger Project # <sup>(1),(2)</sup></b>
Airport Way/I-205 SB	5, 6, 17
Airport Way/I-205 NB	2, 3, 5, 6, 7, 16, 17, 18, 19, 20 <sup>(3)</sup>
Airport Way/122 <sup>nd</sup> Ave	7
Alderwood/82 <sup>nd</sup> Ave	5, 6
47 <sup>th</sup> /Columbia Blvd	30
Columbia/82 <sup>nd</sup> Ave SB	29
Alderwood/Cornfoot Rd	13
<sup>(1)</sup> Project # from Table V-3, 10/02 Conditional Use Master application.	

<sup>(2)</sup> Mitigation must be guaranteed prior to issuance any project building permit as listed in this table. Mitigation must be completed prior to occupancy of any of the resulting projects as listed in this table.

<sup>(3)</sup> Airport Way/I-205 NB must be completed prior to completion of Airport Way/I-205 SB.

With these conditions of approval, as recommended by Transportation, this criterion is met.

- c. Public services for water supply, police and fire protection are capable of serving the proposed use, and proposed sanitary waste disposal and stormwater disposal systems are acceptable to the Bureau of Environmental Services.

**Findings:** The Water Bureau has responded that water service is available to the site from a variety of facilities. This water service is capable of supporting the proposed uses identified in the CUMP and any additional water demands that might occur with future development will be reviewed in detail at time of building permit. City police protection and fire protection are augmented by Port Police and Port Fire protection services on site, all of which are capable of supporting the uses proposed in the CUMP. The Bureau of Environmental Services has responded that there are numerous public and private sanitary/storm facilities that can serve the needs of the proposed development. This criterion is met.

3. Noise abatement plan and noise impact overlay zone. An airport noise abatement plan and noise impact overlay zone have been developed in order to reduce the impact of aircraft noise on development within the noise impact area surrounding the airport;

**Findings:** This section of the code has been the subject of much testimony and significant dispute. The Port, BDS staff and the Hearings Officer adopted a position that this approval criterion should be read literally such that if there is a “noise abatement plan” and there is a “noise impact overlay zone” in existence then the approval criteria is satisfied. On the other hand, one view expressed by the opponents to the proposed plan suggests that “the noise abatement plan” should be a “plan” directly flowing from the improvements/projects listed in the Ports present application (37 projects). Or, restated, the opponents appear to be suggesting that the “1996 Noise Abatement Plan” cannot be used to support the present application.

The City Council finds that the Port has a Federal Aviation Administration [FAA] approved a Noise Abatement Plan which was developed under the requirements of the ‘Part 150’ process of the FAA, and updated in 1996. (See “Portland International Airport Noise Abatement Plan Summary Report” in the Port’s application - Exhibit A.1) Accordingly, the City Council finds that there is an existing and valid noise abatement plan that has been developed to reduce the impact of aircraft noise on development within the noise impact area surrounding the airport.

The Code itself provides for literal readings of the Code language whenever applying the Code. PCC 33.700.070. Further, the regulations are no more or less strict than as stated. PCC 33.700.070A. Therefore, the City Council adopts the literal reading of the “noise abatement plan” language.

In support of this finding the City Council notes that in Chapter 1, Introduction and Background section of the noise abatement plan it states “This document presents a summary of the updated *Noise Abatement Plan* for Portland International Airport, including noise exposure maps and the noise compatibility plan.” Later in Chapter 1, under Federal Aviation Regulations Part 150 of the noise abatement plan, it says that the plan is divided into two parts with part 2 being “the development of a noise compatibility program to reduce, to the extent possible, the incompatibilities identified by the noise exposure maps.” It is clear to the City Council that the *Noise Abatement Plan* referenced above addressed the approval criteria goal of reducing, not eliminating, the impact of aircraft noise on development within the noise impact area.

Opponents also asserted that the BDS staff position that “noise abatement” is preempted by federal law thereby precluding the City from denying this CUMP application because of noise abatement deficiencies or conditioning any approval upon the applicant providing additional noise abatement measures is simply improper or incorrect. The City Council disagrees with both the BDS staff and the opponents in this matter. The approval criterion is very literal and straightforward and the issue of federal preemption is not a matter of concern under this approval criterion. If a noise abatement plan as described in this approval criterion exists (and, in this case there is one approved by the federal government) then there is no need to analyze federal preemption.

The Portland International Airport Noise Impact Overlay Zone [x] identifies areas of the City falling within the noise contours of the impact area. “The Portland International Airport Noise Impact overlay zone reduces the impact of aircraft noise on development within the noise impact area surrounding the Portland International Airport. The zone achieves this by limiting residential densities and by requiring noise insulation, noise disclosure statements, and noise easements.” (Quote from 33.470.010, Portland International Airport Noise Impact Zone, Purpose section) The Portland International Airport Noise Impact zone is shown on the Official Zoning Maps with a letter “x” map symbol. A noise impact overlay zone has been created for the airport.

Opposition testimony contended that the City had the right to review airport generated noise and to direct the Port to improve its noise reduction plan to better serve the community. While the City Council is sensitive to the opposition’s noise concerns, this approval criterion does not empower the City Council to mandate the

Port do anything but prepare a noise abatement plan. Had the City Council desired to give the City Council greater authority under this approval criterion it could have done so; but, it did not and the City Council is obligated to follow the plain meaning of code provisions passed by Council.

The applicant has provided a “noise impact plan” and there is a “noise impact overlay zone” in existence. The City Council finds that the applicant has met the literal demands and requirements of this approval criterion.

While the Port has complied with requirements of the Code, the City Council also finds that the Noise Abatement Plan presented by the Port is an effective noise abatement plan for the reduction of noise impacts at Portland International Airport. The Part 150 Noise Study is a “living document” currently in the process of amendment, which encompasses a compressive study of noise issues and solutions at PDX. The Part 150 study is conducted under approved Federal standards found at FAR Part 150. The PDX noise abatement plan contains significant public involvement and creates multiple forums for raising community noise issues and concerns. The noise program has a current operating budget of approximately 1.2 million dollars and includes, among many other programs, noise monitoring, complaint responses, community outreach, flight tracking analysis, funding of the Citizen's Noise Advisory Committee (which includes representatives appointed to the Committee by several local governments, including the City of Portland), as well as the operation and maintenance of the state of the art ground run-up enclosure facility, as well as numerous noise monitoring devices and equipment." A condition approval will require that before construction begins on Project 29 (Southwest Quadrant), the revised Part 150 Study must be approved by the FAA and submitted to the City. Further, to alleviate concerns of the citizens, a condition of approval will require that the Port request that each carrier respond in writing to the Port concerning noise and related complaints the Port receives, after the Port determines that the complaints are valid. The City Council understands that the Port is willing to request such written responses from the carriers. Whether or not the carriers respond to such an effort by the Port is completely voluntary on the part of the carriers.

4. Natural resources. The master plan must describe and analyze potential cumulative impacts of development on City-designated natural resources and functional values. This description and analysis must include the following:
  - a. Description of proposed and possible development within the master plan boundary;

**Findings:** The master plan application contains a description of the proposed development in the PDX District within the eight-year term of this CUMP. Table V-

3, revised, in Exhibit A-3 contains the complete description of all of the potential or proposed projects covered by the master plan.

- b. Description of all potential cumulative impacts from proposed and possible development within the master plan boundary on areas in environmental overlay zones within the master plan boundary;

**Findings:** Of the projects listed, only one—the filling and development of the Southwest Quadrant Activity Sector—will have a direct impact on City-designated natural resources and functional values. Within the Southwest Quadrant Activity Sector about three acres of wetlands must be filled and associated woodlands must be removed (Master Plan Project #31, Table V-3). The projected development will occur over several years. The filling of these wetlands and removal of associated woodlands is also required to address a serious bird strike hazard at PDX (discussed in detail under 33.815.200.A.4.d below).

As for cumulative impacts, the one development proposal within the environmental zone and the continued development/redevelopment of other Airport facilities will increase impervious surface area and potentially increase stormwater runoff volumes, pollution sources, and water temperatures. Potential stormwater impacts are the only cumulative impacts that would result from the proposed and possible development within the master plan boundary that may affect areas in environmental overlay zones within the master plan boundary.

Additionally, the Port is in the process of developing an updated *Wildlife Hazard Management Plan* that includes a site-wide vegetation management program designed to help reduce conflicts between wildlife and flight operations. The current *Wildlife Hazard Management Plan* can be found as an attachment to Exhibit H.70.

The vegetation management program reduces the number of trees planted in parking areas and other vegetated and landscaped areas of the airport, and limits the planting of tree species to those with more vertical crowns. This is intended to reduce the trees' attractiveness to birds, thus reducing the potential for bird strikes, eliminate the risk of trees encroaching into the vertical spaces that are protected from such hazards, and to increase the overall safety of flight operations at the Airfield. The Port points out a serious conflict with regulations to plant trees and landscaping that attract wildlife, to such an extent that the wildlife must in turn be destroyed.

The types of trees that the vegetation management plan discourages because of their attraction to wildlife, have characteristics that are important for passive stormwater treatment—one of the purposes of the landscaping requirements. The number of trees, crown density and extent, and amount of leaf surface area are important for reducing stormwater volumes, temperature, and pollutants. By reducing or eliminating these characteristics from surface parking areas within the master plan

boundary, there is the potential for cumulative impacts on environmental zones, because the environmental zones are “downstream” from many of the surface lots. The stormwater drainage system flows from the parking lots to the sloughs and drainageways around the airport that are within environmental overlay zones. Cumulative impacts could result from increased stormwater pollutant loads, temperature, or volume.

Mitigation for these impacts is discussed below in findings for criterion 33.815.200.A.4.e.

- c. Description of all potential cumulative impacts from proposed and possible development within the master plan boundary on areas that meet all of the following:
- (1) They are outside the master plan boundary;
  - (2) They are in an environmental overlay zone;
  - (3) They are in or abut the Columbia Slough; and
  - (4) They are downstream from the airport.

**Findings:** The only cumulative impacts from proposed and possible development within the master plan boundary on areas outside the master plan boundary, in the environmental overlay zone, in or abutting the Columbia Slough, and downstream from the airport are potential impacts associated with stormwater management. The continued development/redevelopment of Airport facilities will increase impervious surface area and potentially increase runoff volumes, pollution sources, and water temperatures. The *Wildlife Hazard Management Plan* includes a site-wide vegetation management program designed to help reduce conflicts between wildlife and flight operations. The vegetation management program reduces the number of trees planted in parking areas and limits the species of trees to smaller trees with more vertical crowns. This reduction of tree cover in surface parking areas within the master plan boundary could potentially lead to cumulative stormwater impacts on environmental zones outside the master plan boundary and downstream from the airport, within the Columbia Slough.

Mitigation for these impacts is discussed below in findings for criterion 33.815.200.A.4.e.

- d. Identification of potential significant detrimental impacts to City-designated natural resources and functional values within the areas described in 33.815.200A.4.b and c;

**Findings:** In order to describe the potential significant detrimental impacts to City-designated natural resources and functional values from possible development within the master plan boundary, it is first necessary to describe the areas within the environmental overlay zones that are within the master plan boundary.

The application of environmental zones to properties is based on detailed studies that have been carried out within eight separate areas of the City. The City's policy objectives for these study areas are described in detailed reports. Each study report identifies the resources and describes the functional values of the resource sites. Functional values are the benefits provided by resources. The values for each resource site are described in the inventory section of these reports.

The environmentally zoned areas within the master plan boundary were identified through the Inventory and Analysis of Wetlands, Water Bodies, and Wildlife Habitat Areas for the Columbia Corridor, adopted April 20, 1989 (the Inventory). This document identifies four resource sites and two water features that were inventoried and described within the master plan boundary.

The four resource sites are:

- Site 32, a remnant slough, wetlands, and floodplain forest
- Site 37, a 50 acre wetland
- Site 38, a remnant slough and riparian forest
- Site 71, the Columbia River bankline

Resource Site 32 is in the northeastern portion of the master plan boundary and consists of a 50 to 60 -year-old cottonwood forest approximately 5.5 acres in size. The forest is located only about 100 feet from the Columbia River. Cottonwood and ash are the dominant tree types with Himalayan blackberry, willow and dogwood the most common understory species. Structural diversity is high and the combination of mature forest, shrub understory, and the seasonal water body provides multiple functional values for food, roosting, perching, and nesting opportunities for a variety of bird species.

The resources and functional values listed in the Inventory for the site are: Palustrine, emergent, persistent/nonpersistent wetlands; permanently and seasonally flooded wetlands; forested upland and wetland; groundwater recharge/discharge; drainage; flood storage; desynchronization; erosion control and sediment trapping; pollution nutrient retention and removal; aesthetics; uniqueness; and wildlife habitat.

The largest cottonwood trees were topped in 1997 to maintain airport flight path height limits. The topped trees have vigorously sprouted and again are beginning to extend into the flight path height limit. The forest is surrounded by large parking lots (airport economy lot parking). Stormwater flows from these parking lots into this Resource Site. Though the site is located within the historic Columbia River floodplain, it is now enclosed within a levee system, and no longer subject to periodic flooding—other than localized ponding during the winter.

Resource Site 37 is within the portion of the master plan boundary known as the Southwest Quadrant. It is described in the Inventory as a 50-acre *juncus* (rush species) wetland that is unusual in the Portland Urban Service Boundary. This description is from the 1986 field inventory. The site has been used by the Port as a sand stockpile and dredge spoils area.

The resources and functional values listed in the Inventory for the site are: Palustrine, emergent, persistent wetlands; permanently and seasonally flooded wetlands; groundwater recharge; drainage; flood storage; desynchronization; erosion control and sediment trapping; pollution nutrient retention and removal; uniqueness; and wildlife habitat.

The site was described in the inventory of 1986 as a series of remnant sloughs and isolated wetlands within and immediately west of the Portland International Airport. Most of this Resource Site was not included in the adopted environmental overlay zone because of the issue of wildlife hazard conflicts. Extensive filling has occurred since the 1986 inventory and only a small portion of the wetland remains and has no environmental overlay.

Resource Site 38 is also within the southwest quadrant adjacent to site 37. The site consists of a small remnant forest and slough dominated by 50 year-old cottonwoods and ash trees with red-osier dogwood and hawthorn shrubs also common.

The resources and functional values listed in the Inventory for the site are: Palustrine forested wetland; drainageway functions including drainage, flood storage, desynchronization, erosion control and sediment trapping, pollution nutrient retention and removal; and wildlife habitat. This Resource Site was not included in the environmental overlay zone for the same reasons as Resource Site 37.

Resource Site 71 is at the northern edge of the master plan boundary and consists of the south bank of the Columbia River. It is described in the Inventory as highly disturbed and largely developed with vegetation that is mostly grasses and shrubs with isolated patches of trees.

The resources and functional values listed in the Inventory for the site are: Riparian strip for wildlife habitat; visual amenity; erosion control; and drainageway functions including fish habitat, drainage, flood storage, desynchronization, erosion control and sediment trapping, pollution nutrient retention and removal.

Water Features Associated with Resource Sites 37 and 38. These two inventoried water features are remnant sloughs/drainageways that form the north and south boundaries of the Southwest Quadrant area within the master plan boundary. One is just south of the runways and flows to the west. The other is just south of NE Elrod Road and also flows to the west. The functions identified for these two water features are drainageway functions including drainage, flood storage, desynchronization, erosion control, sediment trapping, and pollution nutrient retention and removal; open water and forested riparian strip for

wildlife; and wildlife corridor. These two water features are included in the Environmental Conservation Overlay zone.

Water Features 24, 26, 27, and 28. These water features are segments of the mainstem of the Columbia Slough adjacent to and immediately downstream from the airport. These water features are not within the airport master plan boundary. The functions identified for these water features are forested riparian strip for wildlife; visual amenity; erosion control; and drainageway functions including: fish habitat, drainage, flood storage, desynchronization, sediment trapping, and pollution nutrient retention and removal. These water features are included in the Environmental Conservation Overlay zone.

Identification of potential significant detrimental impacts.

The proposed filling and development of the Southwest Quadrant Activity Sector would entirely eliminate the resource area within the Environmental Conservation Overlay zone at the northwest corner of the Southwest Quadrant. The drainageway would be filled and the riparian cottonwood forest and associated vegetation would be cut down and the site graded. The development would result in the elimination of all resources and functional values in that portion of the Master Plan Boundary within the environmental zone. The resources and functional values lost would be:

*Drainageway functions including drainage, flood storage, desynchronization, erosion control, sediment trapping, and pollution nutrient retention and removal; open water and forested riparian strip for wildlife; and wildlife corridor.*

The potential stormwater-related significant detrimental impacts resulting from the continued development/redevelopment of Airport facilities and the site-wide vegetation management program are the potential reduction of flood storage capacity, increased pollutant and sediment loads, increased water temperatures especially during summer low flow, and degradation of wetlands and wildlife habitat.

There are also potential indirect impacts to City-designated natural resources and functional values resulting from the proposed adjustments to landscaping requirements throughout the Master Plan Boundary. The Port is in the process of developing a *Wildlife Hazard Management Plan* that includes a site-wide vegetation management program designed to help reduce conflicts between wildlife and flight operations. The proposed landscaping reductions are intended to reduce the potential for bird strikes, eliminate the risk of trees encroaching into the vertical spaces that are protected from such hazards, and increase the overall safety of flight operations at the Airfield. As a result there could be potential stormwater related impacts.

Mitigation for these impacts is discussed below in findings for criterion 33.815.200.A.4.e.

- e. Mitigation plan. Description and analysis of how significant detrimental impacts will be avoided, minimized, or mitigated, as follows:

- (1) Significant detrimental impacts must be avoided where practicable;
- (2) Where avoiding significant detrimental impacts is not practicable, the impact must be minimized, and the impacts mitigated. The mitigation must meet the following:
  - The mitigation must be within the master plan area, and must enhance the same kind of resource;
  - If it is not practicable to mitigate impacts within the master plan area using the same kind of resource, the mitigation may be outside the master plan area, but must use the same kind of resource;
  - If it is not practicable to mitigate impacts using the same kind of resource, a different kind of resource may be used, but the mitigation must be within the master plan area;
  - If it is not practicable to mitigate impacts using any kind of resource within the master plan area, the mitigation may be outside the master plan area, and any kind of resource may be used.
- (3) The mitigation plan must include identification of types and locations of proposed mitigation and resource enhancement, a schedule for development, mitigation, and resource enhancement; and a monitoring and reporting plan;

**Findings:** All activities proposed within the environmental zone will be reviewed under a separate environmental review application that will address the environmental review criteria more specifically. To the extent details are available for the proposed activities in the master plan this criterion will be addressed.

Avoidance. The proposed fill and development of the Southwest Quadrant Activity Sector could potentially avoid the environmental conservation zoned area in the northwest corner of the site. However, the fill and destruction of the environmentally zoned area is not just to prepare the area for airport related development. The removal of this resource is also required to address the serious bird strike hazard at PDX. The presence of wildlife habitat in such close proximity to the runways and airport operations creates a distinct conflict. The conflict is not only a hazard for humans traveling in and out of the airport facility, but for the wildlife as well. The airport is under increasing pressure from the federal government to address the wildlife hazard issue. The Port is attempting to address the problem through non-lethal means. This entails destroying habitat near the runway that attracts wildlife but sparing the wildlife rather than using lethal means that continually destroy the wildlife that are attracted to the habitat.

Given the inherent conflict of having wildlife habitat so close to the airport runways there is no practicable means to avoid the destruction of the habitat and removal of the environmental zone in the Southwest Quadrant.

The same argument can be applied to the adjustment to landscaping requirements throughout the master plan boundary. The intent of the adjustment is to reduce potential

wildlife attraction to trees in parking areas around the airport and outside of environmental zones. The resultant potential increase in stormwater related impacts to downstream environmental zones is unavoidable because other means to eliminate wildlife conflicts while meeting the landscaping requirements in parking areas are not practicable.

Minimization and mitigation. For the proposed fill and development of the Southwest Quadrant Activity Sector the entire resource is proposed to be removed so there is no opportunity for minimization of impact. The Port proposes to fully mitigate for the lost resources and functional values. However, because of the wildlife hazard threat it is not practicable to mitigate within the airport master plan boundary as that would recreate the wildlife hazard. The Port proposes to create the mitigation at their Vanport wetlands property—three miles to the west of the airport, but within the Columbia Slough watershed. The Port has indicated that sufficient area is available at the Vanport site to fully mitigate for the Southwest Quadrant fill. The details of the mitigation will be reviewed as part of the specific environmental review for the Southwest quadrant project.

The potential stormwater impacts to environmental zones resulting from both the reduction of parking lot landscaping and the increase in development and impervious surface over time within the master plan boundary will be minimized by installation of alternative types of stormwater facilities and by the Port's framework of policies, programs, regulations, and permits that govern stormwater management within the PDX District, including all federal, state, and local stormwater and industrial waste management permits, City Stormwater Manual requirements, and voluntary efforts related to implementation of the Port's Environmental Policy (see Chapter V, Water Quality (Page V-24) of the application, Exhibit A-1). The implementation of all of these regulations will result in negligible cumulative negative impacts on the Columbia Slough over the lifetime of this CUMP. Stormwater management will require the use of engineered structures rather than passive treatment facilities since trees and open standing water have to be avoided due to the wildlife conflict. Underground structural treatment and storage facilities can be used to minimize potential stormwater impacts. Infiltration systems are also problematic in this area because of restrictions in place to protect groundwater quality.

Because the proposed development of the Southwest Quadrant will go through a full environmental review prior to development, specific mitigation plans have not been submitted. The specifics of the mitigation will be reviewed through the environmental review application.

- f. An analysis of how all proposed and possible development meets the approval criteria of 33.430.250.A.1.a through 33.430.250.A.1.e and 33.430.250.A.3.b, or a description of how those approval criteria will be met through a future process.

**Findings:** The approval criteria of 33.430.250.A.1.a through 33.430.250.A.1.e and 33.430.250.A.3.b only apply to development within an environmental overlay zone. The proposed fill and development of the Southwest Quadrant Activity Sector is the only project proposed that is within an environmental overlay zone. The Port will submit an environmental review application specifically for this project. At that time the proposal will have to show how it meets the environmental zone approval criteria. Based on this review however, there does not appear to be any outright factor that would prevent the Port from meeting the approval criteria.

Based on the findings discussed under 33.815.200.A.4.a through .f these criteria are met.

5. Benefit. The public benefit of the use outweighs any impacts which cannot be mitigated.

**Findings:** The Portland International Airport is a primary regional transportation facility that serves Oregon and Southwest Washington, serves as a regional hub to the United States, and is a gateway facility to the Pacific Rim. The Port notes that PDX is among one of the fastest growing major airports in the United States. The airport provides both national and international passenger services as well as significant levels of air cargo services both nationally and as a gateway to the Pacific Rim. During the early 1990s, the airport's passenger growth was in double digits, although it is important to note that since the events of September 11, 2001, air passenger growth has been stagnant both locally and nationally. However, since 1998 the airport has served over 13 million passengers annually. The most recent figures provided by the applicant [ref Table II-2, Exhibit A-1] shows a total of 311,000 short tons of air cargo handled at PDX, 253,000 of which was general commercial airfreight and 58,000 representing US Mail.

Moreover, the airport facility is deemed a crucial element in the multi-modal transportation infrastructure for the region, as noted in the summary report published by Portland Development Commission in October of 2000, entitled Economic Development Strategy of the City of Portland [ref. Pg. 8, Exhibit G-8]. Evidence was presented that PDX generated, as of 1999, 9,240 direct jobs, 7,440 secondary jobs, and 2,290 tertiary jobs for a total region-wide impact of 18,980 jobs. The proposed projects will create a significant number of construction period jobs and ongoing jobs such as parking lot attendants, air cargo employees, airline counter and gate representatives, terminal retail employees, business aviation employees, office and retail at the NE Airport Way commercial/office expansion, maintenance facility employees, among others. As of 1999 nearly \$775 million of personal income and consumption expenditures were generated by the airport. More than \$3.6 billion of business sales were generated by the PDX activity, including nearly \$950 million of business revenue by air cargo activity. (See Exhibit A.1) State and local governments received, as of 1999, \$88 million in tax revenues. These are all

significant economic benefits which are expected to increase with additional airport activity contemplated in the proposed projects.

Opposition testimony stated that the “general assertions about the airport’s role in the economy are irrelevant to a determination of whether 33.815.200 A.5 has been satisfied because present circumstances are not at issue. Like any other criterion, the applicant must show by a preponderance of the evidence that subsection A.5 has been met with respect to all proposed uses and even possible uses.” (See Exhibit H.59, page 4) The City Council takes the position that each of the 37 projects must not be analyzed to determine each individual project’s benefits the community. The City Council interprets the criterion to mean that the proper focus is to analyze the public benefits of the primary “use” being proposed by the CUMP. In this case that would mean looking at the overall benefits of the airport; which include the present and proposed uses. Present and past data regarding airport benefits is deemed relevant to the analysis under this approval criterion.

This approval criterion does not require a “project by project” analysis of benefits and it is not the intent of this Criterion for the City to “micro-manage” a CUMP application in this way. For example, if the City Council, in a project by project analysis found that project #4 (Terminal Toll Plaza Relocation) did not have any identifiable public benefits would that mean that (1) the CUMP should be denied in its entirety, or (2) project #4 should be removed by the City Council from the approved list? The City Council finds that the most logical and reasonable interpretation of this approval criterion is to look at all of the uses (present and proposed) and identify the aggregate public benefits arising therefrom.

The City Council finds the proper interpretation of the “public benefits” section of this approval criterion is to look at the entire airport (both existing and proposed uses) and determine the public benefits generated by the entire airport. There is substantial evidence in the record that the Portland International Airport generates significant public benefits. (See, for example, Exhibits H.44, H.62, H.64, H.27, and H.28). The benefits are economic and social. The airport generates jobs and income and provides the social benefit of ready access to air travel for business and pleasure.

The second part of this criterion requires an analysis of “impacts which cannot be mitigated.”

The applicant and BDS staff identified a number of “impacts” arising from the location and operation of the Portland International Airport (both the existing facility and proposed uses). Opponents, consistent with their approach with public benefits, argue that the impacts for “each project” must be analyzed. The applicant, BDS staff and the Hearings Officer suggest that the impacts should be viewed on a cumulative basis; that is the impact of all improvements, in the aggregate, at full build out should be reviewed. Again, the City Council concurs with the applicant’s position

that it is appropriate to review the cumulative impacts and therefore the City Council is not directed by this approval criterion to look at the impacts on a project by project basis.

Many of the identified impacts, such as traffic, and stormwater management can be mitigated to a great extent as discussed elsewhere in this decision, and via conditions of approval. Impacts from the noise associated with flight operations are not possible to be completely eliminated or mitigated.

BDS staff, in a supplemental memorandum to the Hearings Officer (See Exhibit H.44) provided a more thorough review of selected impacts. The BSD staff comments are included below:

*“Environmental Impacts:*

“As noted earlier in this memorandum and in the original staff report, the initial IGA between the City and the Port included a requirement that a new environmental criterion be developed and adopted by City Council prior to the Port’s Conditional Use Master Plan application. Findings addressing the environmental criterion [33.815.200 A 4 a through f] can found in the staff report, pp. 43-50. As noted in the Staff Report, the approval criteria of 33.430.250.A.1.a through 33.430.250.A.1.e and 33.430.250.A.3.b only apply to development within an environmental overlay zone.

“One of the 37 possible future development projects, the proposed fill and development of the Southwest Quadrant Activity Sector, is the only development project proposed that is within an environmental overlay zone. The Port will submit an environmental review application specifically for this project. In addition, as also noted in the Staff Report, the proposed PDX-specific landscaping and vegetation management program, which requires adjustments to applicable landscaping development standards of the site, cannot be implemented in any site area that lies within an Environmental overlay zone unless reviewed and approved via a future Environmental review. As noted in the findings of the Staff Report, these future Environmental reviews for the PDX-specific landscaping program and the proposed fill and development of the SW Quad will have to show how they each meet the applicable environmental zone approval criteria. Based on this review however, there does not appear to be any outright factor that would prevent these proposals from meeting the approval criteria.

*“Noise Impacts:*

“As noted above in this memorandum and in the original Staff Report, the primary source of noise complaints stem from noise resulting from flight operations occurring in proximity to residential uses. However, the most effective strategies in mitigating and/or reducing such noise is by configuring

flight corridors and flight tracks such that the majority of flight operations occur as far away from developed land uses as is feasible. Another potential strategy to reduce noise as a result of flight operations is by limiting the number of flights arriving and departing from PDX, limiting the hours during which flight operations can occur, and by limiting the size or type of aircraft utilizing the PDX facility. None of these strategies is within the authority of the City of Portland, or its City Titles, including Title 33, Portland Zoning Code. However, it appears that some public testimony attempts to link the amount of proposed floor area and potential future building projects to the number of flights originating and departing from PDX. Thus, the argument goes, by limiting future building projects, or by denying this application, an associated de facto limit to number of flights arriving and departing from PDX will be achieved, and thus air traffic noise will be thusly mitigated.

“However, this argument that there is a direct relationship between proposed additional floor area or new buildings and the generation of additional flights at PDX does not appear to be directly correlated. For example, since the Port submitted their application, additional air carriers have signed agreements to provide additional flight services to PDX [Lufthansa, Mexicana and Air China Cargo]; none of these agreements were the direct result of any floor area expansions, as none have occurred since this CUMS application was submitted to the City.

“Regardless, even if some of the proposed development projects did directly result in additional air traffic at PDX, the associated strategies to mitigate for such noise are limited to the FAR Part 150 Noise Abatement Plan process, and are not under the authority of local City codes. [As noted by Staff at the Public Hearing, any activities occurring in the IG2 zone that generate noise levels not associated with flight operations will be subject to Title 18 regulations and enforcement.] The Public Benefits versus Impact Mitigation criterion is not unique to the conditional use approval criteria for an Aviation Passenger Terminal conditional use review. The Hearings Officer will recognize this criterion and associated language as familiar and applicable to any number of conditional use reviews for certain specified conditional uses. In addition, the ability to make findings that the public benefits outweigh those impacts that are not mitigated is not an unusual argument; staff frequently makes similar findings that the benefits of other conditional uses outweigh the impacts. An example of such findings can be routinely found in Staff Reports for proposed wireless telecommunications facilities, wherein the public benefits of such a facility outweighs the public’s concern about the levels of radio frequency emissions associated with the facility. Regardless of the public’s concerns about various levels or power of RF emissions, the benefits outweigh the impacts which cannot be mitigated because RF emission levels are subject to the authority and regulation of a federal

agency, not the local jurisdiction. Similarly, the authority and regulation of flight tracks are subject to the FAA, and the City has no authority whereby to alter or limit such elements of *flight operations*, which are considered the primary and significant source of obnoxious noise levels.

“As noted in the agency response from the Bureau of Planning [Exhibit E-7] usual and customary land use regulations that provide noise mitigation related to airport operations include limiting residential development in close proximity to airports, requiring additional soundproofing for residential development, implementing airport noise overlay zones and similar. These are achieved through the City of Portland’s adopted ‘x’ Airport Noise overlay zone, with associated regulations that achieve noise mitigation by limiting residential densities and by requiring noise insulation, noise disclosure statements, and noise easements.

“Additional public testimony suggested that because no actual building plans, including specific footprints, elevations, floor plans, etc. were included in the application, that the proposal lacked sufficient specificity to be approved. However, it is important to note that the base zone is General Industrial 2, not a residential zone; thus there are no approval criteria that require a discussion of the physical compatibility of the proposed development, such as those found at 33.815.105 B, which reviews institutional and other conditional uses in Residential zones. Despite the absence of such specific details, it is nevertheless possible to determine the associated impacts from the proposed development projects, based on the information provided, which includes locale within specified Activity Sectors on site, maximum floor area at build out, and specified uses anticipated to be housed within each Activity Sector.

“The information provided by the applicant on projected impacts allows City review agencies to determine the anticipated impacts on transportation systems via trip generation projections, intersection loading, as well as identify the need for additional sanitary sewer and water supply demands, etc. Indeed, a facility the size of PDX and operating with current and projected future volumes has significant impacts on the surrounding area. However, many of those impacts, such as traffic, and stormwater management, can be mitigated to a great extent as discussed in the Staff Report, and via conditions of approval as recommended. Impacts from the noise associated with flight operations are not possible to be *completely* eliminated or mitigated. The approved Part 150 Noise Plan and subsequent revisions thereto will provide mitigation for such noise as approved by the FAA.

“Therefore, staff concludes that the proposed future projects as enumerated by the applicant contains sufficient detailed information by which to

determine impacts, mitigate those to the extent feasible as applicable to local regulations, and that impacts related to flight operation noise, that are not subject to local regulations, are nonetheless addressed by the approved Part 150 Noise Plan, and will continue to be mitigated by updates to that plan. Therefore the public benefits of the Aviation Passenger Terminal conditional use do outweigh any impacts which cannot be mitigated, and therefore this criterion is met.” [end of staff comments – H.44]

A significant amount of the testimony that was presented in opposition to the CUMP related to noise impacts arising from the operation of the airport. The City Council accepts that noise is an impact created by the uses proposed in the CUMP. Despite the fact that there is an existing approved Part 150 Noise Abatement Plan the City Council finds that there will be noise impacts that cannot be mitigated.

Many testifying in opposition asserted that the City Council should impose requirements upon the applicant to mitigate for the noise matters. One possible interpretation of this approval criterion may be that the City Council require all impacts to be mitigated to the extent practicable. Thereafter, the City Council would balance the public benefits against the impacts which cannot be mitigated. Another approach to interpreting this approval criteria is to accept the evidentiary conclusion of the applicant, or BDS staff, or those speaking in opposition, as to what impacts cannot be mitigated and then balance those impacts against the identified public benefits. The approach requiring the City Council to mandate all impacts be mitigated *before* conducting the balancing test (benefits v. impacts) goes beyond the literal and plain meaning of the language in this approval criterion. The City Council will not require the applicant to mitigate all impacts before conducting the benefits/impacts balancing test.

An extension of the argument promoted by the opponents to the proposed CUMP above is that the City has the right, in this proceeding, to deny or condition an approval of this CUMP application on the grounds that a more comprehensive noise abatement plan/process is absent from the application. The applicant counters this argument by stating that any additional attempts by the City to regulate noise at the airport would be contrary to federal law. In summary, the applicant’s argument is that federal law preempts state and local regulation of noise at the airport.

The City Council reviewed and considered the appellants’ arguments in this case related to the federal preemption issue. In addition, the City Council reviewed a memorandum from the City of Portland City Attorney’s office (see tab 9, Exhibit H.46) and a memorandum from legal counsel for the applicant (Exhibit H.67).

The federal laws and cases cited by both the applicant and opponents are not directly on point with the fact pattern presented in this application. The applicant agrees with the opponents that “federal law does not preempt all zoning or other regulatory

authority of local governments” (See Exhibit H.67, page 4) The applicant then goes on to say that federal law “does clearly restrict local governments from regulating certain aspects of airport and aircraft operations, and also prohibits local jurisdictions from attempts to achieve de facto regulations of preempted areas, such as noise, by imposition of laws, ordinances and regulations that are otherwise not expressly prohibited.” (See H.67, page 4)

The applicant has proposed 37 new projects in this CUMP application. It is clear to the City Council that each of these 37 new projects is related to airport capacity and/or safety of aircraft operations. The City Council also finds that a denial of the proposed projects will not, in and of itself, reduce noise. In fact, the City Council, upon reviewing the application as a whole, finds that the use of the airport is not solely, and perhaps not even primarily, the function of adding terminal, cargo, or roadway capacity. The volume of passengers and number of flight operations using PDX can be expected to increase irrespective of the approval or denial of this CUMP application. Federal law requires PDX to accommodate all who wish to use it. If that be the case, then later or extended hours (into the nighttime or early mornings) of operation can be expected and an increase of noise at those noise sensitive times can be expected if the capacity of the airport facilities are not expanded.

The City Council finds that a denial of this application by the City of Portland on the basis that the noise mitigation proposed in the CUMP is insufficient would violate federal law. In addition, the City Council finds that placing conditions which impose additional obligations upon the applicant regarding noise would also be stepping into an area preempted by federal law.

In conclusion, regarding noise impacts and this approval criterion, the City Council finds that there are noise impacts that are not going to be mitigated under the CUMP. Further the City Council finds that denying or placing conditions in an approval of the CUMP is improper as the area of airport noise is preempted by federal law.

Opponents also testified that “negative health impacts” and “reduced property values” should be included in the impact analysis under this approval criteria. The City Council acknowledges that there may be negative health benefits and perhaps even reduced property values resulting from the operation of Portland International Airport. However, the City Council finds that there is little quantifiable data in the record demonstrating negative health benefits. There was no good evidence in the record of loss in property values resulting from the location of the airport and the City Council finds that it is equally plausible to have certain properties surrounding the airport experience an increase in value (such a hotel sites, industrial and office uses which benefit from close proximity to the airport). The City Council did not consider impacts on property values in the benefits/impacts balancing test and gave little weight to negative health benefits.

The City Council considered a number of approaches to balancing the benefits and impacts. One method would be to require the applicant to provide reasonable and supportable economic estimates of “all of the benefits” accruing from the airport (including the present and future uses) and also to provide reasonable and supportable economic estimates of all of the “negative impacts which cannot be mitigated.” From the City Council’s perspective this would make the balancing act a quantifiable decision; simply compare the benefit dollars on one side to the negative impact dollars on the other. This approach, although numerically clean at the decision making stage, would place an incredible burden upon the applicant. It is reasonable, perhaps, to expect the applicant to quantify in dollars the benefits from the CUMP. However, the City Council finds there is no language in the Code that could be interpreted to require the applicant to quantify all of the negative impacts that cannot be mitigated. The City Council found no code support to direct him to require the applicant to calculate, in dollar terms, the negative impacts of noise. Is the noise impact to be calculated upon the area in the noise impact overlay zone, or the eastside of the Willamette River? Should it include Clark County and/or Clackamas County? What impact does federal preemption have upon the quantification of noise impacts which cannot be mitigated.

The City Council found it easy to ask “what if” questions but found it extremely difficult to arrive at a formula or set of expectations for the applicant to apply in calculating the dollar estimates of negative impacts which cannot be mitigated.

The City Council reviewed a memorandum from the City of Portland City attorney’s office to Commissioner Saltzman and Planning Director Kelley, 33.815.200 A.4. (See Exhibit A.59, tab 9, item 9) In that memo the author said that “The code does not limit or prescribe the kinds of public benefits or impacts that may be considered under this criterion. This criterion requires the hearings officer to engage in a discretionary exercise of balancing public benefits and impacts. The hearings officer may approve a conditional use if he finds the balance tips in favor of public benefits.” The memo goes on to say “It is up to the hearings officer to weigh the relevance, substantiality and credibility of the evidence presented to him.”

The city attorney suggests that the City Council members, have a rather broad grant of discretion in how the balancing process is done and what evidence is considered. The City Council concurs with the city attorney counsel to Commissioner Saltzman and Planning Director Kelley. To that end, the City Council does not require that the applicant submit detailed economic estimates of the benefits and impacts. The City Council did consider the substantial evidence of the public benefits and the noise and health impacts which could not be mitigated. The City Council finds that the public benefits to the city and regional economy and the provision of a service for the public to access via air transport significantly outweighs the noise and health benefits. This criterion has been met.

The applicant has requested a concurrent land use review which requires a Conditional Use approval to add up to 25,000 square feet of retail sales and service and/or office development in the IG2 zone. This concurrent review and findings follow.

### **33.815.125 Specified Uses in Industrial Zones**

These approval criteria apply for uses in the following categories in the industrial zones: Retail Sales And Service, Office, Commercial Outdoor Recreation, Commercial Parking Facilities, Community Service, and Daycare uses. These approval criteria promote preservation of land for industry while allowing other uses when they are supportive of the industrial area or not detrimental to the character of the industrial area. The approval criteria are:

- A.** The proposed use will not have significant adverse effects on nearby industrial firms;

**Findings:** This approval criterion is intended to promote the preservation of land for industry in Industrial zones, and limit any adverse impacts non-industrial uses may have on surrounding industrial uses. The applicant is requesting to locate up to 25,000 square feet of Retail Sales And Service, and Office uses in the North Airport Way/South Cargo activity sector. While these uses are proposed in an Industrial zone (IG1), the surrounding area is characterized not by businesses in the Industrial use categories, but instead by more than five million square feet of floor area in the Aviation use category. (Note that Aviation uses are a distinct use category in the Portland Zoning Code, separate from the Industrial use categories.) These Aviation uses are within the boundary of the previously approved Portland International Airport Conditional Use Master Plan, which encompasses an area of approximately five square miles. All 25,000 square feet of the proposed Retail Sales And Service, and Offices uses also will be located within the interior of the airport's Master Plan boundary. Given that the surrounding area is characterized by Aviation uses, the addition of 25,000 square feet of Retail Sales and Service, and Office uses will not have adverse effects on nearby industrial firms.

It is also important to note that the proposed 25,000 square feet of Retail Sales and Service, and Office uses represent only a small percentage of the total floor area within the airport's Master Plan boundary. Currently there is approximately 5.67 million square feet of floor area within the Master Plan boundary. (This includes approximately 663,000 square feet of floor area in hotel use, located in an EG2 zone). The proposed Retail Sales And Service, and Office uses represent less than one percent of this existing floor area. Under the proposed Conditional Use Master Plan, a total of 9.33 million square feet will be located within the Master Plan boundary. The proposed 25,000 square feet of Retail Sales and Service, and Office space will represent 0.26 percent of this total.

Because of the unique use characteristics of the IG1 zone where the 25,000 square feet of Retail Sales And Service, and Office uses are proposed, this criterion is met.

- B.** The transportation system is capable of safely supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity

and level of service, access to arterials, transit availability, on-street parking impacts, lot access requirements, neighborhood impacts, and pedestrian safety;

**Findings:** As indicated above in the findings to Approval Criterion A, the proposed 25,000 square feet of Retail Sales And Service, and Office uses represents only 0.26 percent of the existing floor area within the airport's Conditional Use Master Plan boundary, and only 0.65 percent of the new floor area proposed in the conditional use master plan application.

The applicant has prepared a Transportation Impact Analysis (TIA) that assesses the impacts of the proposed development within the Conditional use Master Plan boundary, including the proposed Retail Sales And Service, and Office uses. The Portland Office of Transportation has reviewed the submittal for conformance with Title 17 and 33, the Transportation Element of the Comprehensive Plan, and for impacts to the transportation system. Based on this review, the Office of Transportation recommends approval with conditions. The Office of Transportation's findings and conditions of approval are included earlier in this decision, in response to the approval criterion in Section 33.815.200.A.2 (Public Services).

Based on these findings, this criterion is met.

- C.** The proposed use will not significantly alter the overall industrial character of the area, based on the existing proportion of industrial and non-industrial uses and the effects of incremental changes;

**Findings:** The Retail Sales and Service, and Office uses are proposed within the airport's Conditional Use Master Plan boundary, encompassing an area of approximately five square miles. Because Aviation uses dominate the character within the master plan boundary, and not industrial uses, the proposal to add up to 25,000 square feet of Retail Sales And Service, and Office uses will have no effect on the "industrial" character of the area. This criterion is met.

- D.** The proposed use needs to be located in an industrial area or building because industrial firms or their employees constitute the primary market of the proposed use; and

**Findings:** While the 25,000 square feet of Retail Sales And Service, and Office uses are proposed in an Industrial zone, as indicated above in response to Approval Criteria A and C, the surrounding area is not industrial in character. Instead, because the Retail Sales And Service, and Office uses are proposed within the boundary of the Portland International Airport Conditional Use Master Plan boundary, the area is characterized by Aviation uses. Because of this situation, customers of the proposed Retail Sales And Service uses are expected to be employees of the Aviation uses within the Conditional Use Master Plan boundary, and potentially guests of nearby hotels. Given the location within the boundary

of the airport's Conditional Use Master Plan, tenants of the proposed office space are expected to aviation-related.

Additionally, these Retail Sales And Service, and Office uses will reduce the need of the area's employees (and hotel customers) to seek these services outside the master plan boundary, thereby reducing both the number and length of vehicle trips.

Based on these findings, this criterion is met.

**E.** City-designated scenic resources are preserved.

**Findings:** There are no City-designated scenic resources on this portion of the site. Therefore, this criterion is not applicable.

### **33.805.010 Purpose of Adjustments**

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

### **33.805.040 Approval Criteria**

Adjustment requests will be approved if the review body finds that the applicant has shown that either approval criteria A. through F., below, have been met.

**A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

**Findings:** The Port has developed a *Wildlife Hazard Management Plan* that is part of the annual Part 139 certification by the FAA. (See Exhibit H.70) And, the Port is in the process of updating a revised *Wildlife Hazard Management Plan* which is expected to be submitted to the FAA for review and acceptance by early summer, 2003. Part of the *Wildlife Hazard Management Plan* will include a site-wide vegetation management program designed to help reduce conflicts between wildlife and flight operations.

The applicant notes, in Exhibit A-3, that:

*“The Port of Portland is required by federal law and the FAA to implement an effective Wildlife Hazard Management Plan for PDX International Airport (“PDX” or “Airport”) to minimize the significant danger inherent*

*in bird strike interference with aircraft operations. A component of this plan is a vegetation/landscape management strategy. An effective vegetation/landscape management program for minimizing wildlife hazards and vertical obstruction and/or intrusion into aircraft transitional airspace that will require deviation from several landscape standards articulated in the City of Portland Zoning Code.”*

*“The potential risk of vertical obstruction and/or a given wildlife hazard is directly proportional to its location relative to the aircraft operating areas, with the risk increasing closer to the aircraft operating areas and alignment with the main axis of the runway. The Port is responsible under federal mandates and program guidance to manage the vegetation and habitats, including the developed landscape of the Airport, which has the potential to impact its operations and safety. Specifically, the Port must comply with the provisions of both 14 CFR Part 77 (relating to vertical height, intrusion into the approach and transition surfaces) and 14 CFR Part 139.337 (relating to wildlife hazards) so as not to create an obstruction to air traffic, and/or an attractant to hazardous wildlife.”*

In order for the proposed landscaping management program to be implemented, five Adjustments to the applicable landscaping development standards found in Title 33 are necessary. These adjustments include:

- Adjustment to replace the L1 landscaping standard [defined at 33.248.020 A 1-2] with Airport-specific, alternative landscaping configurations and densities to be installed on site. The L1 standard is required to be installed, per 33.140.225 and Table 140-3, to 15 percent of the site area;
- Adjustment to 33.266.130 H, which regulates the required landscaping materials for parking lot landscaping;
- Adjustment to 33.515.215, Marine Drive Streetscape and landscape standards; and
- Adjustment to 33.515.278, Columbia South Shore Plan District development standards; both of these requirements would be replaced with the adoption of a PDX specific plant list for landscaping in areas where installation of landscaping will not impinge on safety requirements for Airfield operations;
- Waive the requirement to replace lost perimeter landscaping, as required by 33.266.130 G, in the Economy Lot along NE Marine Drive if landscaping is lost as a result of the Portland Water Bureau’s future installation of wellheads.

The overall configuration proposed for landscaping management at the Airport is comprised of 3 different ‘zones’ or areas within the site that will have specific landscaping densities and installations that differ from the above-referenced landscaping development standards. Each zone has specific plant species and planting standards, including spacing of trees and shrubs, as well as when and where trees will be allowed. The proposed plant species have been specifically identified as those that are less attractive to wildlife and lack significant

attracting elements such as fruit, berries, height, a bird-friendly branching structure or crown, etc.

The primary intent of the proposed landscaping management plan is to work in concert with other wild life hazard management strategies [as articulated in the Wildlife Hazard Management Plan the Port is preparing for the FAA to review this summer] in order to reduce the potential for an aircraft to experience a so called 'bird strike' during flight operations. Bird strikes are a very serious and potentially hazardous event wherein birds either collide with aircraft frames, or are ingested into aircraft jet engines. The result is fatal to the bird[s] and can result in serious damage to the aircraft. According to the FAA, such bird encounters cost the civil aviation industry in the United States more than \$300 million in equipment damages, delays and more than 500,000 hours of aircraft down time annually. The potential for bird strikes to result in an aborted take off, or a hard landing or worse is of great concern to airport operators, air carriers, pilots, and the FAA. In testimony submitted by Horizon Air it was stated that "wildlife creates safety hazards both in the air and on the ground. It is obvious that flying birds can do significant damage to aircraft in the air. In fact, a Horizon Air flight inbound to Medford, Oregon suffered a nearly catastrophic hit with a flock of geese at three thousand feet several weeks ago. Had this strike occurred nearer the ground and at a slower aircraft speed the results could have been tragic." (See Exhibit H.34)

The Port intends to minimize the potential for bird strikes through a number of strategies, including the proposed landscaping management program. The Port wishes to manage wildlife on site with as many non-lethal methods as is feasible, which is in contrast to similar programs utilized by other airports, which rely heavily on lethal methods. The Port hopes to reduce the reliance on lethal methodologies to the greatest extent possible via informed wildlife management and vegetation control. Thus, the intent of the requested landscaping adjustments is to approve alternative, site-wide airport-specific landscaping standards that will reduce the potential for bird strikes, eliminate the risk of trees encroaching into the vertical spaces that are protected from such hazards, and increase the overall safety of flight operations at the Airfield. In addition, the Port has noted that it is a serious conflict between regulatory authorities to plant trees and landscaping that attracts birds to such an extent that they must in turn be destroyed.

The proposed landscaping 'Zone 1' is the area within the Airfield perimeter fence plus a 300-foot buffer area that has previously received Adjustment approval to have all required landscaping waived via LUR 93-00174 MS AD. As discussed earlier in this Decision, the Airfield is exempt from City regulations, including permitting, code inspections, and landscaping requirements. The 300-foot buffer area around the airfield is exempt from landscaping requirements, per the prior adjustment approval, and is also exempt from the City requirements for tree cutting found under Title 20.42.

'Zone 1', being in closest proximity to, and inclusive of, the airport's runways, taxiways, ramps and aprons, has the most stringent proposed landscaping management. The proposed

program includes shrubs and ground cover only, with no new trees. Existing trees and other landscaping will be assessed not only for ‘vertical penetration’ potential, but also wild life attractant potentials, and removed when deemed necessary or potentially hazardous to air flight operations. No shrubs will be allowed within 10 feet of the airfield perimeter fence, consistent with US Homeland Security directives. Density of landscaping installed will ensure that there are no unbroken rows or clumps of evergreen shrubs or tree canopies that would provide shelter for birds.

Because the proposed ‘Zone 1’ area consists of the Airfield and the previously approved 300-foot buffer around the Airfield, no adjustments to Title 33, as previously described above, are required to implement this portion of the landscape management plan.

However, the proposed ‘Zone 2’ and ‘Zone 3’ of the airport specific landscape management plan include areas that are subject to applicable Title 33 landscaping standards, and thus adjustments are necessary. Specifically, ‘Zone 2’ includes the area established by the FAA in 14 CFR Part 77, which includes the 3-dimensional profiles of aircraft approach and transitional surfaces, also referred to as the *Runway Protection Zone* in this decision. This proposed ‘Zone 2’ can be seen on the Map 1E, *Runway Protection Zone*, attached to the applicant’s narrative in Exhibit A-3, and Map 1W. The Economy Parking Lot falls within this proposed ‘Zone 2’, and this parking lot is also within the Columbia South Shore Plan District and is immediately adjacent to a portion of NE Marine Drive that has applicable landscaping standards as part of the Columbia South Shore Plan District.

‘Zone 3’ is the largest area within the Master Plan Boundary that encompasses all the land area on site that lie outside ‘Zones 1’ and ‘2.’ The ‘Zone 3’ area on site coincides with a spatial area defined by the FAA [ref. Advisory Circular 150-2500-33] as the *10,000 foot Critical Zone* which is intended to be managed such that the area included is as compatible with safe aircraft operations as is feasible. Map 2 attached to Exhibit A-3 depicts the extent of the *10,000 foot Critical Zone* and its relationship to the Airport/Master Plan Boundary.

Thus, the adjustments itemized earlier in this decision are necessary in order for the Port to implement the proposed landscaping management plan. The purposes of the regulations to be modified are as follows:

The L1 standard is required to be installed on 15 percent of the site in the General Industrial 2 zone per 33.140.225. The purpose for this required landscaping is to help soften the effects of built and paved areas. It also helps in reducing stormwater runoff by providing a surface into which stormwater can percolate. [Adjustment request to replace L1 standard with Airport specific standard]

The purposes for landscaping standards for parking lots is to: Improve and soften the appearance of parking areas; Reduce the visual impact of parking areas from sidewalks, streets, and especially from adjacent residential zones; Direct traffic in parking areas; Shade and cool parking areas; Reduce the amount and rate of stormwater runoff from

vehicle areas; Reduce pollution and temperature of stormwater runoff from vehicle areas; and Decrease airborne and waterborne pollution. [Adjustments to 33.266.130 H and 33.266.130 G]

The Columbia South Shore Plan District regulations encourage the development of the Columbia South Shore as an industrial employment center that is intended to attract a diversity of employment opportunities. The plan district regulations ...[include]...special street setbacks and landscaping standards to enhance and strengthen the image of the plan district, and create a more formal landscape design and provide continuity along Airport Way. [Adjustments to 33.515.215 and 33.515.278]

All of the regulations to be adjusted have common themes as expressed in their purpose statements for the required landscaping; these common themes can be described broadly as '*softening and improving the visual appearance,*' and '*reducing the impacts of stormwater run off by slowing, filtering, and cooling the runoff through absorption by vegetation.*' The purposes for parking lot landscaping also include shading and cooling as well as directing traffic within the lot.

The proposed landscaping and vegetation management plan as proposed, will still equally meet the intended purposes of required landscaping by providing an alternative spacing and density of specific species that have been selected for their 'less-attractive' to wildlife characteristics. Thus, the purpose of visual softening and visual enhancement will still be met on the site, but by a modified landscaping program that will include specific formal elements and visual improvement. The proposed landscaping program will provide a *higher* ratio of ground cover and shrubbery than is required by the code. Alternative species and spacing for trees will still provide visual enhancement to all areas required to be landscaped.

The proposed landscaping and vegetation management plan as proposed, will still equally meet the intended purposes of required landscaping for stormwater management purposes by providing more dense ground cover and shrubs in lieu of trees in certain areas. Stormwater run off will still be slowed, cooled, and absorbed by the alternative density of vegetation proposed. Cooling and shading of parking areas will still occur, although the shade will not be quite as extensive as it might otherwise be with a more dense tree canopy. However, there are additional sources of shading provided in the Economy Parking lot via shelters at the shuttle bus stops. As noted throughout Exhibit A-3, a less dense planting of trees reduces the possibility of a continuous canopy that in turn is less attractive to birds. The proposed more open planting scheme, particularly for trees, will help reduce the potential for bird strikes. This is of particular importance to note, given the Economy Parking Lot's location relative to the northerly runway and being directly underneath the FAA defined *Runway Protective Zone*.

It is also important to note that the Economy Parking Lot is not seen from adjacent residential properties [there are none] and what views of the Economy Parking are available are from within the Airport Master Plan Boundary, not adjacent public streets, sidewalks or

properties not associated with the Airport use. Traffic routing within the parking lot is primarily accomplished with signage and travel lanes. Airborne and waterborne pollutants will still be filtered by the installed vegetation on site.

The proposed alternative landscaping management program will continue to provide landscaping in the appropriate locations within the Master Plan Boundary, but with alternative planting densities and with alternative species than are required by Title 33. The landscaping program proposed includes spacing and tree species that will not create overlapping tree canopies at maturity, and will be of species that will not grow to such height that they will penetrate the protected approach and take off spaces reserved for aircraft operations. The proposed species will create a varied height and canopy among the trees, and will include a mix of deciduous and evergreen species. Shrubbery will be planted with additional space between them and adjacent trees, and will include a mix of deciduous and evergreen species. Ground covers will be planted in a more dense coverage than required by the code. The proposed PDX approved species are almost completely limited to native species, although four shrubs and ground covers are not native, but contribute notable aesthetic qualities while not providing significant wildlife attractant characteristics. Some examples include *Echinacea purpurea* [purple cone flower], *Rhododendron x 'girard fushisa'* [hybrid azalea], and varieties of *Phyllodce spp.* [mountain heather].

The proposed landscaping management plan equally meets all of the primary purposes for landscaping, including visual softening and enhancement of the site, as well as contributing to stormwater runoff management. Thus, this criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the desired character of the area; and

**Findings:** The Master Plan Boundary encompasses lands primarily zoned Industrial, although as noted under the site description in this decision, portions of the site also lie in the EG2 and OS zones. The easterly portion of the site, near the Economy Parking Lot and NE Marine Drive also lies within the Columbia South Shore Plan District.

The desired character of the area, as defined by the IG2 zone is intended to promote viable and attractive industrial areas. The General Industrial 2 [IG2] areas generally have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverages and buildings which are usually set back from the street. The proposed landscaping program is consistent with this desired character because required areas will continue to have landscaping installed, but with alternative planting densities and with specific species that will help reduce the attractiveness to wildlife of portions of the site nearest the Airfield.

The desired character of the EG2 zone, which is a very limited area within the Master Plan Boundary near NE Airport Way, is to allow a wide range of employment opportunities

without potential conflicts from interspersed residential uses. The emphasis of the zones is on industrial and industrially-related uses. The proposed landscaping program is consistent with this desired character because required areas will continue to have landscaping installed, but with alternative planting densities and with specific species that will help reduce the attractiveness to wildlife of portions of the site nearest the Airfield.

The Open Space zone is intended to preserve and enhance public and private open, natural, and improved park and recreational areas identified in the Comprehensive Plan. These areas serve many functions including: providing opportunities for outdoor recreation; providing contrasts to the built environment; preserving scenic qualities; protecting sensitive or fragile environmental areas; preserving the capacity and water quality of the stormwater drainage system; and providing pedestrian and bicycle transportation connections. In general, the OS zone is limited to relatively small but significant areas within the Master Plan Boundary. The primary area of Open Space zoning runs along the Columbia River frontage paralleling NE Marine Drive, and two additional small areas lie west of NE 33<sup>rd</sup> Avenue, along the western most edge of the Master Plan Boundary. The proposed landscaping management plan will continue to provide contrasts to the built environment, will preserve designated scenic qualities, as discussed below, under Criterion D, and will continue to provide open vistas for those utilizing the recreational trail along the northerly portion of the site.

The proposed landscaping plan is specifically intended to provide less attractive plant material for birds to flock among, thus reducing the potential for bird strikes occurring during flight operations near the Airfield. The landscaping program will continue to allow airport and industrial uses to develop appropriately within the Master Plan Boundary, and will provide alternative landscaping screening and buffering as development occurs. Nothing in the proposed landscaping management plan conflicts with the desired character of these zones. This criterion is met.

- C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

**Findings:** In order to implement the proposed Airport specific landscaping management plan, five adjustments are necessary. The cumulative effect of these adjustments will result in the land area within the approved Master Plan Boundary being landscaped appropriately, with alternative plant species and planting densities. There will be no reduction in overall landscaping areas, except for a very small area near the Economy Parking Lot along NE Marine Drive as a result of the Portland Water Bureau's future installation of wellheads in this area. The overall site will be landscaped where landscaping is required by Title 33, but the configuration of plants, the plant spacing, density, and maintenance, such as pruning, and/or removal, will be consistent with the intent to utilize vegetation such that it discourages the flocking of birds and other wildlife that attracts birds to the area. The proposed landscaping management plan is designed to provide aesthetic landscaping but in

such a way as to eliminate vertical intrusions into the *Runway Protection Zone*, and minimize the potential for bird strikes and similar hazards near the Airfield and near operating aircraft. Thus the five adjustments will allow the Port to manage a landscaping program within the Master Plan Boundary that has been specifically designed to support and enhance safe aircraft operations and associated uses in close proximity to the Airfield. The proposed landscaping program will also result in better stewardship of wildlife on site by allowing alternative vegetative elements that will be designed to further discourage bird/wildlife congregation near the Airfield where potentially fatal collisions can occur. This criterion is met.

**D.** City-designated scenic resources and historic resources are preserved; and

**Findings:** There is a designated scenic resource within the Master Plan Boundary, as designated by the ‘s’ overlay zone, which runs along the northerly edge of the site, parallel with the Columbia River shoreline and the southerly edge of the NE Marine Drive right of way. This includes designated Scenic Drive from NE 33<sup>rd</sup> Avenue and NE Marine Drives [SD 12-04] as well as designated View of Bridge VB 13-06, view of Interstate 205 Bridge from NE Marine Drive [near the Economy Parking Lot, and View of Bridge VB 07-02, view of Interstate 5 Bridge from Marine Drive near 33<sup>rd</sup> Avenue, looking west.

Scenic Drive SD 12-04, NE 33<sup>rd</sup> Drive and Marine Drive is notable for views while driving northbound on 33<sup>rd</sup> and east on NE Marine Drive. The drive provides views of open areas, the airport, the Columbia River, Government Island and some particularly spectacular views of Mt Hood. None of these views will be compromised by the proposed landscaping program specific to the Airport Master Plan Boundary.

View of Bridge VB 13-06 is a city-designated viewpoint from NE Marine Drive between NE 82<sup>nd</sup> Avenue and Interstate 205. Looking eastward, one sees Mt Hood rising above the I-205 [Glen Jackson] Bridge as it spans the Columbia River and Government Island. This view will not be compromised by the proposed landscaping program specific to the Airport Master Plan Boundary.

View of Bridge VB 07-02 is a city-designated viewpoint looking west from NE Marine Drive at NE 33<sup>rd</sup> Avenue. The east end of Hayden Island is also visible from this point. This view will not be compromised by the proposed landscaping program specific to the Airport Master Plan Boundary.

The proposed landscaping management program will continue to preserve the designated scenic drive and the designated view points of the two Interstate Bridges. This criterion is met.

**E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

**Findings:** There are no discernible impacts as a result of these five adjustments. However, any minimal impacts that could be linked to the proposed Airport specific landscaping plan are mitigated by the increase in safety for flight operations. The proposed landscaping program will eliminate vertical intrusions into the Runway Protection Zone, as well as facilitate a reduction in potential bird strike hazards occurring during flight operations in proximity to the Airfield. The landscaping program will also help discourage birds congregating in areas proximate to the Airfield which makes them both more prone to a fatal encounter with an aircraft, as well as more prone to potential lethal methods of control. Thus, the adjustments result in a landscaping program that is consistent with the intent of the regulations, results in little, if any discernible impacts, but provides a significant element of wildlife management on site that furthers safer flight operations. This criterion is met.

**F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

**Findings:** The proposed Airport specific landscaping management program is intended to be applied to the entire land area within the Master Plan Boundary. However, some aspects of the proposed landscaping program will require a future environmental review in order to be implemented within the relatively small E-zoned areas within the Master Plan Boundary. Therefore, the Port has noted in their landscaping proposal that a separate, future environmental review will be required prior to implementing the Airport landscaping Management Program within either the 'c' or 'p' overlay zones. Therefore this criterion is not applicable at this time.

### **Development Standards**

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit. Per 33.815.060, the development standards for conditional uses are those of the base zone, any applicable overlay zones or plan districts, and any relevant regulations in the 200s series of chapters.

## **PLANS AND POLICIES**

### **Transportation Element of the Comprehensive Plan**

Ordinance No. 165851, passed by the City Council on September 23, 1992, resulted in an updating of the City Arterial Streets Classification Policy (ASCP) and an amendment to Title 33, the Portland Zoning Code. In reviewing land use requests done as Goal Exceptions, Comprehensive Plan Map Amendments, Zone Changes in compliance with the Comprehensive Plan, Conditional Uses and Master Plans, the Classification Descriptions, and the Maps are used as mandatory approval criteria.

### **Policy 6.1 Intergovernmental Coordination**

Coordinate long-range transportation planning activities by participating in Metro's management of funds and resources. Coordinate transportation facilities and improvements with development activities, both public and private, and with regional transportation and land use plans in order to achieve maximum benefit with the limited available funds. Coordinate with affected state and federal agencies, local governments, special districts, and providers of transportation services in the development of the Transportation System Plan. Update the Transportation Element of the Comprehensive Plan to be consistent with the City and Regional Transportation Plans and the Transportation Planning Rule.

**Findings:** Policy 6.1 -Not Applicable.

**Policy 6.2 Regional and City Travel Patterns**

Interregional traffic should use the Regional Transit and Trafficway system. Major City Traffic Streets, District Collectors, and Neighborhood Collectors should not be designed or managed to serve as alternative routes for regional trips. Collectors should serve as the distributor of local traffic to and from Major City Traffic Streets. Local Service Traffic Streets should not carry excess traffic from Collector Streets or experience high traffic volumes or speed.

**Findings:** Policy 6.2 -Most site-related traffic uses major city traffic streets and/or regional trafficways to reach the site. Other traffic (mostly freight traffic) also uses neighborhood collectors in the vicinity of the site. Nothing in this proposal precludes the ability to manage traffic as described in this policy. This criterion is met.

**Policy 6.3 No New Regional Trafficways**

The Regional Trafficway system within the City of Portland is complete. Any future increases in regional traffic should be accommodated by improvements to the existing trafficways and not by building new corridors for circumferential freeways within the City. Specifically, the proposed Western Bypass should not be extended north of U.S. 26 into the City, through Forest Park, and across the Willamette and Columbia Rivers.

**Findings:** Policy 6.3 Not Applicable

**Policy 6.4 Coordinate Land Use and Transportation Planning**

Coordinate land use planning with transportation planning. The Transportation Element of the Comprehensive Plan will guide the land use planning and transportation project development process. In reviewing land use requests done as Goal Exceptions, Comprehensive Plan Map Amendments, Zone Changes in compliance with the Comprehensive Plan, Conditional Uses, and Master Plans, the Transportation Goal and Policies 6.1 through 6.29, the District Policies, the Classification Descriptions, and the Maps are used as mandatory approval criteria.

**Findings:** Policy 6.4 -By using the Transportation Element policies as approval criteria for this proposal, this criterion is met.

**Policy 6.5 Neighborhood Collector and Local Service Street Traffic Management**

Manage traffic on Neighborhood Collectors and Local Service Streets according to the hierarchy established in Chapter 3 of the Transportation Element, Arterial Streets Classifications and Policies, and the land uses they serve. Measures taken by the Bureau of Traffic Management, within the criteria of both the Collector Recovery and Neighborhood Traffic Management Programs to manage traffic on Neighborhood Collectors and Local Service Streets, should encourage nonlocal traffic to use streets with higher traffic classifications and should not significantly divert traffic to other nearby streets of the same or lower classification.

**Findings:** Policy 6.5 -Approval of this proposal does not preclude or limit Transportation's ability to manage traffic according to the Chapter 3 hierarchy. This criterion is met.

**Policy 6.6 Urban Form**

Support a regional form composed of mixed-use centers served by a multimodal transportation system. New development should be served by interconnected public streets which provide safe and convenient pedestrian, bicycle, and vehicle access. Street and pedestrian connections should be provided to transit routes and within and between new and existing residential, commercial, and employment areas and other activity centers.

**Findings:** Policy 6.6 -The site is unusual in that much of the area is dedicated to the movement of airplanes. This type of activity precludes most connectivity options. Large drainageways and dikes (under separate ownership) limit connectivity options. This criterion is met.

**Policy 6.7 Public Transit**

Develop transit as the preferred form of person trips to and from the Central City, all regional and town centers, and light rail stations. Enhance access to transit along main streets and transit corridors. Transit shall not be viewed simply as a method of reducing peak-hour, work-trip congestion on the automobile network, but shall serve all trip types. Reduce transit travel times on the primary transit network, in the Central City, and in regional and town centers, to achieve reasonable travel times and levels of reliability, including taking measures to allow the priority movement of transit on certain transit streets. Support a public transit system that addresses the special needs of the transportation disadvantaged.

**Findings:** Policy 6.7 -Since this site was last reviewed for a master plan, light rail transit has been extended to the site, with the end of the line at the main terminal. This extension allows more trips from the Central City and other light rail stations to reach the site via transit. This criterion is met.

**Policy 6.8 Regional Rail Corridors**

Assign priority to the funding and development of the regional mass transit system to reduce both the need for new regional traffic facilities and reliance on the automobile. Decisions on light rail transitway alignments and their connections to other regional facilities will be based on individual corridor studies. Regional Transitway designations in the northern and southern corridors represent alternative alignments for future light rail transitways. The Transportation Element will be amended to show the chosen alignment as determined by the Draft Environmental Impact Statement process and as adopted by City Council. Funding decisions for light rail transit corridors should be

based upon the population served, the opportunities for redevelopment, and the traffic congestion problems in the corridors.

**Findings:** Policy 6.8 –Not Applicable.

**Policy 6.9 Transit-Oriented Development**

Reinforce the link between transit and land use by increasing residential densities on residentially-zoned lands and encouraging transit-oriented development along Major City Transit Streets and Regional Transitways, as well as in activity centers, at existing and planned light rail transit stations, and at transit centers in conformance with the Comprehensive Plan and Zoning Code.

**Findings:** Policy 6.9 -The site is served by a Regional Transitway with stations. Additional development on this site (an employment center) reinforces the land use – transit linkage. This criterion is met.

**Policy 6.10 Barrier-Free Design**

Transportation facilities shall be accessible to all people. All improvements to the transportation system (traffic, transit, bicycle, and pedestrian) in the public right-of-way shall comply with the Americans with Disabilities Act of 1990.

**Findings:** Policy 6.10 -All improvements occurring in public right-of-way will be constructed in compliance with ADA requirements. This criterion is met.

**Policy 6.11 Pedestrian Transportation**

Plan and complete a pedestrian network that increases the opportunities for walking to shopping and services, institutional and recreational destinations, employment, and transit.

**Findings:** Policy 6.11 -Through the building permit process, Title 17.88.010 will be applied to require all frontage improvements to include sidewalk improvements meeting current standards which are based on the *Pedestrian Design Guidelines* for public streets.

The transit station within the site boundary is connected to the main terminal by sidewalk. A sidewalk connection from the main terminal to the public street network is also provided. Other onsite pedestrian connections may be required in compliance with the base zone standards.

No high pedestrian collision locations have been identified for the surrounding public street system. The highest pedestrian usage is currently concentrated between the main terminal, the onsite transit station, and the short-term parking garage where private improvements provide access and connections.

As long as the site meets base zone requirements for pedestrian connections, this criterion is met. However, the applicant is encouraged to work with pedestrian advocates and others to develop a comprehensive pedestrian plan that places a higher priority on walking as a travel mode.

**Policy 6.12 Bicycle Transportation**

Make the bicycle an integral part of daily life in Portland, particularly for trips of less than five miles, by implementing a bikeway network, providing end-of-trip facilities, improving bicycle/transit integration, encouraging bicycle use, and making bicycling safer.

**Findings:** Policy 6.12 -Existing rights-of-way with frontage on the site currently provide specific bicycle facilities and/or can accommodate bicycle traffic. Any future frontage improvements required through the building permit process will analyze the demand/feasibility for bicycle facilities in compliance with the Bicycle Master Plan. As long as new development is in compliance with Title 33 for bicycle parking requirements, this criterion is met.

**Policy 6.13 Transportation Demand Management**

Require the use of transportation demand management techniques such as carpooling, ridesharing, flexible work hours, telecommuting, parking management, and employer-subsidized transit passes to mitigate the impact of development-generated traffic in land use reviews. Require a percentage of employee parking spaces to be set aside for preferential carpool/vanpool parking.

**Findings:** Policy 6.13 -See the applicant's response to this policy on page VII-20 of the application narrative, Exhibit A-1. In addition, the applicant has submitted a copy of the PDX Employee TDM study, which lists specific measures in place today. This criterion is met as long as the items listed are continued.

**Policy 6.14 Parking Management**

To achieve environmental and transportation policy objectives, the parking supply shall be managed to take into account both transportation capacity and parking demand. Implement measures to achieve Portland's share of the mandated 10 percent reduction (per the Transportation Rule) in parking spaces per capita within the metropolitan area over the next 20 years. Through the land use process, these measures should include restrictions on the development of new spaces and the redevelopment of existing parking spaces for other uses.

**Findings:** Policies 6.14 through 6.17 -The applicant provided a memorandum dated January 31, 2003, [ref Exhibit A-3] that provides revised parking numbers. Transportation concurs with the applicant's response to these policies on pages VII- 21 & 22 of Exhibit A-1 as modified by the new numbers from the memorandum found in Exhibit A-3. These criteria are met.

**Policy 6.15 On-Street Parking Management**

Manage the supply, operations and demand for parking and loading in the public right-of-way to encourage economic vitality, traffic safety, and livability of residential neighborhoods. Parking in the right-of-way, in general, should serve land uses in the immediate area. Maintain existing on-street parking in older neighborhoods where off-street parking is inadequate. Parking for individuals, or at specific locations, is not guaranteed by this policy. However, the City should act to protect parking, first for residents and second for customers and visitors.

**Findings:** Policies 6.14 through 6.17 -The applicant provided a memorandum dated January 31, 2003, that provides revised parking numbers. Transportation concurs with the applicant's response to these policies on pages VII- 21 & 22 of Exhibit A-1 as modified by the new numbers from the memorandum found in Exhibit A-3. These criteria are met.

**Policy 6.16 Off-Street Parking**

Off-street parking will be the primary source of parking supply. The Zoning Code shall require private development of adequate, but not excessive, off-street parking for all land uses. The CM, CS, CN1, EX, RX, or CX zones are placed near existing or future transit service. The City will not require the private development of off-street parking in these zones because growth in access is expected to be met primarily by transit, bicycles, and pedestrians.

**Policy 6.17 Institutional Parking**

Encourage institutions to regulate parking facilities, to first provide short-term parking for users, and secondly, to use demand management to minimize the amount of employee parking required. In approving land use changes for institutions, parking impacts on surrounding residential areas shall be mitigated.

**Findings:** Policies 6.14 through 6.17 -The applicant provided a memorandum dated January 31, 2003, that provides revised parking numbers. Transportation concurs with the applicant's response to these policies on pages VII- 21 & 22 of Exhibit A-1 as modified by the new numbers from the memorandum found in Exhibit A-3. These criteria are met.

**Policy 6.18 Clean Air and Energy Efficiency**

Encourage the use of all modes of travel that contribute to clean air and energy efficiency.

**Findings:** Policy 6.18 -By providing good access to transit, bicycle and pedestrian facilities and implementing transportation demand management strategies, the applicant is met.

**Policy 6.19 Multimodal**

Coordinate the planning, development, and interconnection of all modes of passenger transportation. Portland International Airport is the hub air passenger facility; direct connections for all modes should be provided to the airport. Union Station is the hub of the multimodal Transportation Center located in the North Downtown area and should serve as the primary passenger rail and intercity bus terminal in the Portland metropolitan area, providing direct connections between passenger rail, light rail, vintage trolley, intracity buses, taxis, and airport bus shuttles.

**Findings:** Policy 6.19 -By approving this land use request, airport-oriented development enhances the Portland airport as the hub air passenger facility. This criterion is met.

**Policy 6.20 Northwest Corridor Passenger Rail Service**

Expand Northwest Corridor passenger rail service between Eugene, Portland, Seattle, and Vancouver, B.C. Cooperate with the State of Washington and Province of British Columbia to explore the feasibility of high-speed train service.

**Findings:** Policy 6.20 –Not Applicable

**Policy 6.21 Freight Intermodal Facilities and Freight Activity Areas**

Develop and maintain a multimodal transportation system for the safe and efficient movement of goods within the City.

**Findings:** Policy 6.21 -The airport is a significant freight terminal, which is served by the adjacent street network. Providing adequate capacity on the street network encourages the continued use of the airport for freight by providing good access. The applicant has demonstrated that all impacted intersections have adequate capacity or can be upgraded to provide adequate capacity. This criterion is met.

**Policy 6.22 Right-of-Way Opportunities**

Preserve existing and abandoned rail rights-of-way and examine their potential for future rail freight, passenger service, or recreational trail uses. Acquire or control parcels of land that may be needed in the future for any transportation purpose when the opportunity arises through sale, donation, or land use action.

**Findings:** Policy 6.22 -No abandoned rights-of-way are part of this site and Transportation has not identified any parcels that are needed for future right-of-way connections. This criterion is met.

**Policy 6.23 South of Portland River Crossing**

A new bridge crossing the Willamette River should be located south of the City of Portland to serve suburban travel demand between Clackamas and Washington Counties. The Sellwood Bridge should also be replaced, but be designed to connect Southeast and Southwest Portland neighborhoods.

**Findings:** Policy 6.23 –Not applicable

**Policy 6.24 Market-Based Congestion Management**

Advocate a regional, market-based system to price or charge for an auto trip during the peak hours. The pricing strategies should be set based on the environmental and social costs of single-occupant commuters.

**Findings:** Policy 6.24 –Not applicable

**Policy 6.25 Access Management**

The City will work with ODOT on a case by case basis as they develop access management agreements for state highways within the City. Local street connections to arterials from new

subdivisions should be designed with adequate spacing to provide for local access to the arterial, while at the same time minimizing conflicts with through traffic.

**Findings:** Policy 6.25 -Nothing in this application precludes ODOT's ability to manage access to State facilities. This criterion is met.

**Policy 6.26 Adequacy of Transportation Facilities**

Ensure that amendments to the Comprehensive Plan or land use regulations which change allowed land uses, including goal exceptions, map amendments, zone changes, conditional uses, and master plans, and which significantly affect a transportation facility, are consistent with the identified function, capacity, and level of service of the facility.

**Findings:** Policy 6.26 – As discussed above in the Traffic Impact Analysis section, the applicant analyzed 22 intersections for potential traffic impacts. Two of those locations are not subject to capacity analysis (Cornfoot/Airtrans Way, Airport Way/Frontage Rd). Of the remaining locations all but two meet capacity requirements or can be mitigated to meet capacity requirements. The two exceptions are on Marine Drive where mitigation would be in conflict with the intended function of the facility and therefore should not be mitigated though mitigation (signalization) is feasible. With conditions to require mitigation improvements, this criterion can be met.

**Policy 6.27 Public Involvement**

Carry out a public involvement process that is consistent with Metro guidelines and provides information about transportation issues and processes to citizens, especially to those traditionally under-served by transportation services.

**Findings:** Policy 6.27 –Not Applicable

**Policy 6.28 Transportation Education**

Publicize activities and the availability of resources and facilities to encourage use of alternate modes of travel to the automobile. Implement educational programs that promote transportation choices and safety for all modes of travel and that recognize the need for developing and maintaining a comprehensive transportation system that supports freight as well as passenger movements.

**Findings:** Policy 6.28 –Not Applicable

**Policy 6.29 Street Vacations**

Allow street vacations only when there is no existing or future need for the right-of-way, the established City street pattern will not be significantly interrupted, and the functional purpose of nearby streets will be maintained. Evaluate opportunities and the need for a bikeway, walkway, or other transportation use. Where pedestrian and bicycle facilities are needed, the first preference is to retain public right-of-way for these uses. If retaining right-of-way is not feasible, a public easement can be required along with public improvements where they will preserve or enhance circulation needs.

**Findings:** Policy 6.29 -No Street vacations are proposed for this site. This criterion is met.

Far Northeast District Policies – This proposal does not preclude or impact the ability to address these policies. The proposed Conditional Use Master Plan is in compliance with these policies.

### III. CONCLUSIONS

The Portland International Airport has a history that stretches back to the 1930's, before the City annexed the land where the airport is presently located. The original airport facility opened in 1940 in its present location. Shortly after the 1940 opening, the Port began construction of a new passenger terminal complex that was dedicated in 1958. By the 1970's the Airport was undergoing another major expansion which was completed in 1977. In 1979 a conditional use master plan was approved through the year 2000 by City Council with conditions. Subsequent Master Plan reviews and approvals occurred in 1986 and in 1993. This application seeks to revise the current approved Conditional Use Master Plan [LUR 93-00174 MS AD] which expires in August 2003.

The Port has requested approval of a new Conditional Use Master Plan that will guide development within the Master Plan Boundary during the next 8 years. The proposal includes approval of 37 building and site improvement projects. Concurrent land use requests include a Conditional Use approval to add up to 25,000 square feet of retail sales and service and/or office development in the IG2 zone; Approval of a PDX District bicycle/pedestrian system as required by the regulations for Conditional Use Master Plans; Adoption of PDX Non-Conforming Upgrades and Compliance Plan by reference; and approval of a proposed landscape management program that requires Adjustments to five applicable landscaping standards for the site in order to implement the site-specific landscaping program.

The Portland International Airport is a unique and multi-faceted land use that is also subject to a complex hierarchy of federal, state and local regulations. The prior approved Master Plan Boundary encompasses an area of approximately 2,990 acres. In addition, the site, and uses found on the site, can be divided into two categories of Airside and Landside activities. Regulatory authority also follows this division, as discussed earlier in this decision.

Development of Landside facilities at the Airport are subject to the regulations of Title 33, the Portland Zoning Code. Although a future legislative process has been identified as the next planning step for the Airport, the proposal before the City is subject only to the existing regulations, and quasi-judicial procedure.

The applicant has proposed new development anticipated to occur over the next 8 years. This development will allow the Airport to expand facilities and services that meet identified future needs. These needs will be dependant on factors such as airline demand, funding availability, parking adequacy and other thresholds. Therefore, it is important for the Conditional Use Master Plan to provide some flexibility for the Port to develop without further review except when a project has potential impacts on the Environmental zones, or on the transportation system beyond

thresholds identified in the Transportation Impact Study, or requires an adjustment to applicable development standards.

BDS staff recommended and the Hearings Officer determined that this Conditional Use Master Plan should remain in effect for an 8 year period, with conditions of approval, as recommended in the Staff Report and Recommendation to the Hearings Officer (Exhibit H.1). The City Council views the BDS staff and the Hearings Officer recommendations as providing a framework within which the Port has the flexibility to develop the PDX facility consistent with this Conditional Use Master Plan while identifying thresholds of potential impacts from the growth and development that will require mitigation measures implemented in tandem with the development.

As discussed in this decision, the proposed new Conditional Use Master Plan is reasonable and timely, as the existing Master Plan is nearing the end of its term, and a number of the prior approved development projects have been completed. The Port has identified a number of future improvements anticipated to be developed over the next 8 years as various 'demand triggers' are reached. Although concerns have been raised by the AIR group about the data, forecasting, and demand triggers described in the Port's application, there is no specific criterion in the applicable zoning regulations that requires the applicant to demonstrate that the proposed development is based on demand thresholds.

This lack of evaluation of an applicant's forecasts is not unique to this review, or to this proposal. For example, Conditional Use Master Plans proposed by educational institutions frequently identify thresholds for future development based on enrollment projects and future funding sources. However, the criteria do not require an analysis of such forecasts, because the intent of the land use review criteria is not to determine whether there is *demand* for proposed development, but instead, to determine the *impacts* of such development at full build-out. The zoning code assumes that development will occur as proposed by *any* applicant *if and when* market forces, funding, and demand triggers are reached. Thus mitigation measures to address impacts as development occurs are tied to specific development projects. If the development does not occur, the scheduled mitigation is not required; if thresholds are met, the development will occur and mitigation will occur in tandem.

The proposed new Conditional Use Master Plan satisfies all applicable approval criteria of Section 33.820.050, (Master Plan) Approval Criteria. These criteria require compliance with Section 33.820.070, Components of a Master Plan, with Section 33.815.200, Conditional Use Criteria for Aviation and Surface Passenger Terminals, and that other applicable regulations of Title 33 can be met. The proposed development of up to 25,000 square feet of retail sales and service and/or office development meets all the applicable approval criteria of Section 33.815.125, Conditional Use Criteria for Specified Uses in Industrial zones and the proposed site specific landscaping and vegetation management program satisfies all applicable approval criteria of Section 33.805.040, Adjustments. Finally, BDS staff found, and the Hearings Officer concurred that the proposal satisfies all of the applicable policies of the Transportation Element of the Comprehensive Plan with conditions of approval as recommended by Portland Transportation. The City Council also

finds that the proposal satisfies all of the applicable policies of the Transportation element of the Comprehensive Plan with the conditions of approval as recommended by PDOT.

Therefore, the Master Plan should be approved with conditions of approval as discussed in this decision.

#### **IV. DECISION**

Approval of:

- Conditional Use Master Plan and Conditional Use for Aviation and Surface Passenger Terminal including 37 development projects as described in Exhibits A-1 through A-5, and Exhibits C-1 through C-9, and
- Conditional Use to add up to 25,000 square feet of retail sales and service and /or office development in the IG2 zone;
- An Airport specific bicycle/pedestrian system as described in Exhibits C-3 and C-4 and revisions thereto as described in Exhibit C-5;
- Adjustments to waive the following development standards, and replace them with the Airport-specific, alternative vegetation and landscaping management program defining species, configurations, and planting density standards as detailed in Exhibit A-3, *Adjustments for PDX Vegetation/Landscape Management Program*, dated January 2003:
- Adjustment to replace the L1 landscaping standard [defined at 33.248.020 A 1-2] with Airport-specific, alternative landscaping configurations and densities to be installed on site. The L1 standard is required to be installed, per 33.140.225 and Table 140-3, to 15 percent of the site area;
- Adjustment to 33.266.130 H, which regulates the required landscaping materials and densities for parking lot landscaping;
- Adjustment to 33.515.215, Marine Drive Streetscape and landscape standards; and
- Adjustment to 33.515.278, Columbia South Shore Plan District development standards; both of these requirements would be replaced with the adoption of a PDX specific plant list for landscaping in areas where installation of landscaping will not impinge on safety requirements for Airfield operations;
- Waive the requirement to replace lost perimeter landscaping, as required by 33.266.130 G, in the Economy Lot along NE Marine Drive if landscaping is lost as a result of the Portland Water Bureau's future installation of wellheads.

Subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through G) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 02-146814 CUMS CU AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. The term of this Conditional Use Master Plan remains in effect for 8 years, *or* until development allowed by the plan has been completed, *or* until the Conditional Use Master Plan is superceded by a future legislative process that is adopted by the City, whichever occurs first.
- C. The applicant must continue all transportation demand management measures as listed in the PDX Employee TDM Study and as described under policy 6.13 on page VII-20 & 21 of the Conditional Use Master Plan application [Exhibit A-1].
- D. The site shall be subject to base zone requirements for on-site pedestrian facilities. The applicant shall construct the following projects, per the requirements of the City Engineer or the Oregon Department of Transportation prior to occupancy of the associated projects as listed:

<b>Mitigation Project</b>	<b><i>Proposed Development Trigger Project #</i></b> <sup>(1),(2)</sup>
Airport Way/I-205 SB	5, 6, 17
Airport Way/I-205 NB	2, 3, 5, 6, 7, 16, 17, 18 <sup>(3)</sup>
Airport Way/122 <sup>nd</sup> Ave	7
Alderwood/82 <sup>nd</sup> Ave	5, 6
47 <sup>th</sup> /Columbia Blvd	30
Columbia/82 <sup>nd</sup> Ave SB	29
Alderwood/Cornfoot Rd	13
<sup>(1)</sup> Project # from Table V-3, 10/02 Conditional Use Master application.	
<sup>(2)</sup> Mitigation must be guaranteed prior to issuance any project building permit as listed in this table. Mitigation must be completed prior to occupancy of any of the resulting projects as listed in this table.	
<sup>(3)</sup> Airport Way/I-205 NB must be completed prior to completion of Airport Way/I-205 SB.	

- E. The Conditional Use Master Plan proposal documents found at Exhibits A-1 through A-5 do not include all changes and conditions of approval included in the final decision. Within three months of the final decision on this current Conditional Use Master Plan [LU 02-146814 CUMS CU AD], the Port shall submit to the Bureau of Development Services six copies of the approved Conditional Use Master Plan

incorporating all changes and conditions of approval. Changes include, at a minimum, the following:

- A set of plans depicting bicycle/pedestrian system improvements that fully incorporate all revisions and modifications included in the final decision; and
- A copy of the executed IGA for the Non conforming Upgrades and Compliance Plan.

For each project developed over the term of this Conditional Use Master Plan, the Port will submit six copies of an addendum to the Conditional Use Master Plan which describes the project and shows its location on a site plan. These addenda must be submitted with the final permit drawings.

- F. Upon completion of the Part 150 process, the Port must submit six copies of the final approved Noise Abatement plan as an addendum to the Conditional Use Master Plan on file with the City.
- G. Amendments to this master plan will be administered as follows:
- H. Construction of structures comprising Project 29 shall not begin until the Port provides to the City the FAA-approved Part 150 Noise Compatibility Study update, but all fill, infrastructure and other site developments pertaining to the Southwest Quadrant may proceed, without limitation.
- I. The City Council's approval of this Conditional Use Master Plan shall not be construed as approval of, or any predisposition to approve, a future parallel third runway at Portland International Airport.
- J. The Port shall request that each carrier respond, in writing, to the Port concerning noise-related complaints received that the Port determines are valid.
- K. The Port shall follow the public involvement process proposed in the Conditional Use Master Plan application before initiating those major projects referenced for that public involvement process in the application.

**Type I Amendments.** There are no Type I amendments.

**Type II Amendments.** The following shall be reviewed by means of the Type II quasi-judicial procedures as contained in Section 33.730.020:

1. From 10,000 to 50,000 gsf of additional development in any Activity Sector in excess of that approved in the CUMP. For development greater than 30,000 gsf that generates land-based traffic, the Port shall undertake traffic and parking analysis of

the proposal as part of the land use review application, per the requirements of PDOT.

2. An increase of up to 10% in the total number of parking spaces in any given parking facility approved in this CUMP, based on the parking analysis as applied in the CUMP. The Port shall provide a parking analysis related to the proposal as part of the land use review application.
3. The reduction of the PDX District boundary if the land that is removed contains no development required for existing or proposed development within the remaining master plan area, and if the reduction does not conflict with any conditions of approval.

**Type III Amendments.** The following shall be reviewed by means of the Type III quasi-judicial procedures as contained in Section 33.730.030:

1. Expansion or reduction of the PDX District boundary, except as provided in #3 above, under Type II Amendments.
2. Additional development of 50,000 gsf or more in any Activity Sector in excess of that approved in the CUMP. The Port shall undertake traffic and parking analysis for the proposal as part of the land use review application, per the requirements of PDOT.
3. An increase greater than 10% in the total number of parking spaces approved in this CUMP.
4. Modification of an original condition of approval.
5. Any use not approved in the this CUMP in the Proposed Development Plan, contained in Exhibit C-2 [Revised Table V-3, found at Exhibit A-3] or described in Chapter V, *Proposed Development Plan*, Exhibit A-1.