

Natural Resource Criteria for Portland International Airport



City Council Adopted Report

Ordinance No. 176351



City of Portland
Bureau of Planning

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Project Summary

The adopted amendments add one criterion to the *Zoning Code* relating to natural resources and the airport. The additional criterion allows the City to evaluate natural resources as part of the Port of Portland's (Port) conditional use application for Portland International Airport.

At the direction of City Council, Bureau of Planning developed these *Zoning Code* changes collaboratively with the Office of Planning and Development Review (OPDR), Bureau of Environmental Services (BES), and the Columbia Slough Watershed Council.

The adopted amendments require the Port to evaluate the cumulative impact of all development proposed as part of their conditional use permit application on areas within the City's environmental overlay zones. The adopted amendments also require consideration of potential impacts of development on downstream water bodies in the Columbia Slough. Any significant detrimental impacts that cannot be avoided must be mitigated according to the criteria in these amendments.

City Council Actions. On March 27, 2002, the City Council took the following actions:

- Adopted this report;
- Amended the *Portland Zoning Code* as consistent with this report; and
- Adopted the commentary in the Planning Commission Report and Recommendations on *Natural Resource Criteria for Portland International Airport* as legislative intent and further findings.

Background

This project originated in the fall of 2000 after discussions with the Office of Planning and Development Review (OPDR), citizens groups, and the Port of Portland (Port). All the parties generally agreed that the current quasi-judicial process for approving land uses at the airport is problematic, and that the current conditional use criteria are insufficient for the complex issues related to the airport. The Bureau of Planning (BOP) prepared a report documenting the issues and possible solutions, titled *Alternatives to the Conditional Use Permit Process for Portland International Airport (PDX)*.

In April 2001, City Council held a work session to discuss the issues and possible alternatives. Those involved agreed that the Port and the City should pursue a legislative process in the future to address these complex issues and future expansion, such as a possible third runway or decentralized terminal. At this time, the Port requested the City review one last conditional use permit, with generally the same uses that were approved as part of the 1993 conditional use permit, in addition to Phase I of the 2000 Master Plan. This permit request specifically excludes a possible third runway or decentralized terminal. By consensus, the Council agreed with this request. In addition, the City and the Port committed to working collaboratively to initiate a legislative project within five years. Through subsequent negotiations between the City and the Port, both parties agreed to start the legislative process by 2005, with the intention of completing by 2008.

As part of the discussion of a future legislative process to develop appropriate land use regulations for the airport, the City agreed to change the conditional use criteria to address natural resources. The concern is that the current approval criteria do not mention natural resources. As a result, the environmental impacts of new development at the airport are addressed on a case-by-case basis as the Port applies for individual building permits. The intent of adding criteria is to require the Port to evaluate the cumulative effects of proposed development and mitigation within the context of the larger Columbia Slough watershed.

Legislative vs. Conditional Use

The distinction between a legislative process and a conditional use process needs to be made to understand this project. As stated earlier, the conditional use process has limitations in evaluating the potential impacts of airport activities in terms of noise, natural resources, air quality, and overall livability

of surrounding neighborhoods. Below is a brief outline of the short-term quasi-judicial process and the long-term legislative process.

Short-term Conditional Use

Airports are allowed, but only as a conditional use, in the City's industrial zones. As a result, the City must grant a permit for the airport that places conditions on the uses allowed and the types of development that may occur. Essentially, the Port may not build any facilities that are not first approved as part of the airport's conditional use permit.

The conditional use process requires the applicant (the Port) to submit a conditional use permit application that has components required in Chapter 33.820.070 of the *Zoning Code*. These components include a description of the boundaries of the use for the airport, what uses are proposed, a site plan, development standards, phasing of development, and an assortment of information on transportation.

The Office of Planning and Development Review (OPDR) then reviews the conditional use application and prepares a staff report to the City's Land Use Hearings Officer. OPDR staff evaluates whether or not the proposed conditional use application meets certain criteria (as required in Chapter 33.815.200). These criteria are specifically written for the airport and are referred to as approval criteria. The criteria are:

1. Did the Port submit the proper components of a conditional use application (as required in Chapter 33.820.070);
2. Are public services adequate to serve proposed uses, i.e. transportation, water, police, etc;
3. Have a noise abatement plan and a noise impact overlay zone been developed to reduce the impact of aircraft noise on development within the noise impact area; and
4. Does the public benefit of the use outweigh any impacts which cannot be mitigated.

Once OPDR deems the Port's application "complete," the Hearings Office schedules a public hearing, typically within 120 days. A notice of the hearing is sent to property owners within a defined distance of the airport, to interested citizens, and notices are posted around the airport property. At the hearing, OPDR gives an oral presentation of the staff report. The Hearings Officer then opens the hearing to public comment. Citizens are provided the opportunity to present information on the Port's conditional use application in the form of testimony. The Hearings Officer then considers all the information and makes a quasi-judicial decision to deny the application, approve the application, or approve the application with conditions.

Long-term Legislative Process

In contrast, a legislative process creates laws and changes policies through the power of the City Council. The legislative process to create appropriate land use regulations for the airport would take several years to complete and involve extensive outreach to seek input of those who will be affected. Unlike the Hearings Officer, City Council is not limited in its authority to consider issues not currently addressed in the *Zoning Code*.

The long-term legislative process will likely take the form of a plan district. The City has numerous examples of plan districts, including CascadeStation, Portland International Raceway, and Marquam Hill (a plan currently in progress). The following is the purpose statement from Chapter 33.500.010:

“Plan districts address concerns unique to an area when other zoning mechanisms cannot achieve the desired results. An area may be unique based on natural, economic or historic attributes; be subject to problems from rapid or severe transitions of land use; or contain public facilities which require specific land use regulations for their efficient operation. Plan districts provide a means to modify zoning regulations for specific areas defined in special plans or studies. Each plan district has its own nontransferable set of regulations. This contrasts with base zone and overlay zone provisions which are intended to be applicable in large areas or in more than one area.”

Timeline and Next Steps

The City and the Port recognize that as the airport grows, so do the potential impacts of noise, air quality, and transportation on surrounding areas and neighborhoods. The City also recognizes the limitations of the conditional use permit process to address these impacts. Therefore, this project is intended to specifically address natural resources in the short term, with a recognition that the long term legislative process will address the larger issues of future airport expansion and the impacts.

The Planning Commission considered the specific proposal to add criterion to the *Zoning Code* on January 22, February 12, and February 26, 2002. Based on public testimony, the Planning Commission forwarded a recommendation to the City Council for additional consideration and testimony. City Council adopted the proposal as an emergency ordinance on March 27, 2002. It is anticipated that the Port will submit the airport conditional use permit application in April/May 2002.

Future planning efforts by the Port and the City are summarized on the following page.

**Target Timeline
for Portland International Airport (PDX) Land Use Approvals***

Task	Est. Start	Est. End	Responsibility
Conditional Use Planning			
Develop Conditional Use Criteria for Natural Resources	9/01	3/02	City
◆ Circulate draft language to City Bureaus	10/01	11/01	City
◆ Circulate draft language to Conditional Use Working Group	12/01	12/01	City
◆ Attend stakeholder group meetings	11/01	12/01	City
◆ Present to Planning Commission at Hearing	01/02	01/02	City
◆ Present to City Council at Hearing	2-3/02	2-3/02	City
Conditional Use Studies	12/01	4/02	Port
◆ Transportation	12/01	4/02	Port
◆ Noise	12/01	2/02	Port
◆ Natural Resources	9/01	4/02	Port
◆ Water Quality	12/01	3/02	Port
◆ Air Quality	12/01	3/02	Port
Conditional Use Application	Spring 02	Fall 02	Port
Conditional Use Approval	Fall 02	Winter 02	City
Long Term Planning			
Develop Legislative IGA	8/02	12/03	City/Port
Long Term Studies	9/02	6/05	Port
◆ Strategic Environmental Evaluation	9/02	6/05	Port
◆ Ongoing Environmental Program	ONGOING	ONGOING	Port
◆ Capacity Preservation Projects/ Programs	3/02	6/05	Port
◆ PDX Capacity Enhancement Plan	12/00	6/03	Port
◆ PDX Transportation Planning Program	3/03	2/05	Port
◆ PDX Noise Plan Update	3/02	6/04	Port
PDX Master Plan Update	7/05	6/08	Port
City Legislative Process	7/05	6/08	City
Develop Land Use Regulations	1/07	6/08	City
Adopt Land Use Regulations	6/08	6/08	City
Adopt New PDX Master Plan	6/08	6/08	Port
Public Involvement	ONGOING	ONGOING	City/Port

*Please note that the start and end dates are estimates, which appear to be reasonable at this time. 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 in this table.

Adopted Code Changes

How to read this section

Pages 9-11 show *Zoning Code* language with the adopted changes. Language added to the *Zoning Code* is underlined. Language deleted is shown with a ~~striketrough~~.

Page 8 contains commentary on the adopted changes.

33.815.200 Aviation And Surface Passenger Terminals

A. Airports.

4. **Natural Resources.** The City recognizes that development at the airport has potential impacts on natural areas within the airport, immediately adjacent natural areas, and downstream in the Columbia Slough. The intent of the criteria is to require the Port to describe, based on the best available information, the potential impacts (positive or negative) of proposed airport development on areas identified in the City environmental overlay zones. The areas of consideration are both areas within the master plan boundary and areas covered by City environmental overlay zones on and along the Columbia Slough. The description for the impacts on the Columbia Slough may be a description of existing Port programs to protect and enhance natural resources and a discussion of future programs to address the potential impacts of proposed and possible development.
 - a. The proposed language requires a description of all proposed development. Proposed and possible development is limited to development proposed by the applicant as part of the Conditional Use Master Plan (CUMP).
 - b. The proposed language references areas in environmental overlay zones. These are natural resources and functional values as designated by the City in the environmental overlay zones of Chapter 33.430. The proposed language requires a description of potential cumulative impacts, both positive and negative, on land within the master plan boundary.
 - c. The proposed language also requires a description of potential cumulative impacts on areas specifically described in 1-4. The areas include the Columbia Slough.
 - d. The proposed language requires the Port to go beyond describing potential impacts, positive or negative, and requires an identification of significant detrimental impacts, if any, as defined in the *Zoning Code*.
 - e. Mitigation plan. The proposed language requires a description of how significant detrimental impacts will be avoided, minimized, or mitigated in the order of preference stated. The proposed language requires the Port to identify the general types and possible location of mitigation proposed. It requires a general timetable for all proposed development, mitigation and resource enhancement. In addition, the plan must outline how the mitigation plan will be monitored and reported to the City.
 - f. The proposed language requires a big picture analysis of how all proposed development, over the life of the CUMP, will meet the approval criteria in Chapter 33.430.250.A.1.a through 33.430.250.A.1.e and 33.430.250.A.3.b. The language provides flexibility if possible development is conceptual in nature, and the applicant does not have sufficient information to meet the approval criteria at the time of application. Similarly, the applicant has the option of addressing the requirements of Chapter 33.430 as part of the CUMP, or as an alternative, addressing Chapter 33.430 at the time of applying for individual building permits.

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;
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;
 - 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
 - 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.
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; ~~and~~
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;
 - 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;
 - 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.

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

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

33.910.030 Definitions

The definition of words with specific meaning in the zoning code are as follows:

Environment-Related Definitions

- **City-designated natural resources.** Natural resources and functional values protected by Environmental Overlay Zones.

Ordinance No. 176351

*Amend the Zoning Code to add a conditional use criterion for natural resources in the Aviation and Surface Passenger Terminals Section, which includes Portland International Airport. (Ordinance; amend Title 33)

The City of Portland Ordains:

Section 1. The Council finds:

General Findings

1. On August 22, 2001, the Portland City Council adopted Resolution #36018, which directed the Bureau of Planning to prepare an intergovernmental agreement between the City of Portland (City) and the Port of Portland (Port) outlining future land use approvals for Portland International Airport (PDX).
2. As part of the Resolution, City Council directed the Bureau of Planning to amend the Zoning Code by adding a criterion for natural resources in the conditional uses chapter for Aviation and Surface Passenger Terminals.
3. In the fall of 2001, the Bureau of Planning, together with the Port, City bureaus, and a group of citizens representing the Airtraffic Issues Roundtable (AIR), developed a general timeline and description of future planning efforts and land use approvals for PDX in the form of an intergovernmental agreement.
4. On February 6, 2002, the Portland City Council adopted Ordinance #176250, which authorized the Mayor to sign the intergovernmental agreement with the Port described above.

Statewide Planning Goals Findings

5. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with the state land use goals. Because of the limited scope of the amendments in this ordinance, only the state goals addressed below apply.
6. **Goal 1, Citizen Involvement**, requires provision of opportunities for citizens to be involved in all phases of the planning process. The preparation of these amendments has provided numerous opportunities for public involvement. Portland *Comprehensive Plan* findings on Goal 9, Citizen Involvement, and its related policies and objectives also support this goal. The amendments are supportive of this goal in the following ways:
 - a) A public review draft was mailed or distributed at meetings to stakeholders in November of 2001.
 - b) Staff provided briefings on the project to the Airtraffic Issues Roundtable (AIR), the Citizens Noise Advisory Committee (CNAC), and the Columbia Slough Watershed Council.

- c) Notice of the first public hearing was sent to the Department of Land Conservation and Development on November 29, 2001.
 - d) Planning Commission held two public hearings on the proposal in January and February of 2002. Stakeholder comments were incorporated into each subsequent draft.
7. **Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources**, requires the conservation of open space and the protection of natural and scenic resources. The amendments are consistent with this goal because natural resource criteria require the Port of Portland to evaluate the cumulative impacts of proposed development on natural resources at the airport.
 8. **Goal 6, Air, Water and Land Resource Quality**, requires the maintenance and improvement of the quality of air, water and land resources. The amendments are consistent with this goal because the amendments require an analysis of the impacts to water and land quality for all proposed development over the horizon of the permit. Portland *Comprehensive Plan* findings on Goal 8, Environment, and its related policies and objectives also support this goal.
 9. The amendments do not affect **Goal 7, Areas Subject to Natural Disasters and Hazards; Goal 8, Recreational Needs; Goal 9, Economic Development; Goal 10, Housing; Goal 11, Public Facilities and Services; Goal 12, Transportation; Goal 13, Energy Conservation; Goal 14, Urbanization; and Goal 15, Willamette River Greenway**, because of the limited scope of the amendments in this ordinance pertaining specifically to natural resources and functional values protected under **Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources**.
 10. **Goals 16, 17, 18, and 19** deal with **Estuarine Resources, Coastal Shorelines, Beaches and Dunes, and Ocean Resources**, respectively, and are not applicable to Portland as none of these resources are present within the city limits.

Metro Urban Growth Management Functional Plan Findings

11. **Title 3, Water Quality and Flood Management Conservation**, calls for the protection of the beneficial uses and functional values of resources within Metro-defined Water Quality and Flood Management Areas by limiting or mitigating the impact of development in these areas. The amendments support this title because Title 3 areas are included in the area of analysis for significant detrimental impacts.
12. These amendments do not affect **Title 1, Requirements for Housing and Employment Accommodation; Title 2, Regional Parking Policy; Title 4, Retail in Employment and Industrial Areas; Title 5, Neighbor Cities and Rural Reserves; Title 6, Regional Accessibility; Title 7, Affordable Housing; and Title 8, Compliance Procedures** because of the limited scope of the amendments in this ordinance.

Portland Comprehensive Plan Goals Findings

13. The City's *Comprehensive Plan* was adopted by the Portland City Council on October 16, 1980, and was acknowledged as being in conformance with the statewide planning goals by the Land Conservation and Development Commission (DLCD) on May 1, 1981. On May 26, 1995, and again on January 25, 2000, the LCDC completed its review of the City's final local periodic review order and periodic review work program, and reaffirmed the plan's compliance with the statewide planning goals.
14. This ordinance amends Title 33, Portland Zoning Code. The amendments do not change any other land use regulation. Therefore, only the following *Comprehensive Plan* goals, policies and objectives apply to the amendments and the amendments satisfy the applicable goals, policies and objectives for the reasons stated below.
15. During the course of public hearings, the Bureau of Planning, the Planning Commission, and the City Council provided all interested parties opportunities to identify, either orally or in writing, any other *Comprehensive Plan* goal, policy, or objective that might apply to the amendments. No additional provisions were identified.
16. **Goal 8, Environment**, calls for maintenance and improvement of the quality of Portland's air, water, and land resources, as well as protection of neighborhoods and business centers from noise pollution. The amendments are consistent with this goal because natural resource criteria require the Port of Portland to evaluate the cumulative impacts of proposed development on natural resources at the airport. The criteria already require the consideration of noise impacts and this feature of the criteria is not changed by these amendments.
17. **Goal 9, Citizen Involvement**, calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process. The amendments are consistent with this goal because they provide an opportunity for citizens and organizations concerned with natural resource issues to influence the conditional use process for the airport. The staff, Planning Commission, and Council heard and considered the comments received from stakeholders as described in the findings addressing Statewide Planning Goal 1.
18. These amendments do not affect **Goal 1, Metropolitan Coordination; Goal 2, Urban Development; Goal 3, Neighborhoods; Goal 4, Housing; Goal 5, Economic Development; Goal 6, Transportation; Goal 7, Energy; Goal 10; Plan Review and Administration; Goal 11, Public Facilities; and Goal 12, Urban Design** because of the limited scope of the amendments in this ordinance.

NOW, THEREFORE, the Council directs:

- a. Planning Commission Report and Recommendation on *Natural Resource Criteria for Portland International Airport* dated March 13, 2002, is hereby adopted.
- b. Title 33, Planning and Zoning is amended as shown in Exhibit A, the Planning Commission Report and Recommendation on *Natural Resource Criteria for Portland International Airport*, dated March 13, 2002.
- c. The commentary in the Planning Commission Report and Recommendation on the *Natural Resource Criteria for Portland International Airport*, dated March 13, 2002, is adopted as legislative intent and as further findings.

Section 2. The Council declares that an emergency exists because these amendments must be in place prior to the Port submitting a conditional use application for PDX in the spring; therefore, this Ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council,

March 27, 2002

Mayor Vera Katz
J. Sugnet
March 19, 2002

GARY BLACKMER
Auditor of the City of Portland

By
Deputy