Blaine

City of Portland
Bureau of Development Services
Land Use Review Division

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Date: March 20, 2003

To: Interested Person

From: Kimberly Parsons, Land Use Review
503-823-7830

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 03-100430 EN EF

GENERAL INFORMATION

Applicant/Owner: Metro
Pete Hillmann, Construction Coordinator
600 NE Grand Avenue
Portland, OR 97232
503-797-1650

Site Address: N Portland Road at N Columbia Blvd and St Johns Landfill

Legal Description: TL 900 1.66 ACRES, SECTION 05 1N 1E; TL 200 355 ACRES, SECTION 36 2N 1W
Tax Account No.: R941050590, R501591
State ID No.: 1N1E05B 00900, 2N1W36 200
Quarter Section: 1925, 1722

Neighborhood: St. Johns, contact Ray Piltz at 503-286-5444.
Business District: Columbia Corridor Association, contact Mary Gibson at 503-944-7519.
District Coalition: North Portland Neighborhood Office, contact Tom Griffin-Valade at 503-823-4524.

Other Designations: Smith Bybee Lakes Natural Resources Management Plan (NRMP)
Zoning: IG2, RF, OS, ch [General Industrial 2 (IG2), Residential Farm-Forest (RF) and Open Space (OS) base zones with the Environmental Conservation (c), and Airport Landing (h) overlay zones]

Case Type: EN EF – Environmental Review with a concurrent Excavation and Fill Review
Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal:
The applicant proposes to restore the site located on the west side of North Portland Road, just north of the Columbia Slough. Metro intends to transform the site from a developed fill area with a predominance of invasive, non-native shrubs and ground covers, to a habitat of diverse

native vegetation and wetland topography characteristic of the historical natural riparian and wetland systems of the lower Columbia River floodplain.

The entire proposed restoration area is within the Environmental Conservation Overlay Zone. A 10 to 15-foot wide private access road separates a majority of the project area from the Smith Lake wetlands. This former industrial site served as an auto wrecking yard through the 1950s. It is largely covered by sand fill with small areas of asphalt and concrete rubble (Exhibit C.1). Two concrete building slabs and small amounts of solid waste are present at the site. The current surface elevation is approximately 23 feet, based on City of Portland datum.

Restoration will include excavation and grading to create a basin with an elevation range conducive to supporting a diverse community of wetland and upland native plants. An estimated 8,000 cubic yards of existing fill will be excavated to establish a surface elevation of approximately 12 feet (Exhibit C.2). The new surface level is proposed to be low enough to intercept a seasonal high water table and allow for inundation through at least mid-summer.

The slopes of the restoration area will range between 3:1 and 6:1. Several erosion and sediment control measures will be used to prevent sediment from exiting the site during construction. A gravel construction entrance will be constructed, and sediment and construction fencing will be installed as shown on the attached Erosion Control Site Plan (Exhibit C.3). Straw wattles and erosion control fabric will be placed on side-slopes for stabilization until plantings are established. There will be no stockpiling on the site.

To accomplish this restoration work, the applicant proposes to remove 15 black cottonwood trees between six and ten inches in diameter as well as multiple non-native shrubs and ground covers. To mitigate for the loss of these resources, and to ensure the success of the restoration project, the applicant proposes to install approximately 3,186 native plants characteristic of lower Columbia River floodplain habitat and listed on the *Portland Plant List.* Mitigation plants will be monitored and maintained for a five-year period.

Of the 8,000 cubic yards excavated, the applicant proposes to use suitable fill material in slope restoration work in the OS zone at St. John's Landfill. The proposed fill area is approximately 5.25 acres. Decomposition of waste has resulted in gradual settlement of the landfill. Some areas have differentially settled more than other areas which has resulted in ponding on the landfill surface. The proposed fill at the landfill will maintain the stormwater management system that protects the landfill final cover barrier. Excavated soil not suitable for reuse will be hauled to a licensed disposal or recycling facility. An estimated 13,000 cubic yards of fill is required of which approximately 6,400 cubic yards will come from the N. Portland Road site.

An Environmental Review is required because the resource enhancement is required to be reviewed by the Smith and Bybee Lakes NRMP. In addition, pursuant to Sections 33.830.020 and .040, the excavation or fill of 1,000 cubic yards or greater requires an Excavation and Fill Review through a Type II procedure.

Relevant Approval Criteria:
In order to be approved, this proposal must comply with approval criteria of Title 33. The Title 33 criteria are found in Chapter 33.830 Excavations and Fills:

- Section 33.830.050 Approval Criteria

The project site is located within the Environmental Conservation Overlay zone, as well as the boundaries of the *Natural Resources Management Plan for Smith and Bybee Lakes.* Section 33.430.030 of the Portland Zoning Code stipulates that Natural Resource Management Plans may contain regulations that supersede or supplement the regulations of the environmental chapter. In this case, the *Natural Resources Management Plan for Smith and Bybee Lakes* has regulations that supersede and supplement the environmental regulations of Chapter 33.430.

The *Natural Resources Management Plan for the Smith and Bybee Lakes* (Smith and Bybee Lakes NRMP) identifies environmental projects within the Plan boundaries that are generally consistent with plan objectives. Potential Environmental Project ENV 7 on page 28 of the

Smith and Bybee Lakes NRMP identifies the Habitat Enhancement and Restoration projects to be implemented within the plan boundary. The proposed resource enhancement is consistent with this identified project.

Therefore, the proposal must be reviewed as "Development in Conformance with the Plan" (shown below) and must meet the approval criteria listed on page 67 of the *Natural Resources Management Plan for Smith and Bybee Lakes.* Development in conformance with the *Natural Resources Management Plan for the Smith and Bybee Lakes* will be reviewed by the City using a Type II procedure.

I. Development in Conformance

Procedure: Development in conformance with the Plan will be reviewed by the City using a Type II procedure, including projects identified in the Plan that meet applicable e-zone site development standards.

Approval Criteria:

a) The proposed development meets the goals and objectives of the Plan.
b) There will be no significant negative impacts on the resources covered in the Management Area.

ANALYSIS

Site and Vicinity: There are two project sites under review in this report. The first site is proposed for excavation and resource enhancement and is a 1.66 acre lot located on N Portland Road just northeast of the N Portland Road Bridge over the Columbia Slough. The triangle shaped lot has a 10 to 15 foot wide private access road that separates most of the property, including the project area, from the Smith Lake Wetlands. There are no buildings located on the site. The site is a developed fill area that is a former industrial site, and served as an auto wrecking yard through the 1950's. It is largely covered by sand fill, and small areas of asphalt and concrete rubble. Two former buildings appear on aerial photos from 1948 and 1955, and are now indicated only by degraded concrete slabs. Small amounts of solid waste have been found on the site, including asphalt and concrete debris, tires, auto parts and wood debris.

Most of the property has been filled (primarily that portion to the south and east of the access road) has been filled to an elevation of approximately 23 feet. A recent boring revealed approximately 4 inches of sand over 2 inches of asphalt and concrete at the surface. The rest of the profile to an elevation of approximately 15 feet, consists of rather uniform dredge sand. The boring log revealed a sharp boundary at 15 feet to a native lacustrine silt, with cumulic organic content. Mottling within this soil shows a seasonal wetting through the column to a depth of approximately 4 feet where the material shows a permanent gley (permanently saturated).

An 1890 survey and a 1906 topographic map both show a channel of surface water flowing through the proposed site and connecting with Smith Lake to the north. This channel was subsequently filled to prepare the site for industrial use. The Columbia Slough is approximately 100 feet to the southwest of the property boundary. The Smith Lake wetland occupies approximately 3,500 to 4,000 square feet in the north corner of the lot. The lot is entirely within the 100 year floodplain, based on FEMA Flood Insurance Rate Map. Flood elevation is NGVD 27.0 (Portland Datum 28.375 feet).

At the very northern end of the property (and on the north side of the access road) is a forested wetland connected to Smith Lake. Vegetation in this area is dominated by red alder (*Alnus rubra*) in the wetter areas and black cottonwood (*Populus trichocarpa*) dominates the understory. An area of Himalayan blackberry (*Rubus discolor*) grows along the northern edge of the road.

Vegetation is more disturbed within the proposed project site to the north of the access road. The majority of the area has not had significant tree cover for several decades due to the

asphalt concrete at the surface. Scattered black cottonwood trees are growing in the sandy fill material to the south of North Portland Road and in the location of the proposed restoration site. Himalayan blackberry patches are found throughout the area, but most if the site is covered with sparse grasses and composite weeds.

The second project site, the St. Johns Landfill, is located in north Portland just north of Columbia Boulevard and approximately one mile west of N. Portland Road. The site was actively used as a sanitary landfill for 50 years until its final closure in the early 1990's. The landfill is approximately 236 acres in area, and borders on Smith and Bybee Lakes to the east and north respectively, and the Columbia Slough to the west and south. Generally the area is grass covered with moderately sloping topography. A steeply sloping embankment separates the landfill from the surrounding sloughs and lakes. There are scattered large cottonwoods, willows, and ash trees growing on the embankment. Some ponding at the landfill was visible during a site visit conducted on March 10, 2003.

Photo 1:
Trees to be removed at N Portland Road site.

Photo2:
Ponding at St Johns Landfill.

Zoning: The zoning designation on the sites include Open Space, General Industrial 2, and Residential Farm and Forest base zones, with Aircraft Landing ("h") Zone, Environmental Conservation ("c") (see zoning on Exhibit B). The North Portland Road site is zoned IG2c and RFc. The St Johns Landfill project area is in the OSh zone. There is also the City's Public Recreational Trail designation at both sites. Both of the sites are within the Smith and Bybee Lakes NRMP.

The Open Space base zone is intended to preserve public and private open and natural 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; and preserving the capacity of and protecting water quality. This zone is designated with the mapping symbol "OS" on the official zoning maps.

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 preserve land for industry. This zone is designated with the mapping symbol "IG2" on the official zoning maps.

The RF zone is generally an agricultural zone with allowed single dwelling residential uses. This zone is intended for agricultural and forested areas in the city which are presently deficient in public services. Agriculture, forestry and extremely low density single-dwelling residential and agricultural will be the primary uses. No work is proposed in the RF zone.

There are no proposed changes in the use categories within the OS, IG2, or RF base zones, and the standards of these base zones do not apply to the proposal.

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. This zone is designated with the letter "h" on the official zoning maps. The "h" overlay is at the St Johns Landfill. No structure or trees are proposed at this location. Only structures and vegetation are subject to the height limits of the "h" overlay zone. None of the proposed plantings will exceed the height limit.

Environmental zones protect environmental 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 purpose of this land use review is to ensure compliance with the regulations of the environmental overlay zones.

The Environmental Conservation overlay zone is intended to conserve important resources and functional values in areas where the resources and functional values can be protected while allowing environmentally sensitive urban development. This zone is designated with the letter "c" on the official zoning maps.

The environmental zone is divided into resource area and transition area. The resource area contains important environmental resources to be protected. The transition area is the outermost 25 feet of the environmental zone and is intended to buffer the resource area from impacts of surrounding development.

The public recreational trail requirements are intended to: increase recreational opportunities and connect these recreational opportunities with a regional recreational trail system; increase public access along significant natural resource areas; provide emergency vehicle access; assist in flood protection and shoreline anchoring; support alternative modes of transportation; provide connections to other transportation systems; implement the City's Comprehensive Plan policies regarding public recreational trails; help create a pleasant, aesthetically pleasing urban environment; and provide consistent standards for trail development. The public recreational trail requirements do not apply to the proposed resource enhahcement planting, and excavation and fill activities. Further discussion is propovided below in the Development Standards Section.

The Smith and Bybee Lakes NRMP is described below in the Environmental Resources Section.

Environmental Resources: The application of the environmental zones 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 reports that identify the resources and describe 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 property is located in the *Columbia Corridor Industrial and Environmental Mapping Project* area, in the Rivergate subarea, Inventory site 55, and within the *Natural Resources Management Plan for Smith and Bybee Lakes.*

Historically, North Portland wetlands were part of an extensive complex of sloughs, marshes, and lakes that occupied the south shore of the Columbia River. Most of this original complex has been drained, filled or subjected to other development impacts. The Smith and Bybee Lakes complex represents the largest remnant of this habitat in the Portland area.

The Smith and Bybee Lakes area can be characterized as two shallow lakes surrounded by extensive shrub willow swamp and forested areas. The most extensive forested areas are willow. Stands of cottonwood, ash, or mixtures of these are less extensive. The lakes include areas of open water and smartweed swamp. Bybee Lake is more open than Smith Lake. Sedge meadows, grasslands, and small seasonal ponds are interspersed throughout the NRMP area. Upland, or non-wetland areas include the landfill and areas bordering the study area. Upland

habitat types include grassland, some forested areas, and developed fill areas.

Columbia Corridor Industrial and Environmental Mapping Project: The proposed project is located within Inventory Site 55 of the Rivergate subarea. Inventory site 55 contains the Smith and Bybee Lakes which is the largest natural resource inventory area in the Columbia Corridor. It has tremendous habitat value and diversity, and should be protected. Even through this site scored the highest on the Wildlife Habitat Inventory of all site inventoried, there is still potential for further enhancement.

The Columbia Corridor Mapping Project identifies high quality uplands and wetlands for all of Smith and Bybee Lakes. Identified resources and functional values for Site 55 includes drainageway functions, including fish habitat, drainage, flood storage, desynchronization, erosion control, sediment trapping, and pollution and nutrient retention and removal.

Natural Resources Management Plan for Smith and Bybee Lakes:
Smith and Bybee Lakes and their associated sloughs and wetlands are remnants of formerly extensive river bottomlands located near the confluence of the Willamette and Columbia Rivers. The wildlife area is managed primarily for wildlife habitat protection and enhancement while providing passive recreation opportunities for the Portland metropolitan area. The Smith and Bybee Lakes Wildlife Area is composed of two lakes and a number of smaller ponds and sloughs. Considerable changes have occurred to these lakes that have had negative impacts on the lake's system: construction of dam and dikes, filling of wetlands and waterbodies, and introduction of exotic species of plants and animals.

Currently, the Wildlife Area contains open water, emergent, shrub/scrub, and forested wetlands as well as upland forest. Myriad wildlife species use the site, including more than 100 bird species and a variety of mammals, reptiles and amphibians. The Wildlife Area is home to one of the two largest remaining populations of Western painted turtles in the state. The turtles are on the Oregon Department of Fish and Wildlife's sensitive species list.

Land Use History: City records indicate that no prior land use reviews have been conducted for the resource enhancement and excavation site on N Portland Road. City records indicate the following prior land use reviews for the St Johns Landfill:

- **CU 45-74** a sanitary landfill was approved with conditions. These conditions related to the construction of the landfill and coordination between agencies.
- **LUR 97-00405 EN** - Approved with conditions to construct a compressor station and pipeline in order to convey landfill gas from the St. Johns Landfill to Ash Grove Cement Company. Conditions of approval related to erosion control, disturbance areas, and activities within environmental zones.
- **LUR 97-00843 EN** - Approved with conditions to repair areas of eroding embankment along the perimeter of the St. Johns Landfill and to create a pilot project to address erosion along the perimeter of the landfill using rock and sand "benches" along the Columbia Slough on the south side of the landfill and in the vicinity of the Blind Slough which is located on the east side of the landfill. Conditions of approval related to the construction of the sand benches and the levee repair.
- **LUR 99-00579 EN** – Approved with conditions to repair three bank failures around the perimeter of the St. Johns Landfill.
- **LUR 00-00779 EN** – Approved with conditions disturbance area and stockpiling in the environmental zones and construction of an underground wall.
- **LUR 02-113706 EN** - Approved with conditions replacement of a water control structure at St Johns Landfill and construction of a fish ladder.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **February 26, 2003.** The following Bureaus have responded with no issues or concerns:
- Bureau of Environmental Services (Exhibit E.1)
- Portland Office of Transportation (Exhibit E.2)
- Fire Bureau (Exhibit E.3)

The Site Development Section of the Bureau of Development Services (Exhibit E.4) responded that they have reviewed the proposed projects, including the grading plans, erosion control plans and construction management plans and have no objections. Site Development permits are required for each of the sites. Other comments will be addressed below in the approval criteria.

The Bureau of Environmental Services Watershed Group (Exhibit E.5) has provided comments which will be addressed below in the approval criteria.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on **February 27, 2003**. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

ZONING CODE APPROVAL CRITERIA

ENVIRONMENTAL REVIEW

Smith and Bybee Lakes Natural Resource Management Plan (NRMP):
Because the site is located within the Smith and Bybee Lakes NRMP area, an environmental review is conducted through the procedures and approval criteria contained in the NRMP instead of the standards and criteria found in Chapter 33.430 of the Portland Zoning Code. Following are the appropriate criteria and findings supporting how the proposal meets the relevant criteria.

Implementation Procedures (City of Portland): Refer to pages 67-69 of the *Smith and Bybee Natural Resources Management Plan.*

I Development in Conformance with the NRMP:

Procedure: Development in conformance with the Plan will be reviewed by the City using a Type II procedure, including projects identified in the Plan that meet the applicable e-zone site development standards.

Findings: ENV 7 Habitat Enhancement and Restoration Projects of the NRMP (page 28) states that degradation of certain Management Area habitats has occurred as a result of impoundment, landfill operation, illegal trash dumping, filling, and other activities. The NRMP recommends initiating restoration and enhancement plans that are appropriate. The proposed resource enhancement project at the N Portland Road site is consistent with ENV 7 of the NRMP.

Development in conformance with the plan is processed as a Type II procedure (page 67). The applicant has applied for, and this application is being processed as, a Type II procedure.

Approval Criteria for Development in Conformance:

a) The proposed development meets the goals and objectives of the plan.

Goal Statement: The goal of the Management Plan is to protect and manage the Smith and Bybee Lakes area as an environmental and recreational resource for the Portland region. The lakes will be preserved as historical remnants of the Columbia River riparian and wetlands system. They will be maintained and enhanced, to the extent possible, in a manner that is faithful to their original natural condition. Only those recreational uses that are compatible with environmental objectives of the Management Plan will be encouraged. Smith Lake and adjacent uplands will be the principal location for recreational activities. Bybee Lake will be less accessible. Its primary use will be as an environmental preserve.

Findings: The Management Plan identified impoundment, landfill operations, illegal trash, dumping, and filling as sources of environmental damage to the wetland values of the lake system.

The applicant proposes a restoration project to restore a developed fill area to historical and natural habitat that is characteristic of lower Columbia River riparian and wetlands systems, to the extent possible. The proposal includes removing 11 feet of asphalt and sand fill, concrete rubble, and two building slabs, and planting 986 native trees and shrubs of 16 different species within the proposed restoration area. Overall, 3,186 native plants will be planted at the project site. The applicant proposes a monitoring and maintenance plan for the plantings. No changes to the recreational uses at the site or to the Management Area is proposed or will be affected by the resource enhancement project. Therefore, the goals of preserving, maintaining, and enhancing historical remnants of the Columbia River wetlands system are met.

Objectives:

1) Control water level in order to manage the lakes' environmental system.

Finding: Because of distance and topography, there is little or no interchange between the project site and Smith Lake, and this situation is not expected to change as a result of the resource enhancement. The resource enhancement includes excavation at the site to create a shallow basin. Stormwater runoff will be contained in this basin and not run off the site. Therefore, the proposed resource enhancement does not affect control of the water level of the lakes. This objective is met.

2) Provide for and maintain habitat diversity representative of lower Columbia River floodplain wetlands.

Finding: Existing dominant plant communities at the site are non-native shrubs and groundcover, including Himalayan blackberry and reed canary-grass, and scattered black cottonwood. The proposed project replaces degraded upland habitat with emergent and scrub shrub wetland habitat characteristic of the historic Columbia River floodplain conditions. The project includes planting and establishing diverse communities of native vegetation characteristic of the historical and natural riparian and wetlands system of the lower Columbia River floodplain. The proposal includes planting 986 native trees and shrubs of 16 different species within the proposed restoration area. Overall, 3,186 native plants will be planted at the project site. These plantings will diversify the vegetation, enhancing wildlife habitat at the site. The restored area will provide enhancement for target species such as Bullock's oriole, black-headed grossbeak, yellow warbler, and willow flycatcher.

By replacing sand-filled uplands with emergent and scrub-shrub wetland, and non-native vegetation with native vegetation adapted to local conditions, and by increasing vegetation density, diversity and complexity, the restoration will provide high quality habitat for wildlife that has been displaced by past filling and building. In turn, value and function will be added to the overall resources of the Wildlife Area.

Therefore, with conditions of approval for enhancement plantings, and for monitoring and maintaining the plantings, as described in findings for Objective 4, this objective is met.

3) Maintain and enhance water quality in the lakes.

Finding: As discussed above, the primary purpose of the proposed work is to enhance a degraded site. Because of distance and topography, there is little or no interchange between the site and Smith Lake. Restoration will include the creation of a shallow basin. Stormwater runoff will be contained in this basin and not run off the site. Therefore, the influence of the proposal in affecting water quality of the lakes, even during flood conditions, either positively or negatively, would be negligible. This objective is met.

4) Implement a monitoring program to assure early detection of potential environmental problems, and to quantify management programs.

Finding: Metro states that Wildlife Area monitoring programs are currently in place for water and sediment quality, wildlife (birds) and plant communities (with emphasis on planted and seeded sites). Monitoring will be modified as necessary to include the proposed project. In the short term, development impacts will be monitored and controlled through the Construction Management Site Plan. In the longer term, restoration plantings will be monitored for successful establishment, and site hydrology will be monitored to ensure that habitat values are maintained and enhanced.

The upper slopes around the proposed basin are likely to be invaded with upland species suited to the drought conditions likely to develop during late summer. Various composite species including bull thistle, Canada thistle, lettuce species, and horseweed could colonize the dry slope. The woody shrub Scot's broom and non-native blackberries are also likely to be a participant in the vegetation development on the slope. Any of these species will be considered a significant weed problem and require control if it is determined that their presence could threaten the success of the mitigation plantings.

The applicant proposes the site to be examined in early June to determine if weeds are a significant presence on the site. Weed populations that pose a threat are proposed to be mowed before the summer solstice to prevent seeding. The installed woody vegetation on the site will need to be counted every year in early September to assess the survival of the installed vegetation during the growing season. At this time the site will also be assessed for weed infestation. Any significant infestation of weedy species will be topically treated with glyphosate herbicide to control the invasive population before October 1. Rosettes of biennial composites should be painted with the herbicide to control significant populations of these weeds. Scot's broom should be cut and have the stump immediately daubed with glyphosate. No-native blackberries should also be cut and daubed in a similar manner.

In order to prevent native species from being damaged by cutting or herbicide spraying, all cutting or herbicide spraying will be required to be conducted using hand held equipment and appropriate native plant shielding techniques.

The applicant proposes to water the site once a week between June 20th and September 20th. Water will be applied to the slopes above the 15 feet elevation at one gallon per square foot of surface. The water will be applied sufficiently slowly to prevent surface flow of water.

All woody stems will be protected from girdling by small rodents. The basal portion of each stem is proposed to be wrapped with Kraft paper-asphalt sandwich 4-inches in width. The wrapping is proposed to start at the soil line and end at a height of 8-inches above the soil line. The wrapping will be tied at 3-inch intervals up the stem with an outdoor vinyl tape.

Metro will be responsible for monitoring the wetland and riparian areas annually at the end of each summer to determine planting success. Annual planting counts are proposed to be made for five consecutive years. The criteria for success will be 100 percent survival rate for trees, shrubs, and groundcover. Additional trees and shrubs are proposed to be planted after the second year if there is plant mortality. Annual photographs of the wetland and riparian restoration areas will be taken from fixed locations.

Section 33.248.090 states that plants that die must be replaced in kind. Therefore, at the time of each monitoring report, the applicant will be required to replace trees, shrubs, and groundcovers that have not survived. To meet this standard, the applicant will be required to replant 100 percent of the number of trees which do not survive. The applicant will also be required to document that measured spatial coverage of native

shrub and groundcovers. By estimating the amount of cover occupied by native species, the success of the project can be better evaluated. Maintaining shrub and groundcover survival so that 80 percent of the planted area is covered in native vegetation is a sufficient standard in this case.

A typical approach to a mitigation program is to establish a benchmark for shrub and tree survival, and provide for a system to periodically inspect survival rates and replace dead shrubs and trees as necessary to ensure the benchmark has been met. The most effective way to ensure that the given benchmark has been reached is to require the submittal of a Monitoring and Maintenance Report to the City for three years. The applicant has proposed a five-year monitoring program, however, for the purpose of this Environmental Review, a three-year monitoring program is adequate.

Therefore, with a conditions of approval related to a monitoring and maintenance program, this objective is met.

5) **Provide access to Smith and Bybee Lakes which supports appropriate types and levels of recreation.**

6) **Encourage appropriate types and levels of recreational activities which are compatible with environmental objectives.**

7) **Incorporate Smith and Bybee Lakes into the Metropolitan Wildlife System Project, Metro's Regional Natural Areas Program, and the 40 Mile Loop recreation trail system.**

8) **Develop upland areas in a manner which is compatible with the preservation of the wetlands and use of the lakes for passive recreation.**

Finding: The proposed restoration site is in a part of the Wildlife Area that is not designated by the NRMP for recreation, and does not afford easy access to the lakes. It is a developed fill area that will be restored to habitat that is characteristic of the historical and natural riparian and wetlands systems of the lower Columbia River floodplain. As such, the project neither provides access nor affects existing access to the lakes for recreation purposes or affects the use of the lakes for passive recreation. Trail alignments specified in the NRMP do not cross the proposed restoration site. This objective is not directly applicable to this review.

9) **Provide opportunities for wetland and environmental system research and education.**

Finding: The proposed restoration site (1.66 acres) is small and has limited access. As such, it is not suitable for active research and education projects. However, under the proposed project design Metro will monitor habitat development at the site, and monitoring results will be used as a reference for other projects in the Wildlife Area, and to provide information of educational value to interested parties. This objective is met.

10) **Develop appropriate funding strategies to implement environmental and recreational improvement projects.**

Finding: The proposed project does not require the development of a funding strategy. Nor will existing funding strategies for environmental and recreational improvement projects be affected by the proposed project. This objective is not directly applicable to the proposed project.

11) **Provide opportunities for compensation to private land owners for public use of their property.**

12) Provide an organizational structure to manage all lakes areas property as a single management unit to ensure consistent implementation of the Management Plan.

Finding: The proposed restoration site is owned and managed solely by Metro. As such, the project does not require or affect compensation to private landowners and does not affect the organizational structure for managing the Wildlife Area. Objectives 11 and 12 are not directly applicable to this review.

13) Integrate management of the lakes with management of the St. Johns Landfill property when landfilling activities are terminated.

Finding: The proposed project includes excavating fill at the site to restore habitat, and using that fill in a slope restoration project at St Johns Landfill. Therefore, the project involves an integration of landfill management with overall management of the Wildlife Area. This objective is met.

Management Zones:
As a statement of policy description for the Management Plan, and in an effort to satisfy e-zone regulations with the most specific information possible, "management zones" within the Management Area have been created with goals and objectives unique to each type of zone.

Development Areas, Existing or Potential (trails; access points; viewing areas; interpretive & maintenance areas):

Goal: Provide access and an introduction to the adjoining resource areas in a manner which encourages appropriate types and levels of use.

Findings: The proposed resource enhancement will not affect or limit access on the site. The existing access road through the site connecting to adjacent properties will remain, and is sufficient to provide access if necessary. Therefore, this goal is met.

Objectives:

a. Provide a minimum of developed features.

Findings: The proposed resource enhancement does not include developed features. The proposal will restore previously disturbed and developed areas to reflect the historical and natural system of the Columbia River floodplain. Therefore, this objective is met.

b. Provide information and facilities that cue appropriate behavior.
c. Provide for environmental education programming.

Findings: The proposed project site is small and has limited access. As such, it is not suitable as an educational area. However, under the proposed project design Metro will monitor habitat development at the site, and monitoring results will be used as a reference for other projects in the Wildlife Area, and to provide information of educational value to interested parties. This objective is met.

d. Avoid developing access to sensitive resource areas.

Findings: Access will not be altered as a result of this proposal. Therefore, this objective is met.

b) There will be no significant negative impacts on the resources covered in the Management Area.

Findings: Historically, North Portland peninsula wetlands were part of an extensive complex of sloughs, marshes, and lakes that occupied the south shore of the Columbia River. Most of this original complex has been drained, filled or subjected to other development impacts. The 1,928 acre Smith and Bybee Lakes Wildlife Area represents the largest remnant of this habitat in the Portland area.

The Wildlife Area can be characterized as two shallow lakes surrounded by extensive shrub willow swamp and forested areas. Stands of cottonwood and ash, or mixtures of these dominate the uplands. The lakes include areas of open water and smartweed swamp. Sedge meadows, grasslands, and small seasonal ponds are interspersed throughout the area. Upland habitat types include grassland, some forested areas, and developed fill areas.

The Wildlife Area is managed primarily for wildlife habitat protection and enhancement. Two shallow lakes dominate the area. The NRMP identifies the primary habitat as forested wetlands, dominated by willow, with some areas of Oregon ash and black cottonwood. The area features sedge meadow wetlands, seasonal ponds, upland grasslands with riparian woods, and woodlands. Myriad wildlife species use the site, including more than 100 bird species and a variety of mammals, reptiles, and amphibians. The Wildlife Area is home to one of the two largest remaining populations of western painted turtles in the state. The turtles are on the Oregon Department of Fish and Wildlife's sensitive species list.

In the context of the resources and habitat functions characteristic of the Wildlife Area, and the goals and objectives of the NRMP, the proposed project site provides little resource or functional value. Notwithstanding the abundance of wildlife and high quality resource habitat found within the Wildlife Area, the immediate proposed project site is a developed fill area with little resource value. The habitat functions once provided by the site were lost decades ago. Most of the proposed project site has not had significant tree cover for several decades due to asphalt and concrete at the surface. All wetlands and any hydologic connection within the interior of the site are no longer present. Any forested cover of standard native vegetation has been removed. On site vegetation is dominated by invasive nonnative shrub and groundcovers, primarily Himalayan Blackberry and reed canarygrass. Scattered black cottonwood trees are growing in the sandy fill material to the south of North Portland Road and in the location of the proposed restoration site. Himalayan blackberry patches are found throughout the area, but most of the site is covered with sparse grasses and composite weeds.

Only positive impacts are anticipated from the proposed plan to restore a degraded developed fill area of low quality wildlife habitat, to a diverse community of native vegetation characteristic of the natural and historical riparian and wetlands systems of the lower Columbia River floodplain. The existing black cottonwoods on the site will be removed, along with the predominately non-native shrubs and groundcovers, in order to create a diverse topography and dense community of native plants. Through restoring this degraded area to habitat that is characteristic of natural historical riparian and wetlands systems of the lower Columbia River floodplain, the overall functional value of Wildlife Area resource will be enhanced. This restored area of diverse topography and native vegetation will add complexity to the Wildlife Area ecosystem, and will provide high quality habitat for wildlife that has been displaced by past filling and building. Wildlife habitat objectives will focus on target species such as Bullock's oriole, black-headed grossbeak, yellow warbler, and willow flycatcher.

The project Construction Management Site Plan has been developed to ensure minimal negative impacts to the project site. Specifically, appropriate erosion control, construction fencing, staging areas, and excavation procedures have been developed. In addition, the disrupted area of construction site will be replanted with native plants characteristic of natural and historical habitat of the area, thereby enhancing the habitat in this currently degraded area.

The proposed development site plan includes excavating to a depth of approximately 12 feet. The slopes of the excavated area will range between 3:1 and 6:1 and will undulate to allow complexity and increase the quality of the habitat. There are 15 cottonwoods scattered on the project site that do not provide significant cover, and patches of black cottonwood forest in adjacent areas that will remain undisturbed by the project.

The deepest point of the excavated area will be inundated during the spring to a depth of approximately 2 feet, but will be dry by mid to late summer. The bottom will have gentler slopes, which will allow a slowly migrating wet fringe from the start of the growing season (approximately March 1) until the beginning of July. This aquatic fringe will allow a number of amphibian and invertebrate species to proliferate. The brief period of inundation will permit amphibians to procreate and then migrate over the road into Smith Lake wetlands. Invertebrates that rely on aquatic conditions in early spring should also establish in the bottom of the basin before it dries up in the summer. This small wetland edge may be especially favorable for wading birds feeding on shallow water organisms.

The Bureau of Environmental Services Watershed Group commented that restoration of the proposed site is highly desirable. Care should be taken to avoid creating bullfrog habitat. Bullfrogs are an invasive species, particularly at Smith and Bybee Lakes. Ponded water can create bullfrog habitat. If water will be ponded in the excavated area such that it creates bullfrog habitat, then it is suggested that either the excavation not go as deep (and additional area would need to be provided to balance the fill) or a drainage channel should be provided to prevent this ponding. Metro has responded that the lack of year-round inundation will ensure the bullfrogs do not use the wetland.

The isolation and small size of the seasonal wetland pocket should not encourage the use of the area by mammalian herbivores such as beavers and nutria. The steep banks to the adjacent roads may also defer frequent use by roving mammals, but birds should use the varied tree and shrub canopy as readily as the adjacent Smith Lake wetlands.

To ensure the exposed dredge spoils provide an adequate planting medium, a two-inch thick layer of organic amendment (mushroom compost) and a two inch thick layer of native soil (excavated from below 15 COP and temporarily stockpiled off site) will be roto-tilled into the top 6-inches of the surface to provide nutrient and water buffering for the new vegetation.

Once the site has been graded, two native seed mixes (with all species listed on the Portland Plant List) will be applied to the site. Since the surface restoration area is rather steep, a woven jute mat will be stapled into the entire surface above 15 feet to prevent erosion. The jute, which is available as 4-foot wide rolls, will be installed by rolling down the slope from the top to elevation 15 feet with a 3-inch overlap of the adjacent mat. The mat will be stapled into the slope with 8-inch U-shaped steel staples at 2-foot spacing with a row of staples along the overlaps and a row in mid-roll. The jute, which will be largely degraded within 2-3 years, will also act as an organic buffer for plant roots near the surface. Since steel staples would remain on the site after the jute has decomposed, an alternative with less impact is the use of wood stakes which will bio-degrade over time. Therefore, as a condition of approval, the applicant will be required to use wood stakes to anchor the jute mat into the ground.

Excavation of the proposed mitigation area will unavoidably require the removal of 15 cottonwood trees ranging in diameter between 6 and 10 inches. Several of these trees will be stored on-site and the downed trees will be placed back into the mitigation area prior to planting to provide perches and habitat features for wildlife. The loss of the cottonwood trees, which are scattered and do not form significant cover, will be more than compensated by the installation of numerous trees and shrubs throughout the restoration area. However, in order to comply with the tree replacement requirements of Section 33.430.140, 30 one-inch diameter cottonwood trees will be planted within the enhancement area between the elevations of 15 and 25 feet.

In the Spring of 2004, the area will be planted with a variety of trees and shrubs. All of these plants are on the Portland Plant List. The species, size, and quantity of proposed plants are shown on Exhibits C.4 and C.5. The woody plants will be installed during the dormant season after the ground water has begun to recharge and serious freezing weather is past. Plants will be installed on the slopes by cutting a hole in the jute mat twice the diameter of the root mass. The installed plantings will be watered-in with a volume of water equal to the volume of the hole.

As the plantings mature, the local thicket-forming woody plants, such as bittercherry and black hawthorne, will eventually provide a dense cover for songbirds. Oregon ash and cottonwoods will increase the canopy over the wetland and will connect with the forested wetland to the north.

The restoration will greatly increase the functions currently existing on the property. As described above, original functions that were present on the property were lost when the site was filled and the fill material precluded the establishment of forest cover. The excavation of the basin will be low enough to intercept a seasonal high water table and allow for inundation through at least mid-summer.

Overall, this project represents an enhancement of the resources of the Wildlife Area, and any loss or disruption of existing resources has been addressed with mitigation measures that are integral aspects of the restoration project. Therefore, this criterion is met.

EXCAVATION AND FILL REVIEW

33.830.020 When Review Is Required
In the situations stated below, excavations and fills are subject to review.

A. Residential and open space zones. In R and OS zones, excavations and fills over 1,000 cubic yards require an excavation and fill review, except as exempted in 33.830.030 below. R and OS zones with Environmental or Greenway overlay zoning are subject to more restrictive excavation and fill requirements and review. See Chapters 33.430 and 33.440, respectively.

Findings: Metro has questioned whether an Excavation and Fill Review is required. They assert that the activity proposed at the landfill is not subject to review and cite a discussion held at a Pre-application conference that a Type II Environmental Review is not necessary. It is correct that the landfill is not subject to an Environmental Review because the fill area is not in an Environmental Overlay zone.

Metro also states that this cover maintenance is mandated by Oregon Administrative Rules 340-094-0130(1)(b)(A) and is also described in the Post closure Care section of the Metro Revised Closure and Financial Assurance Plan, St. Johns Landfill, September 1989. They also mention that the NRMP for Smith and Bybee Lakes (Policy 19, p.53) in conjunction with the Revised Closure and Financial Assurance Plan for St. Johns Landfill (Section II, subsection H, pII-28) include provisions regarding temporary activities that are consistent with the revised Closure Plan and are allowed without further review. However, the NRMP for the Smith and Bybee Lakes only applies to Environmental zoned areas. The proposed fill area is not in an Environmental zone, so the regulations of the NRMP do not apply.

The applicant proposes to fill approximately 13,000 cubic yards in the interior of the St Johns Landfill. The proposed fill area is in the OSh zone. The following code section is from the Excavation and Fill Chapter 33.830:

33.830.030 Exemption from Review
Except as modified elsewhere in this Title, the following excavations and fills are exempt from the excavation and fill review:

A. Those necessary for the preparation of a foundation of a structure or for exterior improvements;
B. Those associated with public improvements regulated under Title 17, Public Improvements, and
C. Those in conjunction with a clearing and grading plan approved as part of a preliminary plan for a land division or Planned Development.

D. The disposal of material that is not clean fill, as defined in OAR 340-093-0030, is not subject to the provisions of this chapter, but is regulated as a Waste-Related use. See Section 33.920.340.

"Clean Fill" is defined as material consisting of soil, rock, concrete, brick, building block, tile or asphalt paving, which do not contain contaminants which could adversely impact the waters of the State or public health. This term does not include putrescible wastes, construction and demolition wastes and industrial solid wastes. Metro has not provided documentation that the material is not clean fill. An estimated 13,000 cubic yards of fill is required of which approximately 6,400 cubic yards will come from the N. Portland Road site. Therefore, the Bureau of Development Services has no other option but to assume that the fill does not meet Exemption D and the proposed fill over 1,00 cubic yards in the Open Space zone is subject to review.

B. Commercial, employment, and industrial zones. In the C, E, and I zones, excavations and fills over 1,000 cubic yards which are within 400 feet of a residential zone require an excavation and fill review, except as exempted in 33.830.030 below. C, E, and I zones with Environmental or Greenway overlay zoning are subject to more restrictive excavation and fill requirements and review. See Chapters 33.430 and 33.440, respectively.

Findings: The site located at N Portland Road is located within the IG2 zone. The applicant proposes to excavation approximately 8,000 cubic yards in order to prepare the site for resource enhancement. The excavation area on the site is approximately four feet from a residential zone (RF). The proposed excavation is not exempt per 33.830.030. Therefore, an Excavation and Fill review is required. The fill site located within the St John's Landfill is within an Open Space base zone as described above.

33.830.050 Approval Criteria
Requests for excavations and fills review will be approved if the review body finds that the applicant has shown that all of the following approval criteria are met:

A. Potential on-site or off-site safety hazards will be mitigated, through the use of fencing or other measures;

Findings:
N Portland Site:
Construction fencing will be used to contain construction activities within the project's work limit lines, which will be entirely within the site. The site will be excavated to a shallow slope and moderate depth. Construction will not entail deep holes or trenches that would present a safety hazard. In addition, there is an access driveway through the site which is fenced at the entrance. Therefore, with a condition of approval that the work area be fenced with construction fencing, this criterion can be met.

St John's Landfill:
Access to the landfill is available only through a locked gate on the landfill bridge. No steep slopes will be created to prevent as hazard. Temporary relocated on landfill gas collection pipes will be overseen by Metro personnel. Construction management is shown on Exhibit C.9, C.10. C.11, and C.12, which shows construction fencing. This criterion is met.

B. The hours and total duration of operation will be limited to reduce the impacts on the neighborhood;

Findings:
N Portland Site:
This area is not residential and the nearest neighbor is approximately ½ mile from the site. The proposed excavation will not cause nuisance conditions to any nearby residents. Construction will be limited to daylight hours. Therefore, with a condition of approval that work activities be limited to daylight hours, this condition can be met.

St Johns Landfill:
Work will take place nearby one mile from nearby residents. Construction will be limited to daylight hours. Therefore, with a condition of approval that work activities be limited to daylight hours, this condition can be met.

C. Off-site dust and dirt will be kept to a reasonable minimum;

Findings:
N Portland Site:
A gravel construction entrance will be constructed to minimize the transfer of dust from the site (See Construction Management Plan Exhibit C.3). Use of erosion control materials consisting of straw wattles, sediment fences, and erosion control blanket will serve to keep soils in place and minimize transfer from the property. Therefore, with a condition of approval that erosion control as shown on Construction Management Plan Exhibit C.3 be provided, this criterion can be met.

St Johns Landfill:
The project area and gravel road will be watered down as necessary to control nuisance dust. A water truck will be available during work periods for this purpose. Trucks leaving the jobsite will drive over 800 feet on improved gravel road and 1,200 feet of hard top before entering Columbia Boulevard. The work will take place July through September, which will also reduce the possibility of tracking dirt off-site. In the event that these measures fall short, the applicant will require the Contractor to employ a sweeper to clean the highway. Therefore, this criterion is met.

D. The final contours and surface condition of the site will not preclude future development for uses allowed in the base zone;

Findings:
N Portland Site:
The final contours and surface conditions of the site will not preclude future development for uses allowed in the base zone because a limited area is still available for future development in the proposed staging area. It is unlikely that this site would support development for uses allowed in the base zone because the property is owned by Metro and being used for resource enhancement, the site has Environmental Conservation zoning which further limits development, and the site is within the 100-year floodplain. Given the characteristics of the site, final contours and surface condition proposed on the site are appropriate. The proposed development plan will provide an enhanced habitat consistent with nearby uses and support the goals and objectives of the Smith and Bybee Lakes NRMP.

St Johns Landfill:
Upon completion of the project, the final contours and surface conditions of the site will be similar to the original surface of the completed cover system in the project area, prior to settlement and ponding. As such, the project restores the area for future uses consistent with the Smith and Bybee Lakes NRMP. Therefore, this criterion is met.

E. Disruptions to the natural drainage pattern will be mitigated, and will not result in mud or sediment entering the City's stormwater disposal system, rivers, creeks, sloughs, or other identified waterbodies; and

Findings:
N Portland Site:
The grading plan will result in a shallow basin. Stormwater runoff will be contained in this basin and not run off the site. Silt fences and straw wattles will be placed as part of the erosion control plan to keep any extraneous soils from leaving the property. The project will not disrupt any existing drainage patterns, and no sediment will enter the City's stormwater system, or any nearby waterways.

St Johns Landfill:
The grading restores the drainage pattern design for this portion of the landfill cover. Drainage in this swale area flows through an existing settlement basin prior to entering the North Slough. Sediment fence and bio bag inlet protection will be used during operations to prevent erosion. Additionally, the fill will be placed only in the summer months. Erosion control measures after the fill is placed will include native grass, coir erosion control mat, and straw wattles prior to the Fall rains. Based on the proposed measures, sediment loading of the North Slough will be avoided.

The applicant has also proposed, the following Spring, to place additional plantings of native trees, shrubs, and plants below the fill area. The fill is proposed to restore the natural drainage pattern originally conceived for the landfill. Therefore, restoration of this area in compliance with the Construction Management Plan will mitigate any temporary disruptions. As a result, the proposed plantings are not required in order to meet this approval criteria because they exceed the minimal impacts anticipated. Therefore, with compliance with the approved Grading and Utility Plans Exhibits C.9 and C.10 and the Erosion Control Plans Exhibit C.11 and C.12, this criterion is met.

F. A plan for routing trucks to and from the site must be submitted that minimizes the use of local residential streets in the vicinity of the site.

Findings: The applicant has submitted a plan for routing trucks to and from the site, which can be found in Exhibit A.4. Trucks moving between the N Portland Road site and the St Johns Landfill will not use residential streets. The haul route will follow N Portland Road southwest to N. Columbia Boulevard, then northwest to the landfill entrance, a distance of approximately three miles. The route follows main roads through an industrial area. Therefore, this criterion is met.

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.

CHAPTER 33.272 PUBLIC RECREATIONAL TRAILS

33.272.030 Construction of Trails

A. Single-dwelling zones. The construction of the recreational trail in single-dwelling residential zones is only required for subdivisions and PUDs that involve the creation of a street. Existing single-dwelling lots are not required to construct the trail.

B. Columbia South Shore Plan District. Sites in the Columbia South Shore Slough Trail area and Cross-Levee Trail area must also comply with the regulations of Section 33.515.260. These areas are shown on Map 515-4. Other trails in the Columbia South Shore Plan District must comply only with the regulations of this chapter.

C. All other zones. Construction of the recreational trail is required on lands designated with a recreational trail symbol on the zoning maps in any of the following situations listed below.

1. **When there is new development;**
2. **When exterior alterations to existing development are 35 percent or greater of the assessed improvement value of the total improvements on the site; or**

3. When streets are constructed in a subdivision, industrial park, or PUD.

Findings: The N Portland Road site has a Public Recreational Trail designation along the frontage of the site in the N Portland Road right-of-way. The St Johns Landfill also has a Public Recreational Trail designation along its southern boundary. The proposed excavation and fill activities and resource enhancement are located in the IG2c and OSh zones. Therefore, C above applies.

Section 33.910.030 defines new development as "Development of a site that was previously unimproved or that has had previously existing buildings demolished". Development is defined as "All improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or unimproved land."

Excavation and fill activities and resource enhancement are not considered development. Therefore, the construction of a public recreational trail is not required on these sites.

CONCLUSIONS

The applicant proposes to restore the site located on the west side of North Portland Road, just north of the Columbia Slough. Metro intends to transform the site from a developed fill area with a predominance of invasive, non-native shrubs and ground covers, to a habitat of diverse native vegetation and wetland topography characteristic of the historical natural riparian and wetland systems of the lower Columbia River floodplain. The entire proposed restoration area is within the Environmental Conservation Overlay Zone.

Restoration will include excavation and grading to create a basin with an elevation range conducive to supporting a diverse community of wetland and upland native plants. An estimated 8,000 cubic yards of existing fill will be excavated to establish a surface elevation of approximately 12 feet. The new surface level is proposed to be low enough to intercept a seasonal high water table and allow for inundation through at least mid-summer.

The slopes of the restoration area will range between 3:1 and 6:1. Several erosion and sediment control measures will be used to prevent sediment from exiting the site during construction.

To accomplish this restoration work, the applicant proposes to remove 15 black cottonwood trees between six and ten inches in diameter as well as multiple non-native shrubs and ground covers. To mitigate for the loss of these resources, and to ensure the success of the restoration project, the applicant proposes to install approximately 3,186 native plants characteristic of lower Columbia River floodplain habitat and listed on the *Portland Plant List.* Mitigation plants will be monitored and maintained for a three period.

Of the 8,000 cubic yards excavated, the applicant proposes to use suitable fill material in slope restoration work in the OS zone at St. John's Landfill. The proposed fill area is approximately 5.25 acres. Decomposition of waste has resulted in gradual settlement of the landfill. Some areas have differentially settled more than other areas which has resulted in ponding on the landfill surface. The proposed fill at the landfill will maintain the stormwater management system that protects the landfill final cover barrier. An estimated 13,000 cubic yards of fill is required of which approximately 6,400 cubic yards will come from the N. Portland Road site.

With conditions related to mitigation plantings, monitoring and maintenance of the plantings, and construction management practices, the applicable approval criteria can be shown to be met and this proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Excavation and Fill Review for:
- Excavation of 8,000 cubic yards at the N Portland Road site; and
- Fill of 13,000 cubic yards at the St. Johns Landfill.

Approval of an Environmental Review for:
- Excavation of the N Portland Road site;
- Resource enhancement of the N Portland Road site; and
- Maintenance activities as described in attached Exhibit C.15.

all within the Environmental Conservation Overlay zone, and in substantial conformance with Exhibits C.2, C.3, C.4, C.5, C.6, C.9, C.10, C.11, C.12, and C.15, as modified, signed, and dated by the City of Portland Bureau of Development Services on **March 18, 2003**. Approval is subject to the following conditions:

A. All permits: Copies of the stamped Exhibits C.2, C.3, C.4, C.5, C.6, C.9, C.10, C.11, C.12, and C.15 from LU 02-100430 EN EF, shall be included as part of all plans submitted for permits (building, grading, site development, erosion, etc.). These exhibits shall be included on a sheet that is the same size as the plans submitted for the permit and shall include the following statement, ***"Any field changes shall be in substantial conformance with approved Exhibits C.2, C.3, C.4, C.5, C.6, C.9, C.10, C.11, C.12, and C.15. Substantial conformance shall be verified by BDS, Land Use Review Staff."***

B. Prior to any ground disturbing activities at the site located on N Portland Road, the applicant shall obtain the required permits from the Bureau of Development Services. The required permits shall include the following:

1. A **Site Development Permit** to document the excavation, installation of erosion control, temporary construction fencing and mitigation plantings on the N Portland Road site.
   a. Sediment barriers and protective construction fencing shall be installed prior to any ground-disturbing activities, and the location shall conform with Exhibit C.3 or as required by Site Development during the plan review and/or inspection stages.
   b. No mechanized construction vehicles are permitted outside of the approved "Limits of Construction Disturbance" delineated by the temporary construction fence. All planting work, invasive vegetation removal, and other work to be done outside the Limits of Construction Disturbance, shall be conducted using hand held equipment.
   c. Prior to planting, non-native invasive plant species shall be removed from all areas within 10 feet of the planting area, using handheld equipment.
   d. Jute mat shall be anchored with wood stakes. Steel staples are not permitted.
   e. A total of 986 native trees and shrubs, and groundcovers shall be planted, (a total of 3,186 plants) as shown on Exhibits C.4, C.5, and C.6.
   f. Mitigation plantings shall be installed within ***six months*** after issuance of the Site Development Permit. If this six month period falls outside of the planting season, the applicant may have until March 1 of the following year to plant.
   g. Prior to inspection of the required plantings by Site Development inspectors, for each species of plant required by this land use review, at least one plant shall be marked with a tag specifying the common name of the plant for the purpose of simplifying inspections.
   h. Prior to inspection of the required plantings, the applicant shall submit to Site Development inspection staff, a letter signed by the person responsible for overseeing the plant installation, confirming that the number and species of plants indicated on approved Exhibits C.4, C.5, and C.6 have been installed.
   i. The Site Development permit shall not be finaled until mitigation plantings are completed and inspected.

C. Prior to any fill activities at the St Johns Landfill, the applicant shall obtain the required permits from the Bureau of Development Services. The required permits shall include the following:

1. A **Site Development Permit** to document the fill, installation of erosion control, and temporary construction fencing at the St Johns Landfill.
   a. Sediment barriers and protective construction fencing shall be installed prior to any ground-disturbing activities, and the location shall conform with Exhibits C.9 through C.12 or as required by Site Development during the plan review and/or inspection stages.
   b. Disturbance areas shall be seeded with native species listed in the Portland Plant List.
   c. The Site Development permit shall not be finaled until the work is completed and inspected.

D. Written annual **monitoring reports** for the North Portland Road site shall be submitted for review and approval by the Land Use Review Division of the Bureau of Development Services (1900 SW Fourth Avenue, Suite 5000, Portland, OR, 97201, Attention: **Environmental Planner: LU 02-100430 EN EF**).

The first report shall be submitted within 12 months of the final inspection of mitigation plantings as required above in Condition B. Reports shall be submitted annually for three years.

Reports shall be prepared by a professional biologist or a registered landscape architect. The reports shall include the following information:

1. The contact name, number, and address of the responsible party for the monitoring and maintenance of the site.
2. One annual count during the late summer for three summers after planting to determine the rate of tree mortality for that year. If the tree survival rate is determined to be less than 100 percent at the time of each annual count (during the monitoring period), replacement of dead plants is required to reach 100 percent of the original number of live native plantings (replacement must occur within one planting season).
3. One annual estimate of percent cover of native shrub and groundcover species within the mitigation planting areas. If each monitoring year the shrub and groundcover percent coverage is not 80 percent or greater, then additional native plants are required to be planted to achieve 80 percent coverage in the mitigation planting area using native species from the approved mitigation plan (replacement must occur within one planting season).
4. Photographs of the mitigation area during the annual visits and a site plan showing the location and direction of photos.
5. A watering schedule for trees, shrubs, and groundcovers for the first two summers after planting.
6. One annual estimate of percent cover of invasive species (Himalayan blackberry) within 10 feet of all planting areas.
7. The means by which plant species can be identified at the time of final Site Development permit inspection.
8. *Approved monitoring and maintenance reports will be retained in case file (LU 02-100430 EN EF).*

E. Within one month after the third monitoring report is submitted, the applicant shall obtain a Site Development Permit for the purpose of inspecting the required mitigation plantings. Documentation for final success of mitigation shall include the following:

- The planting plan approved under this review;
- A planting plan showing the mitigation planting area and approximate location of surviving native vegetation: indicating 100 percent survival of the required native tree plantings and the approximate extent of coverage of native shrub and groundcover plants.

- The system used to provide for field plant identification.

The planting plan submitted for this condition shall be in substantial conformance with Exhibits C.4 and C.5. Any plant substitutions must have been approved in writing by the Bureau of Development Services Land Use Review Planners (attach letter(s) allowing substitution to submitted plans). ***This permit shall not be considered final until the site exhibits 100 percent survival of the native trees installed and 80 percent coverage of shrub and groundcover plantings as required by this review.***

F. Failure to comply with any of these conditions may result in the City's reconsideration of this land use approval pursuant to PCC 33.700.040 and/or seek to enforce compliance with these conditions in any manner authorized by law.

Staff Planner: Kimberly Parsons

Decision rendered by: _____ on March 18, 2003

Decision filed March 19, 2003 **Decision mailed March 20, 2003**

This application was submitted on January 6, 2003.
This application was determined to be complete on February 4, 2003.

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Note: some of the information contained in this report was provided by the applicant. As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. This approval may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on April 3, 2003** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fourth floor. **An appeal fee of $250 will be charged.** The appeal fee will be refunded if the appellant prevails. Recognized neighborhood associations and low-income individuals appealing a decision for their personal residence may qualify for an appeal fee waiver. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing your appeal; please allow 3 working days for fee waiver approval. Fee waivers for neighborhood associations

require a vote of the authorized body of your association. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7702 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.ci.portland.or.us.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Salem, Oregon 97310 or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision. Before you proceed with your project, you are required to record the final Land Use Review decision with the Multnomah County Recorder. A building or zoning permit will be issued only after the final decision is recorded. The final decision may be recorded on or after **April 4, 2003 (the day following the last day to appeal).**

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.

- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034.

Expiration of this approval. This decision expires three years from the date the final decision is rendered unless:

- A building permit has been issued, or
- The approved activity has begun, or
- In situations involving only the creation of lots, the land division has been recorded.

Applying for your permits. A building permit, occupancy permit, or development permit must be obtained before carrying out this project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed here.
- All applicable development standards, unless specifically exempted as part of this land use review.
- All requirements of the building code.
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

A. Applicant's Statement
   1. January 6, 2003
   2. February 3, 2003
   3. February 18, 2003
   4. March 11, 2003
B. Zoning Maps (attached)
   1. Zoning Map
   2. Detail for Restoration Site – N Portland Road site
   3. Detail for St John's Landfill
C. Plans/Drawings (attached):
   1. Existing Conditions Site Plan (attached)
   2. Proposed Development (attached)
   3. Construction Management (attached)
   4. Mitigation – trees and shrubs (attached)
   5. Mitigation – grass distribution (attached)
   6. Mitigation notes (attached)
   7. St Johns Landfill site (attached)
   8. Existing Conditions (attached)
   9. Grading Plan (attached)
   10. Grading Plan (attached)
   11. Erosion Control Plan (attached)
   12. Erosion Control Plan (attached)
   13. Planting Plan
   14. Planting Plan
   15. Maintenance Activities (attached)
D. Notification information:
   1. Mailing list
   2. Mailed notice
E. Agency Responses:
   1. Bureau of Environmental Services
   2. Bureau of Transportation Engineering and Development Review
   3. Fire Bureau
   4. Site Development Review Section of BDS
   5. Bureau of Environmental Services Watershed Group
F. Correspondence: none
G. Other:
   1. Original LU Application
   2. Site History Research
   3. Pre-application Conference Summary

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-7702 (TTY 503-823-6868).