

DRAFT DOCUMENT

This document is a draft. It has not been fully reviewed, has not been checked for accuracy and does not reflect any conclusions of the Port, the City of Portland, or any other reviewing agency.

West Hayden Island Plan District



Advisory Committee Draft

July 2000

The Planning Commission will hold a public hearing on this text on:

Date: _____

Time: _____

Place: **Portland Building, Meeting Room C**
1120 SW Fifth Avenue; 2nd Floor
Portland, Oregon

You may come to the Planning Commission hearing to testify about this report. You may also write to _____, who will forward your comments to the Planning Commission. Although the hearing starts at 7:00 p.m., please call the Planning Bureau receptionist at 823-7700 after _____ for the scheduled time of this item.

For more information, contact:
Eric Engstrom, City Planner
Planning Support Group
Portland Bureau of Planning
1900 SW Fourth Ave, Suite 4100
Portland, Oregon 97201-5350
Phone: 823-7815
Fax: 823-7800
TDD: 823-6868

The Bureau of Planning is committed to providing equal access to information and hearings. If you need special accommodation, please call _____ (TTY 823-6868).

ACKNOWLEDGEMENTS

West Hayden Island Plan District Advisory Committee Draft, July 2000

This Draft Document was created through a collaborative process with input from a variety of resources, including the following:

<u>Development Team</u>	<u>City of Portland</u>
Port of Portland Brian Campbell Mary Gibson Paul Shirey Susie Lahsene Tim Van Wormer	Bureau of Planning Gil Kelly, Director Robert Clay, Chief Planner Eric Engstrom, City Planner
W&H Pacific Inc. Michal Wert, AICP Michael Smyth, ASLA	Bureau of Parks and Recreation Sue Donaldson
Angelo Eaton & Associates Chris Eaton, AICP Frank Angelo	Office of Transportation Laurel Wentworth Steve Gerber
West Hayden Island EIS Team Dave Barrows Maurita Smyth	Bureau of Environmental Services
Stoel Rives LLP Steve Abel Frank Flynn	

The West Hayden Island Advisory Committee reviewed and discussed these materials over the course of 17 meetings. The Advisory Committee was composed of the following members (in alphabetical order):

Bob Alexander, Portland Development Commission
Jim Anderson, Foss Maritime
Bob Clay, City of Portland Planning Bureau
Jacqueline Dingelder, Coalition for a Livable Future
Sue Donaldson, Portland Parks and Recreation
David Eatwell, Kenton Neighborhood Association
Mike Gemmet, Portland French Bakery
Steve Gerber, City of Portland, Bureau of Transportation
Greg Guthrie, Burlington Northern Santa Fe
Mike Hogle, Metro
Linda Hval, St. John's Neighborhood Association
Marcy Jacobs, Oregon Economic Development Department
Jeff Kaiser, Oregon Department of Transportation
Jeff Kershaw, Jantzen Beach Shopping Center
Jeff McEwan, Hanjin Shipping
Ann Nelson, Port of Portland Commissioner
Tim Ramis, Columbia Corridor Association
Scott Ransmeier, China Overseas Shipping (COSCO)
Bob Salinger, Audubon Society of Portland
Greg Satchell, Portland General Electric
Jonathan Schlueter, Pacific Northwest Grain & Feed Association, Inc.
Keely Thompson, Bridgeton Neighborhood Association, (alternate)
Walter Valenta, Bridgeton Neighborhood Association
Laurel Wentworth, City of Portland, Bureau of Transportation
Gayla Whitman, Hayden Island Neighborhood Association

West Hayden Island Advisory Committee Draft Table Of Contents

WEST HAYDEN ISLAND PLAN DISTRICT AND COMMENTARY

Table of Contents		5
 GENERAL		
33.590.010	Purpose.....	7
33.590.020	Where these Regulations Apply.....	7
33.590.030	Relationship to Other WHI Planning Documents	11
33.590.040	West Hayden Island Subdistricts	13
 USE REGULATIONS		
33.590.100	Prohibited Uses	15
33.590.110	Additional Allowed Uses	17
 DEVELOPMENT STANDARDS		
33.590.200	Purpose.....	19
33.590.210	Subdistrict A.....	19
33.590.220	Subdistrict B	29
33.590.230	Subdistrict C	37
 REVIEW AND APPROVAL CRITERIA		
33.590.300	Purpose.....	45
33.590.305	Mitigation Specifications for Subdistrict A	49
33.590.310	Development in Environmental Zones in Subdistricts B & C.....	51
33.590.320	Review Procedures for WHI Environmental Overlay.....	55
 <u>MAPS</u>		
590-1-4	Buffer Standard Illustrations.....	27
590-5	West Hayden Island Plan District Boundaries and Subdistricts	65
590-6	West Hayden Island Environmental Overlays	67
 <u>APPENDICES</u>		
Appendix A	Conforming Amendments to Title 33 (Placeholder)	

33.590.010 Purpose

The purpose statement references the 1983 annexation of WHI into the UGB, which had findings related to provision of jobs and Statewide planning Goal 9. The plan district provides for both certainty of marine industrial development balanced with protection of specific areas of natural resources. The plan district is the implementing code language related to the West Hayden Island Area Plan and the related planning documents.

The Area Plan is like a Comprehensive Plan for WHI. The Area Plan sets the base zones for the island upon annexation into the City and provides a broad overview of the background, public involvement, natural resources, planned development, economic and transportation analyses. This Plan District is one of the implementing mechanisms for the Area Plan. The WHI Area Plan contains the

- q Background;
- q Proposed Base Zones;
- q Proposed Environmental Overlay Zones and
- q A compilation of natural resource Goals and Objectives.

Other related planning documents include the *Preliminary Draft Wetlands Mitigation Plan for Port of Portland Marine Cargo Facilities at West Hayden Island* and the *Preliminary Draft Uplands Mitigation Plan for Port of Portland Marine Cargo Facilities at West Hayden Island and the North Shore Development Standards for West Hayden Island*. These documents have conceptual mitigation plans for the natural resource areas in the plan district. Related WHI environmental planning documents include the WHI Natural Resource Element which contains the Goal 5 and Economic, Social, Environmental and Energy (ESEE) analyses.

WHI plan district subdistricts

The concept of Subdistricts is introduced in the Purpose section. The plan district uses subdistricts as a mechanism to divide the area into three basic areas: the development area, recreation area and natural resource area. Allowed and prohibited uses, development standards, procedures and resource protection are distinct for each subdistrict.

General

33.590.010 Purpose

The primary purpose of the West Hayden Island (WHI) Plan District is to encourage the development of West Hayden Island for marine-related industrial uses by a single owner, the Port of Portland. The plan district regulations recognize the need to provide for water-dependent industrial uses and to protect those uses from conflicting types of development. The plan district is part of a group of documents related to West Hayden Island, known as the West Hayden Island Planning Documents.

The plan district regulations also acknowledge that the original intent of including West Hayden Island in the Portland Metropolitan Urban Growth Boundary was explicitly for the development of marine industrial uses. Accordingly, the plan district restricts the number of uses that would normally be permitted either outright or conditionally in the Heavy Industrial (IH) base zone. The plan district recognizes the unique operational requirements of marine industrial uses and permits certain marine-related development activities to occur in certain locations on the island, while other areas on the island are reserved for natural uses such as mitigation and habitat restoration activities. The Open Space (OS) base zone is applied to areas of the island not planned for IH uses. Similar to the narrowing of uses in the IH zone, the OS uses are restricted to those anticipated on the island. The primary method to organize the activities within the WHI plan district is the creation of three subdistricts, each with its own uses, development standards and review procedures.

The plan district regulations balance the need for future marine industrial development with the natural resource features of West Hayden Island and its location on the Columbia River. The plan district accomplishes this by identifying three subdistricts that have unique use and development regulations.

- § Subdistrict A is a Development Area. It provides necessary land area and water access for Marine Terminal Facilities and the other uses allowed in the subdistrict.
- § Subdistrict B is a Natural Resource Area. It prohibits almost all activities except for natural resource replacement, conservation, restoration and preservation. This subdistrict has an Environmental Conservation (ec) overlay contiguous with its boundaries.
- § Subdistrict C is a Recreation Area. It is intended for passive recreation activities that will provide the public with opportunities to experience the natural riparian environment and the views to the south of industrial activity in Terminal 6. This subdistrict will also have wetland and upland conservation, protection and restoration activities. This subdistrict has an Environmental Protection (ep) overlay contiguous with its boundaries.

Because WHI is subject to an Environmental Impact Statement (EIS) process, many issues that are usually covered in this Title, are referenced to the site-specific environmental mitigation approved as part of the EIS process. Therefore, the WHI review and approval process includes references to the West Hayden Island mitigation plans and special development standard documents.

33.590.020 Where These Regulations Apply

The regulations of this chapter apply to the WHI Plan District. The boundaries of the Plan District are shown on Map 590-5 at the end of this chapter and on the Official Zoning Maps.

WHI Definitions

33.590.030 Relationship to other WHI Documents

This section explains the relationship of the plan district to other reports related to WHI and the pending mitigation federal EIS and federal permits.

The North Shore Development Standards are being developed in response to the Endangered Species Act listing of certain fish species and the regional Goal 5 process. These development standards are anticipated to be part of a *Local Riparian District*, a *Local Option* or other special designation under the pending Goal 5 rules.

33.590.030 Relationship to West Hayden Island Planning Documents

This plan district contains the land use regulations that implement a variety of policies related to resource protection and industrial development. The plan district provides for the natural resource protection and enhancements found in related documents including:

The related planning documents include:

- § *West Hayden Island Area Plan;*
- § *West Hayden Island Natural Resource Element (Goal 5/ESEE);*
- § *Wetlands Mitigation Plan for Port of Portland Marine Cargo Facilities at West Hayden Island;*
- § *Uplands Mitigation Plan for Port of Portland Marine Cargo Facilities at West Hayden Island;*
- § *North Shore Development Standards for West Hayden Island*
- § *West Hayden Island Market Study; and*
- § *West Hayden Island Transportation Analysis.*

33.590.040 West Hayden Island Subdistricts

This section explains the Subdistricts and refers to the plan district map with the subdistricts on it (at end of district text). Purpose statements for each subdistrict are included in section 33.590. 010

The subdistrict boundaries align with the base zones in that Subdistrict A is coterminous with the IH base zone, and Subdistricts B and C are coterminous with the OS base zone. Subdistrict A is based on the "development footprint" area identified in the WHI Development Program of 1999. Subdistrict B and C are designated with Environmental overlay zones. The division between Subdistrict B and C is the general location of the planned bridge crossing Portland Harbor. Each subdistrict extends perpendicularly into the water adjacent to the island to show that subdistrict regulations will apply in-river also.

The subdistricts include:

- n Subdistrict A is equivalent to the IH zone all the way to city limits/state limits line in mid river;

- n Subdistrict B is the natural area and river resources within the Open Space zone on the northwestern portion of the island; and

- n Subdistrict C includes the future bridge and the recreation portion of the Open Space zone.

33.590.40 West Hayden Island Subdistricts

The plan district is divided into three subdistricts, A, B and C as shown on Map 590-___. The subdistricts reflect the planned uses and activities identified in the WHI Planning Documents, including the development of Marine Terminal facilities, transportation connections, environmental mitigation activities, natural resources, wildlife habitat and recreation. The subdistricts were created so that there is clear separation of where certain uses, activities and standards will apply.

33.590.100 Prohibited Use regulations

Use regulations are divided by subdistrict reflecting that even within the two base zones, there are variations in uses. Generally the intent of additional allowed and additional prohibited uses is to limit allowed uses to those related to marine-related and open space uses.

A. **Uses Involving Hazardous Substances** is modeled on the Columbia South Shore Plan District (33.515.100). The WHI PD subsection has been modified to meet the needs of this plan district and its location within the Columbia River. Hazardous substances in the IH base zone are currently regulated by 33.140.120 **Hazardous Substances**. This section lists additional prohibited uses.

33.590.100 B, C and D.

These sections used to be 33.590.120, Additional Prohibited Uses in the October 1999 Draft. This organization is clearer and more concise.

The prohibited uses listed here provide specific restrictions in Subdistricts A, B and C to insure the development of uses that are compatible to the goals of the WHI PD and the Area Plan. Note: The base zones prohibit some uses that are not listed here. This list supplements the base zone regulations.

Use Regulations

33.590.100 Prohibited Uses

A. Uses Involving Hazardous Substances

1. **Purpose.** Certain uses in the plan district are prohibited because they pose a high risk to the district's natural resources. The requirements of this section are a major component of the water quality protection plan for the district and are meant to supplement and be used in conjunction with the other plan elements. Preventative measures are the most effective and economical measures available to protect the natural resources on the island. Potential harm due to exposure to these substances is reduced by prohibiting large quantities of hazardous materials and hazardous wastes, and prohibiting specific uses that traditionally use these substances.
2. The following uses are prohibited in all Subdistricts.
 - a. Uses which use hazardous substances at the bulk plant quantity level;
 - b. Uses in the Waste-Related category and waste collection and transfer facilities, which involve hazardous substances;
 - c. Primary and secondary metal industries that manufacture, produce, smelt or refine ferrous and non-ferrous metals.

B. Subdistrict A. The following uses are prohibited in Subdistrict A.

1. Household Living
2. Commercial Parking;
3. Self-Service Storage;
4. Commercial Outdoor Recreation;
5. Major Event Entertainment;
6. Retail Sales and Service, except as allowed as an Accessory Use for Warehouse and Freight Movement uses;
7. Quick Vehicle Servicing; except for truck refueling and maintenance of fleet services;
8. Wholesale Sales;
9. Community Service;
10. Aviation and Surface Passenger Terminals; and
11. Detention Facilities.

C. Subdistrict B. The following uses are prohibited in Subdistrict B.

1. Retail Sales and Service;
2. Commercial Outdoor Recreation;
3. Schools;
4. Daycare;
5. Agriculture; and
6. Mining.

D. Subdistrict C. The following uses are prohibited in Subdistrict C.

1. Retail Sales and Service;
2. Commercial Outdoor Recreation;
3. Schools;
4. Daycare;
5. Agriculture; and
6. Mining.

33.590.110 Additional Allowed Uses (organized by subdistricts)

Currently, the IH zone uses are described in 33.140.100 and Table 140-1. IH permits a variety of uses, and OS includes conditional uses of several intended and planned activities. The intent of this section is to provide plan district specific use categories and clarifications.

The Warehouse And Freight Movement Use category is permitted under the IH base zone, and conforming amendments are proposed to specifically allow Marine Terminal Uses such as those envisioned at WHI. See Appendix A for conforming amendment text.

Environmental Mitigation Activities is a NEW USE proposed and defined in Appendix A.

Subdistrict A. (IH zone):

Subdistrict B

Allows three uses that are Conditional Uses in the base zone (33.100). This is to recognize planned and programmed uses in the OS zone and reduce the need for a land use permit for such activities.

River-related, River -dependent has been changed from the October 1999 draft to Warehouse and Freight Movement and limited to "in-water" areas only. Anticipated "in water" uses includes: barge storage, docking facilities dredging and log barge storage.

Subdistrict C.

Allows three uses that are Conditional Uses in the base zone (33.100). This is to recognize planned and programmed uses in the OS zone and reduce the need for a land use permit for such activities.

River-related, River -dependent has been changed from the October 1999 draft to Warehouse and Freight Movement and limited to "in-water" areas only. Anticipated "in water" uses includes: barge storage, docking facilities dredging and log barge storage.

Note: The base zones allow uses that are not listed here. This list supplements the base zone regulations.

33.590.110.590.110 Additional Allowed Uses

A. Subdistrict A. The following additional uses are allowed in Subdistrict A.

- 1. Environmental Mitigation Activities**

B. Subdistrict B. The following additional uses are allowed in Subdistrict

- 1. Environmental Mitigation Activities;**
- 2. Basic Utilities;**
- 3. Utility Corridors; and**
- 4. Warehouse and Freight Movement allowed in water areas only.**

C. Subdistrict C. The following additional uses are allowed in Subdistrict C.

- 1. Environmental Mitigation Activities;**
- 2. Basic Utilities;**
- 3. Warehouse and Freight Movement allowed in water areas only.**
- 4. Utility Corridors.**

33.590.200 DEVELOPMENT STANDARDS

Subdistrict A

The Port will need to obtain a federal permit after completing the Environmental Impact Statement (EIS) and prior to construction within Subdistrict A. Development within Subdistrict A is allowed to proceed by right with submittal of the federal permit and proof that the Uplands mitigation plantings have been installed and the monitoring program has begun. (removal of upland vegetation is not regulated by federal agencies). Permitted Uses are allowed outright if developed in accordance with the development standards of Section 33.590.210 and other applicable standards of the Code.

Examples of proof that the federal permit is accepted by the US Army Corps of Engineers include a copy of a letter from ACOE to the Port transmitting the wetland fill/removal permit and the Record of Decision on the EIS. Additional materials could include copies of "as built" planting plans for wetlands and uplands mitigation.

The code also provides an alternative to allow mitigation to proceed concurrent with construction in 33.590.210.1.b. The approval criteria in 33.590.305 provide the ability to review for consistency with the EIS mitigation plans but prior to completing the mitigation. This will allow the Port to phase mitigation so that they are not mitigating for the whole project if they only develop one portion of it.

- A. This provision makes it clear that federal or state permits (obtained through the EIS) shall supercede some of the provisions of the plan district. The EIS will specify mitigation plans and permit a certain level of development. The plan district is the local regulation allowing for the maximum amount of development approved by the EIS. Completion of the work, or proposed specifications in accordance with the EIS mitigation plans are referenced as the framework for which development shall be allowed. This provision is also designed to account for future requirements of the ESA. The Draft EIS will be available for Planning Commission review during the approval process of the Plan District.
- B. This section describes the mitigation plans and special development standards that must be met or superceded. The mitigation plans will be approved/considered as part of the EIS process. The North Shore Development Standards for WHI respond to the regional Goal 5 process.

Development Standards

33.590.200 Purpose

The development standards in the plan district recognize the unique development aspects of marine industrial operations and the need to balance and mitigate the natural resource values of the plan district. The development standards are organized by subdistrict, since the development of these subdistricts is distinct.

33.590.210 Subdistrict A, Development Area.

Prior to the issuance of a building permit for development in this subdistrict the following standards shall be met:

- A. **Proof.** The applicant shall provide proof that the federal permits in accordance with the West Hayden Island Environmental Impact Study (EIS) have been issued; and one of the following:
 1. The applicant shall provide documentation and copies of “as built” planting plans and initial monitoring reports regarding the relevant portions of mitigation required pursuant to the federal EIS permit and the *Uplands Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden Island* has been completed; or,
 2. The applicant shall submit specifications for Wetland and Upland mitigation and North Shore Vegetation plans in accordance with 33.590.320(C), Submittal Requirements. Review and acceptance of the specifications will be processed in accordance with 33.590.305.
- B. **Mitigation Standards.** City, State or federal permit conditions, or performance standards developed under the federal Endangered Species Act supercede the standards of the *Uplands Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden Island, Wetland Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden Island* and *North Shore Development Standards for West Hayden Island*.

Development Standards

33.590.210 Subdistrict A Development Standards (continued)

- C. Lighting. The proposed standard minimizes the impact of lighting from Subdistrict A into natural area in Subdistrict B and residences. Footcandle standards are taken from the preliminary DEIS work. NOTE: City BOP staff to work with Permit Center on language that is clear. Not sure whether this information on plans will be useful at the Permit Counter.

- D. Landscaping standards for the West Hayden Island development and resource areas are intended to maximize habitat values and avoid the introduction of noxious plant species. The Portland Plant List (City of Portland 1997) and Portland Prohibited or Nuisance Plant Lists are the references for plant species to be used in landscaping plans. This standard is also intended to avoid and minimize airborne chemical contaminants and stormwater runoff contamination

Note: Development activities introduced will conform with any and all applicable local (City of Portland) and regional (Metro) rules and regulations governing fish and wildlife habitat, water quality, erosion control, flood management, and protection of state or federal threatened and endangered fish species. Such activities will also conform with any and all state and federal permit conditions, and any and all performance standards approved by federal agencies as part of a Biological Opinion related to the federal Endangered Species Act.

DEVELOPMENT STANDARDS

33.590.210. Subdistrict A (Continued)

- C. Lighting.** Lighting sources in Subdistrict A must meet the following criteria:
1. Luminaries will be high mask dark skies cutoff type;
 2. Lighting levels will be 3.5 foot-candles average horizontal, with a minimum illumination of 1/3 average, a maximum of 3 times average; and
 3. Fixtures along the water front will be required to limit fugitive light into the Columbia River by having asymmetrical distribution, light shields or both.
- D. Limited Use of Herbicides and Pesticides.** Vegetation maintenance and weed control measures within the subdistrict must not use persistent chemical herbicides and pesticides to the maximum extent practicable, except as needed to remove noxious or nuisance plants listed on the City of Portland Prohibited or Nuisance Plant lists. All chemicals used for landscape maintenance will be on a list approved by Oregon Department of Agriculture or the USEPA.

- E. The intent of the buffers is to: minimize encroachment of fill material into resource areas; provide screening for visual, noise and human activity impacts, and provide an edge habitat transition area

33.590.210. Subdistrict A (Continued)**E. Fill Slope Buffer standards.**

1. Purpose. The industrial development of subdistrict A will affect adjoining emergent wetlands, uplands/forests and meadow areas. To minimize visual and environmental impacts to these natural resource areas, standards for the development edge of Subdistrict A, or the “Fill Slope Buffers” have been established. These buffer design development standards are based on the following objectives:

- Protect and enhance the natural and scenic qualities of the undisturbed natural resource areas;
- Minimize visual and environmental impacts to the adjoining natural resource areas with appropriate design standards and procedures;
- Integrate the natural qualities of the new buffer landscapes with the adjoining natural resource areas.

2. Applicability These standards apply to the area within Subdistrict A that is the slope of the fill south and west of the railroad loop tracks and the first 25 feet of area in Subdistricts B and C, measured from the base of the fill slope. Figure 2-4 of the *West Hayden Island Planning Document, Vol. 2, Natural Resource Element* contains natural resource area locations. New subdistrict A development must include buffer enhancements for the fill slope area facing toward Subdistricts B and C at the following standards:

a. Sand fill slopes must not exceed a slope of 2H:1V.

b. Provide a minimum of a 25-foot wide buffer on the fill slope in accordance with the following:

- (1) If development impacts emergent wetlands, vegetate new slopes with a combination of deciduous shrubs and grasses. Plant one shrub every 9 square feet on the bottom half of the slope only, and seed grasses on the entire slope (see Figure 590-1).
- (2) If development impacts upland or wetland forests, vegetate new slopes with a combination of deciduous shrubs and grasses. Plant one shrub every 9 square feet on the bottom half of the slope only, and seed grasses on the entire slope (see Figure 590-2).
- (3) If development impacts meadows, vegetate the bottom half of new slopes with deciduous shrubs, one plant every 9 square feet (see Figure 590-3).
- (4) If development impacts a non-resource area vegetate new slopes with native grass and woody shrubs, one plant every 9 square feet (see Figure 590-4).

- (5) If emergent wetlands are disturbed, plant a 25-foot wide (minimum) landscape buffer area in the adjacent Subdistrict, in the undisturbed emergent wetlands. Plant this undisturbed area with one deciduous tree every 25 square feet, and one deciduous shrub every 9 square feet. Spacing densities are intended for general reference only, and may be adjusted to protect existing vegetation (see Figure 590-1).
- (6) If upland or wetland forests are disturbed, plant a minimum of 15-foot wide buffer area in the adjacent Subdistrict, in the undisturbed upland or wetland forest. Plant this undisturbed area with one deciduous shrub every 9 square feet. Spacing density is intended for general reference, and may be adjusted to protect existing vegetation (see Figure 590-4).
- (7) If meadows are disturbed, plant a minimum of 25-foot wide buffer area in the adjacent Subdistrict, in the undisturbed meadow. Plant this undisturbed area with one deciduous tree every 25 square feet, and one deciduous shrub every 9 square feet. Spacing densities are intended for general reference only, adjust to protect existing vegetation (see Figure 590-3).
- (8) If non-resource areas are disturbed, plant a minimum of 25-foot wide buffer area in the adjacent Subdistrict, in the non-resource area. Plant this undisturbed area with one deciduous tree every 25 square feet, and one deciduous shrub every 9 square feet. Spacing densities are intended for general reference only, adjust to protect existing vegetation (see Figure 590-4).
- (9) Seed and mulch new buffer slopes with a mix of woody plants and grasses that are native to the lower Columbia River region. Planting must achieve a minimum 90% vegetative cover two years after seeding.
- (10) Control highly competitive and invasive non-native plants (*City of Portland Prohibited or Nuisance Plants*) using hand, mechanical, or chemical methods approved by USEPA or Oregon Department of Agriculture. Chemicals must be applied by licensed applicators with current state or local certifications, and must be on lists approved for use by the Oregon Department of Agriculture, or the US Environmental Protection Agency.
- (11) Water all new buffer plantings with an irrigation system. Water new plants sufficiently to promote healthy and vigorous growth.
- (12) Clump or group all new plantings in random spacing to simulate natural characteristics.
- (13) Monitoring Plan must be submitted at the time of development proposal.

Figure 590-1, 2,3, and 4 Illustration of Buffer Standards as referenced in 33.590.210.E.

Figure 590-1, 2, 3, and 4 . Illustration of Buffer Standards for areas between Subdistrict A and Subdistrict B and between Subdistrict A and Subdistrict C.



DEVELOPMENT STANDARDS

33.590.220. Subdistrict B Natural Resource Area.

Many of these development standards are taken from the City's existing Environmental Zone standards 33.430.140.

Note: Development activities introduced will conform with any and all applicable local (City of Portland) and regional (Metro) rules and regulations governing fish and wildlife habitat, water quality, erosion control, flood management, and protection of state or federal threatened and endangered fish species. Such activities will also conform with any and all state and federal permit conditions, and any and all performance standards approved by federal agencies as part of a Biological Opinion related to the federal Endangered Species Act.

B. Utilities. The 30-foot corridor is based on the need to provide enough width to allow for standard mechanical and grading equipment (backhoes, bulldozers) into utility corridors upon their installation or repair. This is the same standard applied in Subdistrict C.

DEVELOPMENT STANDARDS (CONTINUED)**33.590 220 Development Standards for Subdistrict B. Purpose.**

Subdistrict B is a Natural Resource Area. It prohibits almost all activities except for natural resource replacement, conservation, restoration and preservation. This subdistrict has an Environmental Conservation (ec) overlay contiguous with its boundaries.

- A. **Relationship to other regulations or requirements. Mitigation Standards.** City, State or federal permit conditions, or performance standards developed under the federal Endangered Species Act supercede the standards of the *Uplands Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden Island, Wetland Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden Island; and the North Shore Development Standards for WHI.*
- B. **Utilities.** Construction and ongoing maintenance for overhead or underground utilities, including sanitary sewer lines and stormwater outfalls, shall be contained within a 30-foot wide corridor across a mapped environmental overlay zone. Existing corridors for high-power electrical transmission lines across the district are an exception to this standard;
- C. **Setbacks.** The disturbance area and development must be set back at least:
 - 1. Fifty feet from the edge of any identified wetland, from the top-of-bank of any identified water body as shown in Map XXX of the *West Hayden Island Planning Document, Volume 2, Natural Resource Element.*
- D. **Erosion control must conform to the Erosion Control Technical Guidance Handbook, City of Portland, Bureau of Environmental Services, and to Chapter 24.70, Clearing, Grading, and Erosion Control of Title 24, Building Regulations.** All development between November 1 and April 30 of any year, which disturbs more than 500 square feet of ground, requires wet weather measures described in the Erosion Control Technical Guidance Handbook;

DEVELOPMENT STANDARDS, Subdistrict B continued.

E. **Vegetation removal and replacement.** This standard is intended to restore areas of the subdistrict that are temporarily disturbed by development activities. The Port's EIS contractor provided these standards. Revegetation standards will apply to areas in Subdistrict B where development is allowed but no permanent facilities are developed. An example of this is the placement of an underground utility like a sewer pipe.

The replanting standards are divided by Uplands or Wetlands, and into trees and shrubs and understory. Development must identify which type of resource is being disturbed, and plant according to either i. and iii. or ii. and iv.

33.590 220 Development Standards, Subdistrict B (continued)

E. Vegetation removal and replacement.

1. **Purpose.** Vegetation in this Subdistrict is an important part of the significant natural resource. Therefore any vegetation that is removed shall be replanted within a certain time period and to certain standards to ensure the continued and improved vegetation in this Subdistrict.
2. Areas where vegetation is removed (unless on the City of Portland Prohibited or Nuisance Plant list) within the subdistrict for purposes other than siting permanent facilities or mitigation shall be re-planted within 18 months of completion of the activity requiring vegetation removal.
Exception. When vegetation is removed for access trails or roads that are used for the maintenance of mitigation areas.
3. Re-vegetation must meet the following criteria:
 - a. Plant species must not be classified as nuisance or prohibited plants pursuant to the Portland Prohibited or Nuisance Plant lists.
 - b. Specific planting requirements:
 - (1) Plant trees at a density of at least 6 feet on center and shrubs at a density of at least 3 feet on center.
 - (2) Select trees and shrubs from the following lists depending on the resource type in which the disturbance occurs. Development must include both trees/shrubs and understory plantings or herbaceous layer seeding. Substitution of similar plants may occur if certified by a licensed arborist or landscaped architect that the substitution meets the purpose of this section and does not have a negative impact on the resources.

i. Wetland disturbed area trees and shrubs

Common Name	Scientific Name	Size
Red osier dogwood	<i>Cornus stolonifera</i>	Cutting
Douglas hawthorn	<i>Crataegus douglasii</i>	Cutting or tube
Douglas spiraea	<i>Spiraea douglasii</i>	Cutting or tube
Pacific willow	<i>Salix lasiandra</i>	Cutting
Piper's willow	<i>Salix piperi</i>	Cutting
Sitka willow	<i>Salix sitchensis</i>	Cutting
Black cottonwood	<i>Populus balsamifera</i>	Cutting
Oregon ash	<i>Fraxinus latifolia</i>	Bare root or 1-gal

33.590 220 Development Standards, Subdistrict B (continued)

ii. Upland disturbed area trees and shrubs.

Table 590-___: Upland disturbed area trees and shrubs		
Common Name	Scientific Name	Size
Pacific willow	<i>Salix lasiandra</i>	Cutting
Black cottonwood	<i>Populus balsamifera</i>	Cutting
Oregon ash	<i>Fraxinus latifolia</i>	Bare root or 1-gal
Wild rose spp.	<i>Rosa nutkana</i> , <i>R. pisocarpa</i> , <i>R. gymnocarpa</i>	Cutting, bare root, or tube
Snowberry	<i>Symphoricarpos albus</i>	Bare root or 1-gal

iii. Upland disturbed area understory seeding mix. Apply at 15 pounds per acre if hand-seeding, 25-30 pounds per acre if hydroseeding.

Table 590-__: Upland disturbed area understory seeding mix		
Common Name	Scientific Name	Size
Idaho fescue	<i>Festuca idahoensis</i>	25%
Blue wildrye	<i>Elymus glaucus</i>	15%
California brome	<i>Bromus carinatus</i>	10%
Canby bluegrass	<i>Poa sandbergii</i>	10%
Canada bluegrass	<i>Poa compressa</i>	10%
Bigleaf lupine	<i>Lupinus polyphyllus</i>	5%
Two color lupine	<i>Lupinus bicolor</i>	5%
Douglas' aster	<i>Aster subspicatus</i>	5%
Yarrow	<i>Achillea millefolium</i>	5%
Canada goldenrod	<i>Solidago canadensis</i>	5%
Showy fleabane	<i>Erigeron speciosus</i>	5%

33.590 220 Development Standards, Subdistrict B (continued)

- iv. Wetland disturbed area understory seeding mix . Apply at 15 pounds per acre if hand-seeding, 25-30 pounds per acre if hydroseeding.

Table 590-__: Wetland disturbed area understory seeding mix		
Common Name	Scientific Name	Size
Slough sedge	<i>Carex obnupta</i>	20%
Blue wildrye	<i>Elymus glaucus</i>	20%
California brome	<i>Bromus carinatus</i>	20%
Tufted hairgrass	<i>Deschampsia caespitosa</i>	15%
Western mannagrass	<i>Glyceria occidentalis</i>	15%
American sloughgrass	<i>Beckmannia syzigachne</i>	10%

Subdistrict C.

This section specifies the open space element of the WHI Plan District, which is planned to include both a recreation area and other open space areas intended for mitigation and natural resource retention rather than public recreation as illustrated below.

Conceptual Illustration of Recreation Area

B. This section addresses the development standards for the trail system including timing of construction.

Utilities. Allows utility installation within 30-foot corridor without review. If utility development exceeds 30 feet, then a Review per 33.590.310 is required.

33.590.230 Development Standards for Subdistrict C Purpose.

Subdistrict C is a Recreation Area. It is intended for passive recreation activities that will provide the public with opportunities to experience the natural riparian environment and the views to the south of industrial activity in Terminal 6. This subdistrict will also have wetland and upland conservation, protection and restoration activities. This subdistrict has an Environmental Protection (ep) overlay contiguous with its boundaries.

- A. **Relationship to other regulations or requirements. Mitigation Standards.** City, State or federal permit conditions, or performance standards developed under the federal Endangered Species Act supercede the standards of the *Uplands Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden Island, Wetland Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden Island*; and the *North Shore Development Standards for WHI*.
- B. **Public recreational trail requirements. Purpose.** The trail in Subdistrict C provides passive recreation experiences for the public. It provides limited access from the public right of way to the south bank of WHI. Development of trails must meet the requirements of this Subsection and 33.590.310 and the standards below.
 1. **Trail requirement.** Prior to issuance of an occupancy permit for the first building in the plan district, the owner must develop off-road trails in coordination with City of Portland Bureau of Parks and Recreation.
 2. **Location and Design of any trail or recreational facility in this subdistrict shall be sited to avoid existing wetlands as shown in the *West Hayden Island Planning Document, Volume 2, Natural Resource Element* and resource mitigation areas specified by the *Wetland Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden* and the *Uplands Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden Island*. Avoid as used in this standard means to be no closer than 25 feet from the edge of the resource or designated resource mitigation area.**
 3. **Trail must be designed with a minimum width of 10 feet.**
- C. **Utilities.** Construction and ongoing maintenance for overhead or underground utilities, including sanitary sewer lines and stormwater outfalls, shall be contained within a 30-foot wide corridor across a mapped environmental overlay area unless they are approved through the review process in accordance with 33.590.310. Existing corridors for high-power electrical transmission lines across the district are an exception to this standard;
- D. **Setbacks.** The disturbance area and development must be set back at least:
 1. **Fifty feet from the edge of any identified wetland, from the top-of-bank of any identified water as shown in Map XXX of the *West Hayden Island Planning Document, Volume 2, Natural Resource Element*.**

33.590.230 (continued)

F. **Vegetation removal and replacement.** This standard is intended to restore areas of the subdistrict that are temporarily disturbed by development activities. The Port's EIS contractor provided these standards. Revegetation standards will apply to areas in Subdistrict C where development is allowed but no permanent facilities are developed. An example of this is the placement of an underground utility like a sewer pipe. Replacement

The replanting standards are divided by Uplands or Wetlands, and into trees and shrubs and understory. Development must identify which type of resource is being disturbed, and plant according to either i. and iii. or ii. and iv.

Note: Development activities introduced will conform with any and all applicable local (City of Portland) and regional (Metro) rules and regulations governing fish and wildlife habitat, water quality, erosion control, flood management, and protection of state or federal threatened and endangered fish species. Such activities will also conform with any and all state and federal permit conditions, and any and all performance standards approved by federal agencies as part of a Biological Opinion related to the federal Endangered Species Act.

33.590.230 Development Standards for Subdistrict C (continued)

- E. Erosion control must conform to the Erosion Control Technical Guidance Handbook, City of Portland, Bureau of Environmental Services, and to Chapter 24.70, Clearing, Grading, and Erosion Control of Title 24, Building Regulations. All development between November 1 and April 30 of any year, which disturbs more than 500 square feet of ground, requires wet weather measures described in the Erosion Control Technical Guidance Handbook;
- F. Vegetation removal and replacement.
1. Purpose. Vegetation in this Subdistrict is an important part of the significant natural resource. Therefore any vegetation that is removed shall be replanted within a certain time period and to certain standards to ensure the continued and improved vegetation in this Subdistrict.
 2. Areas where vegetation is removed (unless on the City of Portland Prohibited or Nuisance Plant list) within the subdistrict for purposes other than siting permanent facilities or mitigation shall be re-planted within 18 months of completion of the activity requiring vegetation removal. Exception. When vegetation is removed for access trails or roads that are used for the maintenance of mitigation areas.
 3. Re-vegetation must meet the following criteria:
 - a. Plant species must not be classified as nuisance or prohibited plants pursuant to the Portland Prohibited or Nuisance Plant lists.
 - b. Specific planting requirements:
 - (1) Plant trees at a density of at least 6 feet on center and shrubs at a density of at least 3 feet on center.
 - (2) Select trees and shrubs from the following lists depending on the resource type in which the disturbance occurs. Development must include both trees/shrubs and understory plantings or herbaceous layer seeding. Substitution of similar plants may occur if certified by a licensed arborist or landscaped architect that the substitution meets the purpose of this section and does not have a negative impact on the resources.

i. Wetland disturbed area trees and shrubs

Common Name	Scientific Name	Size
Red osier dogwood	<i>Cornus stolonifera</i>	Cutting
Douglas hawthorn	<i>Crataegus douglasii</i>	Cutting or tube
Douglas spiraea	<i>Spiraea douglasii</i>	Cutting or tube
Pacific willow	<i>Salix lasiandra</i>	Cutting
Piper's willow	<i>Salix piperi</i>	Cutting
Sitka willow	<i>Salix sitchensis</i>	Cutting
Black cottonwood	<i>Populus balsamifera</i>	Cutting

Oregon ash	<i>Fraxinus latifolia</i>	Bare root or 1-gal
------------	---------------------------	--------------------

33.590 220 Development Standards, Subdistrict C (continued)

ii. Upland disturbed area trees and shrubs.

Table 590-___: Upland disturbed area trees and shrubs		
Common Name	Scientific Name	Size
Pacific willow	<i>Salix lasiandra</i>	Cutting
Black cottonwood	<i>Populus balsamifera</i>	Cutting
Oregon ash	<i>Fraxinus latifolia</i>	Bare root or 1-gal
Wild rose spp.	<i>Rosa nutkana, R. pisocarpa, R. gymnocarpa</i>	Cutting, bare root, or tube
Snowberry	<i>Symphoricarpos albus</i>	Bare root or 1-gal

iii. Upland disturbed area understory seeding mix. Apply at 15 pounds per acre if hand-seeding, 25-30 pounds per acre if hydroseeding.

Table 590-__: Upland disturbed area understory seeding mix		
Common Name	Scientific Name	Size
Idaho fescue	<i>Festuca idahoensis</i>	25%
Blue wildrye	<i>Elymus glaucus</i>	15%
California brome	<i>Bromus carinatus</i>	10%
Canby bluegrass	<i>Poa sandbergii</i>	10%
Canada bluegrass	<i>Poa compressa</i>	10%
Bigleaf lupine	<i>Lupinus polyphyllus</i>	5%
Two color lupine	<i>Lupinus bicolor</i>	5%
Douglas' aster	<i>Aster subspicatus</i>	5%
Yarrow	<i>Achillea millefolium</i>	5%
Canada goldenrod	<i>Solidago canadensis</i>	5%
Showy fleabane	<i>Erigeron speciosus</i>	5%

33.590 220 Development Standards, Subdistrict C (continued)

iv. Wetland disturbed area understory seeding mix . Apply at 15 pounds per acre if hand-seeding, 25-30 pounds per acre if hydroseeding.

Table 590-__: Wetland disturbed area understory seeding mix		
Common Name	Scientific Name	Size
Slough sedge	<i>Carex obnupta</i>	20%
Blue wildrye	<i>Elymus glaucus</i>	20%
California brome	<i>Bromus carinatus</i>	20%
Tufted hairgrass	<i>Deschampsia caespitosa</i>	15%
Western mannagrass	<i>Glyceria occidentalis</i>	15%
American sloughgrass	<i>Beckmannia syzigachne</i>	10%

REVIEW AND APPROVAL CRITERIA

The protected features and mitigation plans are based on an extensive environmental assessment, *West Hayden Island Planning Document, Volume 2, Natural Resource Element*, which inventories and maps the high value natural resources. The related wetland and upland mitigation plans are included in the WHI planing documents as **the Wetland Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden** and the *Uplands Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden Island*. The map at the end of this Chapter is an important part of this section. WHI Environmental overlay zoning is shown on Map 590- __. An “environmental conservation” (ec) overlay is applied to Subdistrict C, and an environmental protection (ep) overlay is applied Subdistrict B. These overlays reflect the Goal 5 significant resources.

The *West Hayden Island Planning Document, Volume 2, Natural Resource Element* will be adopted as an ancillary document to the City's Comprehensive Plan. OAR 660-23-050 directs local governments to adopt comprehensive plan provisions and land use regulations to implement decisions made in the Goal 5 process to allow, limit or prohibit conflicting uses for significant resource sites. These plan provisions “...shall clearly identify those conflicting uses that are allowed and the specific standards or limitations that apply to the allowed uses.” (OAR 660-23-050(1)) For resource sites that are protected, OAR 660-23-050(2) requires implementing measures to contain clear and objective standards. Section 33.590.300 is the implementing measure for protection of WHI Goal 5 resources.

Summary of Review Procedures by Subdistrict

Subdistrict	Protection Measures	Review Procedures
A	<ul style="list-style-type: none"> n Development Stds. n Mitigation Plans n Federal EIS Permit 	<ul style="list-style-type: none"> n Federal Permit and maintenance plan submitted per 33.590.210; OR n Type I review of mitigation plans and specifications per 33.590.305
B	<ul style="list-style-type: none"> n Development Stds. n Environmental Overlay Zones (ec or ep) n potential mitigation sites 	<ul style="list-style-type: none"> n Certain activities and uses allowed outright per 33.590.220 and 310.D n Type II process for other activities per 33.590.320
C	<ul style="list-style-type: none"> n Development Stds. n Environmental Overlay Zones (ec or ep) n potential mitigation sites 	<ul style="list-style-type: none"> n Certain activities and uses allowed outright per 33.590.230 and 310.D n Type II process for other activities per 33.590.320

REVIEW AND APPROVAL CRITERIA

33.590.300 WHI Environmental Review

- A. Purpose. The purpose of this section is to provide review procedures that conserve and protect natural resource values on WHI. The procedures of this section carry out several objectives and principles:
1. Replace natural resource functions and values lost or impaired by development, in accordance with Goal 5 findings, ESEE conclusions, and adopted mitigation plans.
 2. Restrict development and facilitate mitigation in Subdistricts B and C by providing for discretionary review for projects not envisioned in the Area plan.
 3. Provide a discretionary review procedures to allow flexibility to modify development standards of the plan district if warranted.
 4. Establish an administrative (Type I) procedure whereby the City may review and accept mitigation plans related to development within Subdistrict A. This procedure provides greater certainty that marine terminal development can proceed as envisioned with this plan district while ensuring that adopted mitigation plans will be implemented concurrently.
- B. General. This section establishes procedures and criteria for the three types of West Hayden Island Land use reviews:
- § Type I mitigation specifications acceptance review (Subdistrict A)
 - § Type II environmental review for anticipated development in the environmental overlay zone; and
 - § Type II environmental review for unanticipated development in the environmental overlay zone.

- C. **Environmental Reports.** The application of the environmental zones is based on detailed studies that have been carried out for WHI. The policy objectives for the study area are described in the report. The study report identifies the resources and describes the functional values of the resource sites. Functional values are the benefits provided by resources. The values for each resource site are described in the inventory section of these reports. The City has adopted the following environmental study report related to this plan district:
- *West Hayden Island Planning Documents, Volume 2, Natural Resource Element.*
 - *West Hayden Island Planning Documents, Volume 6 Wetland and Upland Mitigation Plans*
 - *West Hayden Island Planning Documents, Volume 6, North Shore Development Standards*
- D. **When and Where these Regulations Apply.** The development standards of this plan district (590.200) allow for some types of development to occur without a land use review. Per 33.590.210.1.a, Development within Subdistrict A will not be subject to land use review provided that all that mitigation required in the federal EIS permit, the Uplands Mitigation Plan and the North Shore Development Standards have not already been completed. In the event that mitigation has not been completed, this section provides a process whereby the City may still issue permits for development in Subdistrict A, after more detailed mitigation specifications have been submitted and reviewed, and after appropriate guarantees are received to assure mitigation performance. Within Subdistricts B and C, land use review is not required for development that meets the development standards of 590.200.

33.590.305.B.1. Criteria for approval of Type 1 process.

These criteria are set forth to deal with development under the Subdistrict A development standards when mitigation has not already been completed. This process involves submittal of mitigation specifications (like the blueprint of a house) which include things like exact number and planting location, and other construction instructions. These detailed planting plans are reviewed against the mitigation plans development as part of the WHI Planning Documents. Because the mitigation plans are related to a lengthy federal EIS process, they may be amended and the language in this section provides that the “current” documents are the reference.

33.590.305 Mitigation Specifications Review for Subdistrict A

- A. Purpose. This process allows for concurrent mitigation and development of marine terminal facilities when the development proceeds under the standard in 33.590.210.1.b. The process allows development in Subdistrict A to proceed without all of the mitigation completed, but ensures that the concurrent mitigation is consistent with the EIS mitigation plans and meets certain criteria.
- B. Criteria for approval of Type I process. Development in Subdistrict A submitted for approval under 33.590.210.1.b. shall be approved if it meets all of the following criteria:
1. The proposed Wetland and Upland mitigation specifications are consistent with the current framework established in the *Uplands Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden Island*, *Wetland Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden Island*; and the *Port of Portland North Shore Development Standards for West Hayden Island*; and
 2. Applicant owns the mitigation site or possesses a legal instrument (such as an easement or deed restriction) sufficient to carry out and ensure the success of the mitigation program; and
 3. Except for public improvement projects undertaken by the City, a performance guarantee which meets the requirements of Section 33.700.050, Performance Guarantees, for construction, monitoring, and maintenance of the mitigation site in accordance with the mitigation plan will be filed with the City Auditor prior to issuance of any development or building permit.

33.590.310 Development in Environmental Zones in Subdistricts B and C

This section establishes the West Hayden Island environmental zones, and map and describes the activities that that are subject to or exempt from the review process.

33.590.310 Development in Environmental Zones in Subdistricts B and C

- A. General. Natural resource values in the District have been inventoried in accordance with OAR 660-23. Environmental Overlay zones are applied to areas in accordance with OAR 660-23. Because some natural resource areas have greater public benefits than others do, the two environmental overlay zones have different emphases.
- 1 The Environmental Protection (ep) overlay zone is applied to areas with the highest natural resource value
 - 2 The Environmental Conservation (ec) overlay zone is applied to areas with high functional values where development may be allowed if adverse impacts are mitigated. The regulations of the environmental conservation zone are intended to conserve the resource and its values.
- B. Where these regulations apply. These regulations apply to development in Subdistrict B and C as shown in Map 590-6,
- C. Items Subject to These Regulations. The following development that does not meet the development standards in 33.590.220 and 33.590.230. are subject to the regulations of Section 33.590.320:
1. New development;
 2. New above or below ground utilities affecting a corridor of more than 25 feet;
 3. Dedication or extension of rights-of-way and rail rights-of-way; and
 4. Land division as regulated by Title 34, Subdivision and Partitioning Regulations.

D. Items Exempt From These Regulations. The following are exempt from the required reviews stated in this section:

- 1. Sale or Lease of property or change of ownership of a business;**
- 2. Changes to the interior of a building;**
- 3. Normal repair, improvements and maintenance of structures;**
- 4. Temporary emergency procedures necessary for the safety or protection of property; including emergency riverbank stabilization**
- 5. Single utility poles required to provide service to the local area;**
- 6. Right-of-way dedications for widening existing rights-of-way, when additional right-of-way is needed to ensure consistent width.**
- 7. Actions taken by the City to correct or abate a nuisance;**
- 8. Utilities installed below portions of public rights-of-way or private roads with existing paved travel lanes and utility lines installed above developed public rights-of-way;**
- 9. Activities which the City is directed to perform by judgements entered by courts of competent jurisdiction;**
- 10. Activities specifically exempted by state or federal law from compliance with local comprehensive plans or land use regulations.**
- 11. Planting of native vegetation listed on the Portland Plant List when planted with hand held equipment;**
- 12. Mitigation activities in accordance with the mitigation plans in the or required by the federal EIS permit including non-paved accessways;**
- 13. Removal of vegetation listed as a noxious weed on COP plant list; and**
- 14. New above and below ground utilities affecting a corridor of 30 feet or less.**

33.590.320 Review Procedures

B.1. Mitigation activities may be carried out without a Land Use review. This may be redundant with item 12 in the Exempt list (33.590.310.D) but is included here for clarity.

B.2. The cross-referenced sections are those above that describe the types of development that are affected.

1. New development;
2. New above or below ground utilities affecting a corridor of more than 25 feet;
3. Dedication or extension of rights-of-way and rail rights-of-way;
4. Land division as regulated by Title 34, Subdivision and Partitioning Regulations.

C. Sets up two review procedures:

- 1) For development in Subdistrict B and C covered by the Mitigation Plan, such as the vehicular bridge, but not allowed by right with development standards under 33.590.220 or 230 are processed with a Type II permit, with standards relating to the mitigation plans.
- 2) For development in Subdistrict B and C not covered or anticipated by the Mitigation Plans, such as the future recreation trails, or utilities that do not meet the development standards.

33.590.320 Review Procedures for WHI Environmental Overlay

- A. **Purpose.** Development in the environmental zones is restricted. Certain types of development in environmental zones require an environmental land use review. Environmental review of uses and development in the environmental zones is intended to provide protection for the Goal 5 significant natural resources in accordance with the *West Hayden Island Planning Document, Volume 2, Natural Resource Element*. The reviews provides for flexibility and reasonable development certainty when development is sensitive to the special environmental concerns of the site
- B. **No review required.**
1. Mitigation in accordance with the *Uplands Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden Island, Wetland Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden Island*; and the *North Shore Development Standards for WHI* are allowed without a land use review in accordance with 33.590.210.A., 33.590.220.A., and 33.590.230.A.
 2. Development in accordance with the Development Standards in 33.590.220 and 33.590.230.
- C. **WHI Environmental Reviews.** There are two types of environmental review on WHI. The first type is for development proposed in the *Port of Portland Marine Cargo Facilities at West Hayden Island Environmental Impact Statement*.
1. Development anticipated in the WHI EIS listed in Section 33.590.310.C. proposed for land covered by an environmental conservation (c) or environmental protection (p) overlay, will be processed through a Type II procedure.
 - a. **Approval Criteria.** Development of items listed in 33.590.310.C shall be approved if the review body finds that:
 - (1) Development anticipated in the EIS that disturbs an area covered by an environmental overlay will provide mitigation as described in the *Uplands Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden Island, Wetland Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden Island or the North Shore Development Standards for WHI*. If the development takes place in an area not covered by these mitigation plans, then the development must follow review outlined in 33.590.320.C.2.
 - (2) Except for public improvement projects undertaken by the City, a performance guarantee which meets the requirements of Section 33.700.050, Performance Guarantees, for construction, monitoring, and maintenance of the mitigation site in accordance with the mitigation plan will be filed with the City Auditor prior to issuance of any development or building permit.

33.590.320. C.2. Other Environmental Reviews

This section covers development not envisioned or specifically mitigated for in the EIS. Approval criteria are derived from section 33.430 and tailored to fit the unique circumstances of WHI, including restrictive Use and Development standards for Subdistricts B and C and consistency with the EIS mitigation plans.

- 2. Other Environmental Review.** Development that does not meet the Development Standards in Sections 33.590.220 and 33.590.230 may occur within environmental zones that was not anticipated or covered by the *Uplands Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden Island, Wetland Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden Island, and the North Shore Development Standards for WHI* mitigation and development standards. In that case, the following review and approval process shall apply:
- a. Procedure. Review of development in accordance with Section 33.590.320.C.2. proposed for land covered by an environmental conservation (c) or Environmental Protection (p) overlay, will be processed through a Type II procedure.
 - b. General Approval Criteria.
 - (1) Proposed development locations, designs, and construction methods have the least significant detrimental impact to identified resources and functional values of other practicable and significantly different alternatives including alternatives outside the resource area of the environmental zone to the maximum extent practical;
 - (2) There will be minimal significant detrimental impact on resources and functional values in areas designated to be left undisturbed;
 - (3) The mitigation plan demonstrates that minimal significant detrimental impacts on resources and functional values will be compensated for;
 - (4) Mitigation will occur within the same watershed as the proposed use or development and within the Portland city limits except when the purpose of the mitigation could be better provided elsewhere; and
 - (5) The applicant owns the mitigation site; possesses a legal instrument (such as an easement or deed restriction) sufficient to carry out and ensure the success of the mitigation program; or can demonstrate legal authority to acquire property through eminent domain.

- c. **Approval criteria for public recreational facilities. In resource areas of environmental zones, public recreational trails, rest points, viewpoints, and interpretative facilities will be approved if the applicant's impact evaluation demonstrates that all of the following are met:**
- i. **Proposed development locations, designs, and construction methods are less detrimental to identified resources and functional values than other practicable and significantly different alternatives;**
 - ii. **The public benefits of the proposal, including access for Americans with Disabilities, outweigh all significant detrimental impacts;**
 - iii. **Areas disturbed during construction, that do not contain permanent development, will be restored with native vegetation that is similar to the vegetation existing on the site and found on the Portland Plant List and the Revegetation requirements in Sections 33.590.220 or 230 as applicable; and**
 - iv. **There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed.**

33.590.320.D. Application requirements are taken from 33.430.240. This is to insure that the application for development within an environmental zone has adequate information so that the performance standards in the mitigation plans in the *Wetland Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden*, *Uplands Mitigation Plan, Port of Portland Marine Cargo Facilities at West Hayden Island*, and the *North Shore Development Standards for WHI* can be evaluated by City staff.

- D. Submittal Requirements.** At the time development in an environmental overlay zone is proposed (except for resource mitigation activities), application information must include the following elements.
- a. For the entire site:
 - FEMA100-year floodplain and floodway boundaries;
 - Boundaries of the resource area and the transition area. These boundaries may be scaled in relation to property lines from the Official City Zoning Maps;
 - Topography shown by contour lines at two foot vertical contours in areas of slopes less than ten percent and at five foot vertical contours in areas of slopes ten percent or greater;
 - Drainage patterns, using arrows to indicate the direction of major drainage flow; and
 - Existing improvements such as structures, or buildings, utility lines, fences, etc.
 - b. In areas of the site that have been or will be disturbed:
 - Distribution outline of existing and proposed shrubs and ground covers, with a list of most abundant species;
 - A grading plan showing proposed alteration of the ground at two foot vertical contours in areas of slopes less than ten percent and at five foot vertical contours in areas of slopes ten percent or greater; and
 - Trees greater than six inches in diameter, identified by species. In the case of violations also indicate those that were cut or damaged by stump diameter and species.
 - c. In areas of the site that are and will remain undisturbed: Tree crown cover outline, and generalized species composition.
 - d. A construction management site plan including:
 - Areas that will be disturbed, including equipment maneuvering areas;
 - Areas where existing topography and vegetation will be left undisturbed;
 - Location of site access and egress;
 - Equipment and material staging and stockpile areas;
 - Erosion control measures; and
 - Measures to protect trees and vegetation.

33.590.320.E. Modifying Environmental Zone boundaries. This states that ec zones may be modified.

- e. A mitigation or remediation site plan including:
 - Dams, weirs, or other in-water structures;
 - Distribution outline, species composition, and percent cover of ground covers to be seeded or planted;
 - Distribution outline, species composition, size, and spacing of shrubs to be planted;
 - Location, species, and size of each tree to be planted;
 - Stormwater management features, including retention, infiltration, detention, discharges, and outfalls;
 - Water bodies to be created, including depth;
 - Water sources to be used, including volumes; and
 - Information showing consistency with the *Wetland Mitigation Plan for Port of Portland Marine Cargo Facilities at West Hayden Island*, *Upland Mitigation Plans for Port of Portland Marine Cargo Facilities at West Hayden Island*, and *North Shore Development Standards for WHI* if applicable.

- E. **Modifying Environmental Zone boundaries.** Environmental zone boundaries in the Plan District may be modified in accordance with 33.430.250.D and a Type II procedure.

Map 590-5 WHI Plan District Boundaries

This map illustrates the Plan District boundaries. The map should ultimately align the UGB and City limits out to the state line (reflecting annexation),

Changes to map from October Draft include the following:

1. Subdistrict boundaries are aligned with the development footprint in a "rounded" pattern instead of the Title 3 exempt areas shown in October.
2. The in-water dividing line for each district is now perpendicular to shoreline.
3. Road to bridge across channel is shown as part of Subdistrict A.

Map 590-5 WHI Plan District Boundaries

Map 590-6 WHI Environmental Zoning

This map shows three subdistricts and the environmental base zoning:

Subdistrict A is equivalent to the IH zone all the way to city limits/state limits line in mid river;

Subdistrict B is the natural area and river resources within the Open Space zone on the northwestern portion of the island; and

Subdistrict C includes the future bridge and the recreation portion of the Open Space zone.

Each subdistrict includes the water resources adjacent to the island.

Map 590-6 WHI Environmental Overlays

APPENDIX A

Conforming Amendments to Title 33

(Related to West Hayden Island Plan District)

Conforming amendments to 33.920.330

These amendments reflect the need to better define the Warehouse and freight use category in 33.920 to include marine terminal uses. During the advisory committee process the port proposed a special "plan district" definition of "marine terminal uses" which has been changed to reflect a conforming amendment at the request of city code editing staff.

33.910 –provides the following terms. These concepts are proposed for incorporation in the Warehouse and Freight Movement definition.

"River-Dependent. A use which can be carried out only on, in, or adjacent to, a river because it requires access to the river for waterborne transportation or recreation. River-dependent also includes development, which by its nature, can be built only on, in, or over a river. Bridges supported by piers or pillars, as opposed to fill, are river-dependent development.

River-Related. A use or development which is not directly dependent upon access to a water body but which provides goods or services that are directly associated with river-dependent land or waterway use or development, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. Residences (including houseboats), parking areas, spoil and dump sites, roads and highways, restaurants, businesses, factories, and recreational vehicle parks are not generally considered dependent or related to water. Recreational trails and viewpoints adjacent to the river are river-related development. Bridge exit and entrance ramps supported by piers or pillars, as opposed to fill, are river-related development. "

Proposed conforming amendments to Title 33 include the following. Additions are shown in underline, deletions in ~~strikethrough~~.

33.920.330 Warehouse And Freight Movement

- A. Characteristics. Warehouse And Freight Movement firms are involved in the storage, or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present. The use also includes Marine Terminal Facilities which has storage and movement of bulk, auto or container goods. Cargo is brought to the use by vessels, is loaded from the vessels into/onto land-based facilities, then transferred from the site by rail, truck or vice versa.
- B. Accessory uses. Accessory uses may include offices, truck fleet parking and maintenance areas, rail spur or lead lines, docks, and repackaging of goods, parking lots, cranes, storage areas, roads, rail spurs, equipment and vehicle maintenance areas, repackaging areas, support retail sales and service, daycare, River-Dependent activities such as log storage and floating docks, and River-Related activities such as docks. Accessory uses may include living quarters for a resident manager or security and leasing offices.
- C. Examples. Examples include separate warehouses used by retail stores such as furniture and appliance stores; household moving and general freight storage; cold storage plants, including frozen food lockers; storage of weapons and ammunition; major wholesale distribution centers; truck, marine, or air freight terminals; bus barns and light rail barns; parcel services; major post offices; grain terminals; and the stockpiling of sand, gravel, or other aggregate materials, Bulk terminals (e.g. mineral, grain), docking facilities, container terminals and auto terminals.
- D. Exceptions.
1. Uses that involve the transfer or storage of solid or liquid wastes are classified as Waste-Related uses.
 2. Miniwarehouses are classified as Self-Service Storage uses.

New Use Category

May require other “conforming changes” to Use Tables in 33.100

33.920.560 Environmental Mitigation Activities

- A. Characteristics. Environmental Mitigation Activities are those activities that are required to obtain local, state or federal permits for restoration, enhancement or replacement of natural resource areas.
- B. Accessory uses. Accessory uses may include maintenance access roads and trails.
- C. Examples. Examples include wetland creation or restoration, revegetation of areas within environmental overlay areas, shallow water fish habitat restoration.

The Port of Portland suggests the following conforming amendment to section 33.910 to clarify past interpretations by Office of Planning and Development Staff regarding setbacks from railroad right-of-way.

Proposed conforming amendments to Title 33.910 include the following. Additions are shown in underline, deletions in ~~strikethrough~~.

Setback. The minimum distance required between a specified object, such as a building and another point. Setbacks are usually measured from lot lines to a specified object. Unless otherwise indicated, an unspecified setback refers to a building setback. Setbacks are measured from lot lines adjacent to public road right-of-way, and do not apply to the portion of lots adjacent to railroad right-of-way. For lots adjacent to railroad right-of-way, In addition, the following setbacks indicate where each setback is measured from. See Chapter 33.930, Measurements, for measurement information.

- **Front Setback.** A setback that is measured from a front lot line.
- **Rear Setback.** A setback that is measured from a rear lot line.
- **Side Setback.** A setback that is measured from a side lot line.
- **Street Setback.** A setback that is measured from a street lot line.
- **Garage Entrance Setback.** A setback that is measured from a street lot line to the entrance to a garage or carport. It is essentially a minimum driveway length. See Chapter 33.930, Measurements, for more specific measurement information.