

**Oregon Department of Environmental Quality
LAND USE COMPATIBILITY STATEMENT (LUCS)**

SECTION 1 - TO BE COMPLETED BY APPLICANT

1A. Applicant Name: City of Roses Disposal & Recycling	1B. Project Name: COR Transfer Station
Contact Name: Alando Simpson	Physical Address: 4530 NE 138th Ave
Mailing Address: PO Box 301427	City, State, Zip: Portland, OR 97230
City, State, Zip: Portland, OR 97294	Tax Lot #: 1N2E23D -00100
Telephone: 503-285-9940	Township: 1N Range: 2E Section: 23D
Tax Account #: R318510	Latitude: 45.555232
	Longitude: -122.516216

1C. Describe the project, include the type of development, business, or facility and services or products provided (attach additional information if necessary):

Processing, Recycling and Transfer of Putrescible Waste and Construction & Demolition Debris. COR is planning to move operations to newly proposed location in order to accommodate and sustain current and future growth. COR is the leading Material Recovery Facility in terms of recycling rates in the Portland Metro Region. There has been continuous demand for recycling services for Sustainable, Green Built & LEED type of Construction projects which our current facility simply does not have adequate space for and we feel that this is the necessary move and addition that is needed in order to serve this regions aspirations to recycle more waste and support more innovative uses. Furthermore, COR will work to achieve many public benefits the Metro Regional Government has identified as part of its Regional Solid Waste Plan. These public benefits address a variety of goals and targets the region has aspired to achieve through the solid waste system in this region. This LUCS submittal is a modification to allow a waste related activity to take place on this site. The site will add into the operations a municipal solid waste transfer component to assist in the regions transfer system of waste streams that are more difficult to recycle.

1D. Check the type of DEQ permit(s) or approval(s) being applied for at this time.

- | | |
|---|--|
| <input type="checkbox"/> Air Quality Notice of Construction | <input type="checkbox"/> Pollution Control Bond Request |
| <input type="checkbox"/> Air Contaminant Discharge Permit (<i>excludes portable facility permits</i>) | <input type="checkbox"/> Hazardous Waste Treatment, Storage, or Disposal Permit |
| <input type="checkbox"/> Air Quality Title V Permit | <input type="checkbox"/> Clean Water State Revolving Fund Loan Request |
| <input type="checkbox"/> Air Quality Indirect Source Permit | <input type="checkbox"/> Wastewater/Sewer Construction Plan/Specifications (<i>includes review of plan changes that require use of new land</i>) |
| <input type="checkbox"/> Parking/Traffic Circulation Plan | <input type="checkbox"/> Water Quality NPDES Individual Permit |
| <input type="checkbox"/> Solid Waste Land Disposal Site Permit | <input type="checkbox"/> Water Quality WPCF Individual Permit (<i>for onsite construction-installation permits use the DEQ Onsite LUCS form</i>) |
| <input type="checkbox"/> Solid Waste Treatment Facility Permit | <input type="checkbox"/> Water Quality NPDES Stormwater General Permit (<i>1200-A, 1200-C, 1200-CA, 1200-COLS, and 1200-Z</i>) |
| <input type="checkbox"/> Solid Waste Composting Facility Permit (<i>includes Anaerobic Digester</i>) | <input type="checkbox"/> Water Quality General Permit (<i>all general permits, except 600, 700-PM, 1700-A, and 1700-B when they are mobile.</i>) |
| <input type="checkbox"/> Conversion Technology Facility Permit | <input type="checkbox"/> Water Quality 401 Certification for federal permit or license |
| <input type="checkbox"/> Solid Waste Letter Authorization Permit | |
| <input type="checkbox"/> Solid Waste Material Recovery Facility Permit | |
| <input type="checkbox"/> Solid Waste Energy Recovery Facility Permit | |
| <input checked="" type="checkbox"/> Solid Waste Transfer Station Permit | |
| <input type="checkbox"/> Waste Tire Storage Site Permit | |

1E. This application is for: Permit Renewal New Permit Permit Modification Other:

SECTION 2 - TO BE COMPLETED BY CITY OR COUNTY PLANNING OFFICIAL

Instructions: Written findings of fact for all local decisions are required; written findings from previous actions are acceptable. For uses allowed outright by the acknowledged comprehensive plan, DEQ will accept written findings in the form of a reference to the specific plan policies, criteria, or standards that were relied upon in rendering the decision with an indication of why the decision is justified based on the plan policies, criteria, or standards.

2A. The project proposal is located: Inside city limits Inside UGB Outside UGB

2B. Name of the city or county that has land use jurisdiction (the legal entity responsible for land use decisions for the subject property or land use): Portland OR

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SECTION 2 - TO BE COMPLETED BY CITY OR COUNTY PLANNING OFFICIAL

Applicant Name: City of Roses Disposal + Reuse Project Name: COR Transfer Station

2C. Is the activity allowed under Measure 49 (2007)? No, Measure 49 is not applicable Yes; if yes, then check one:

Express; approved by DLCD order #:

Conditional; approved by DLCD order #:

Vested; approved by local government decision or court judgment docket or order #:

2D. Is the activity a composting facility?

No Yes; Senate Bill 462 (2013) notification requirements have been met.

2E. Is the activity or use compatible with your acknowledged comprehensive plan as required by OAR 660-031?

Please complete this form to address the activity or use for which the applicant is seeking approval (see 1.C on the previous page). If the activity or use is to occur in multiple phases, please ensure that your approval addresses the phases described in 1.C. For example, if the applicant's project is described in 1.C as a subdivision and the LUCS indicates that only clearing and grading are allowed outright but does not indicate whether the subdivision is approved, DEQ will delay permit issuance until approval for the subdivision is obtained from the local planning official.

The activity or use is specifically exempt by the acknowledged comprehensive plan; explain:

YES, the activity or use is pre-existing nonconforming use allowed outright by (provide reference for local ordinance):

YES, the activity or use is allowed outright by (provide reference for local ordinance):

YES, the activity or use received preliminary approval that includes requirements to fully comply with local requirements; findings are attached.

YES, the activity or use is allowed; findings are attached.


NO, see 2.C above, activity or use allowed under Measure 49; findings are attached.

NO, (complete below or attach findings for noncompliance and identify requirements the applicant must comply with before compatibility can be determined):

Relevant specific plan policies, criteria, or standards:

Provide the reasons for the decision:

Additional comments (attach additional information as needed):

Planning Official Signature: 

Title: City Planner

Print Name: Suzan Persner

Telephone #: 563-833-5304

Date: 10/19/2018

If necessary, depending upon city/county agreement on jurisdiction outside city limits but within UGB:

Planning Official Signature:

Title:

Print Name:

Telephone #:

Date:



Portland City Auditor

Hearings Office

1900 SW 4th Avenue, Room 3100, Portland, OR 97201
www.portlandoregon.gov/hearings

phone: 503.823.7307
fax: 503.823.4347



DECISION OF THE HEARINGS OFFICER

I. GENERAL INFORMATION

File Number: LU 17-282278 CU AD
Hearings Office 4180015

Applicant: Alando Simpson
City Of Roses Disposal & Recycling
PO Box 301427
Portland, OR 97294

Representative: Kristina Gifford
Herrera Environmental Consultants Inc
1001 SE Water Ave #290
Portland OR 97214

Hearings Officer: Gregory Frank

Bureau of Development Services (BDS) Representative: Don Kienholz

Site Address: 4530 NE 138TH AVE

Legal Description: TL 100 11.72 ACRES SPLIT LEVY R318534 R94223-0840, SECTION 23 1N 2E;
TL 101 1.58 ACRES SPLIT LEVY R318510 R94223-0400 SECTION 23 1N 2E

Tax Account No.: R942230400, R942230840

State ID No.: 1N2E23D 00100, 1N2E23D 00101

Quarter Section: 2644,2645

Neighborhood: Argay

Business District: Columbia Corridor Association, Parkrose Business Association

District Coalition: East Portland Neighborhood Office

Plan District: Columbia South Shore - Southern Industrial

Zoning: IG2hsx — General Industrial 2 with Aircraft Landing ("h"), Scenic Resource ("s") and Portland International Airport Noise Impact ("x") overlay zones.

Land Use Review: Type III, CU AD - Conditional Use Review and Adjustment Review

BDS Staff Recommendation to the Hearings Officer: Approval with conditions.

Public Hearing: The hearing was opened at 1:30 p.m. on August 8, 2018 in the third floor hearing room, 1900 SW 4th Avenue, Portland, Oregon, and was closed at 2:15 p.m. The hearing was continued to August 27, 2018, and began at 8:59 a.m. and closed at 11:29 a.m. The record was held open until 4:00 p.m. on September 4, 2018 for new written evidence, and until 4:00 p.m. on September 11, 2018 for Applicant's rebuttal with no new evidence. The record was closed on September 11, 2018 at 4:01 p.m.

Testified at the Hearing on August 8, 2018:

Don Kienholz
Kristina Gifford
Alando Simpson

Testified at the Hearing on August 27, 2018:

Don Kienholz
Kristina Gifford
Alando Simpson
Chris Dwinger
Henry Spang
Bret Born
Jenny Lee
Martha Thomas
Will Abeles

Proposal:

Applicant is seeking to establish a waste-related transfer station, at 4530 NE 138TH AVE (further described above – hereafter the "Subject Property") that will accept municipal solid waste (including garbage, organics and putrescible waste) and dry waste from construction sites and commercial businesses. Non-commercial self-haul will not be accepted. Waste-related materials will be dropped off, sorted and processed indoors. Operations related to wood waste and woody yard debris will be ground up outside and processed to biomass. Garbage, organics and putrescible waster will generally be hauled off of the Subject Property daily with the exception that if a small amount of these materials remains at the end of the work day they will be retained indoors in a covered container and not be present on the Subject Property for more than 24-hours. Recyclable materials will be prepared for recycling and delivered to end users while non-recyclables and waste will be hauled off-site daily for disposal at a regional landfill. Hazardous waste or large appliances will not be accepted. Some salvaged construction materials may

Establishing a waste-related use in an industrial zone requires a Type III Conditional Use.

Waste-related uses are subject to the waste-related use development standards in 33.254.080, which includes a 100-foot setback from all property lines as well as a fence and landscaping within that setback that is equivalent to the L3 landscape standard. Because the proposed waste-related use will be established in existing buildings on the Subject Property that are less than 100-feet from the property lines and the Subject Property has development constraints such as a railroad easement for a spur off the main line and a Multnomah County Drainage District levee running the entire length of the eastern property line, Applicant requested Adjustments to:

Reduce the 100-foot setback:

- Down to 10-feet along the south property line;
- Down to 38-feet from the west property line; and
- Down to 40-feet from the eastern property line.

Modify the required landscaping within the reduced setback by:

- Having just a fence and a high L3 hedge along the southern property line from just outside the toe of the levee to the railroad spur;
- Waiving the vegetation along the west property line; and
- Providing L1 landscaping along the east property line as follows: Beginning at the southeast corner, a distance of approximately 300-feet; waive the landscaping along the next 200-feet; providing L1 landscaping in the stormwater swale.

The City placed a Scenic ('s') overlay on the Subject Property running the length of the east property line. The overlay is for a Scenic Corridor that had a future trail identified as running along the top of the levee for the entire length of the east property line. The development standards for the 's' overlay for scenic corridors requires L1 landscaping in the entire identified corridor. The Applicant is seeking an Adjustment to:

- Waive the entire 's' landscaping requirement.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The applicable approval criteria are Portland Zoning Code section 33.815.220 – Mining and Waste-Related Uses and 33.805.040 – Adjustments.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. This application was submitted on December 12, 2017 and determined to be complete on June 8, 2018. Because the application was submitted prior to the May 24, 2018 effective date of the newly adopted 2035 Comprehensive Plan and accompanying code and zone updates, the application is reviewed under the code and zones in place prior to May 24, 2018.

II. ANALYSIS

Site and Vicinity: The Subject Property is comprised of two tax lots covering a total of 12.54-acres of land in an industrial area in the Argay neighborhood in outer northeast Portland. The topography of the Subject Property is generally flat, with the exception of a large berm at the eastern boundary of the Subject Property that is a federally-maintained flood control levee structure. Another berm supporting railroad tracks is immediately to the south. There are several trees with groundcover along the levee in the southeast corner, and ground cover along, but not on, the south (levee) portion of the Subject Property. The extreme northern part of the Subject Property is also vegetated with native and weedy species of trees, shrubs, and groundcover, and slopes down slightly toward the north. The majority of the Subject Property is occupied by buildings and paved or graveled areas.

Three buildings exist on the Subject Property. The main building is a single-story industrial warehouse-type building of approximately 90,000 square feet located at the center of the Subject Property that the majority of waste-related uses will take place in. A two-story office building approximately 8000-square feet in size is located between the main building and NE Sandy Boulevard. A maintenance or shop building is located just north of the main building and occupies approximately 3500 square feet on one level.

The area south of the main building and around the office is paved with asphalt. North of the main building is a mix of packed gravel and hard surface dirt. The Subject Property is enclosed on three sides with chain link fencing. Multnomah County Drainage District No 1 regulations prohibit fencing or deep-rooted landscaping along the levee on the eastern side of the Subject Property.

A railroad right-of-way borders the Subject Property to the south, with NE Sandy Boulevard, a Major City Traffic Street, located south of the rail right-of-way. Northeast Sandy Boulevard consists of two travel lanes and shoulders on each side through this area without curbs or sidewalks along this frontage. Access to the Subject Property is not available from NE Sandy Boulevard. The Subject Property has access to Northeast 138th Avenue via an approximately 720-foot long by 50-foot wide panhandle. A spur from the railroad tracks runs onto the Subject Property, continues north along the Subject Property's western property line, and terminates at a neighboring property just north of the Subject Property. The City of Portland Comprehensive Plan had designated an easement for a future trail for pedestrian and bicycle access on the levee as part of the 40 Mile Loop but has since removed the proposed trail from the Subject Property and realigned it, according to Portland Parks and Recreation (Exhibits G.7, G.8 and H.17).

The Subject Property is located in an industrial sanctuary, and is surrounded by industrial land uses. The entire land area around and including the Subject Property was part of unincorporated Multnomah County until July 1984, when it was annexed into the City of Portland. Land uses adjacent to the Subject Property can be described as follows (not including panhandle):

North: The property to the north is a large industrial parcel occupied by a structural steel fabricator. The property to the north is also used to store the steel outdoors. A natural area

with open water and owned by the City of Portland is just north of the steel fabricator property.

West: The property to the west is occupied by a heavy equipment service and sales company. The property to the west is also used for outdoor storage of the scissor lifts, backhoes, and other heavy equipment.

South: Immediately south is a railroad trunk line track with a spur on the Subject Property as described earlier. The tracks are in the center of a 100-foot wide Union Pacific right-of-way, between the Subject Property and NE Sandy Boulevard. To the south of NE Sandy is a large apartment complex with small commercial uses to the southwest.

East: The properties to the east are visually obscured by the 20-foot-high Multnomah County Drainage District levee. Opposite the levee are a towing and auto storage business, a vacant parcel to be used by the Bureau of Environmental Services for stormwater detention and treatment, and a large commercial laundry.

To the west of the Subject Property panhandle, on the west side of NE 138th, are vacant lots and two non-conforming use residential structures (the residences are approximately 100 to 170 feet south of the panhandle entrance to the subject Property).

A larger "impact area" for the proposed development may be defined as an area 600-feet from the property lines (not including the panhandle), a distance 200-feet further than notice of the hearing is sent for property owners and residents. Within that impact area are approximately 12 properties.

The vast majority of properties within the area are within the City-designated industrial sanctuary. Within the 600-foot distance are some properties south of SE Sandy Blvd. The properties to the south include two large apartment complexes and the back yards of approximately three single-family dwellings. In the Industrial Sanctuary, there is a mix of developed and undeveloped properties within this area; three parcels close to the Subject Property are vacant and owned by the City of Portland. Some of the land in this impact area is protected by environmental zoning due to open channels and wetlands associated with the Columbia Slough, and areas established as mitigation for wetland filling nearby.

The panhandle portion of the Subject property, which is used for access to the main portion of the Subject Property, is connected to NE 138th Avenue and is within 600-feet of a self-storage complex, an electrical contracting company, six vacant parcels, a large parcel with a drive-through smoke shop and two single-family dwellings on industrially zoned lots.

Northeast Sandy Boulevard acts as a boundary between residential and industrial uses. South of NE Sandy Boulevard is multi-dwelling development as noted above. The main office on the Subject Property, the closest building to the residential structures, is approximately 250-feet to the nearest structure on the residentially zoned property. Separating the two uses are, in order: a

parking area, a berm at the front of the Subject Property, a frequently-used railroad line on the berm, and a state highway (NE Sandy Boulevard).

Zoning: IG2 – General Industrial zones are one of the three zones that implement the Comprehensive Plan’s Industrial Sanctuary map designation. The zone provides areas where most industrial uses may locate, while other uses are restricted to prevent potential conflicts and to preserve land for industry. Development standards for each zone are intended to allow new development that is similar in character to existing development. The intent is to promote viable and attractive industrial areas. IG2-zoned areas generally have larger lots and an irregular or large block pattern. The area is not intensely developed, with sites having medium and low building coverage and buildings that are usually set back from the street.

Aircraft Landing Zone – The Aircraft Landing zone is shown on the Official Zoning Maps with a letter "h" map symbol. The zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures, vegetation, and construction equipment.

Scenic Resource Zone – The Scenic Resource zone is shown on the Official Zoning Maps with a letter "s" map symbol. The Scenic Resource Overlay Zone is intended to:

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

The Scenic Resource zone’s purposes are achieved by establishing height limits within view corridors to protect significant views and by establishing additional landscaping and screening standards to preserve and enhance identified scenic resources. Further information on the specific scenic resource that is being protected at this location is included in response to the Adjustment request, discussed later on in this decision.

Land Use History: City records indicate that one prior land use reviews are associated with the Subject Property:

LU 02-137433 CU AD – Approval of expansion of an existing recycling facility to include waste related uses and a transfer station. The proposal included construction of a new 35,000 square foot building, paving and other various improvements. Approval of Adjustments to waive the Scenic ('s') landscaping requirement and Adjustment to reduce waste-related use setback standards below 100-feet for the proposed waste-related use.

Agency Review: A "Request for Response" was mailed June 19, 2018. The following Bureaus responded:

- Bureau of Environmental Services (“BES”) reviewed the proposal and stated “Staff finds the Applicant’s proposed stormwater management plan acceptable for the purposes of reviewing the conditional use application against the stormwater management manual.” (Exhibit E.1);
- The Portland Bureau of Transportation (“PBOT”) reviewed the application and stated both PBOT and the Oregon Department of Transportation found the proposed Conditional use request satisfied all applicable transportation-related approval criteria and additional requirements (Exhibits E.2 and E.3);
- The Fire Bureau pointed out fire code requirements applicable to the proposal at the time of building permit review and raised no objection to the required land use reviews (Exhibit E.4);
- The Police Bureau stated they can provide adequate public safety services and have adequate access to the Subject Property (Exhibit E.5);
- The Site Development Section of BDS (“Site Development”) responded with information on what would be required for new development and raised no objection to the requested land use reviews (Exhibit E.6);
- The Urban Forestry Division of Portland Parks & Recreation responded with no concerns (Exhibit E.7);
- The Life Safety Review Section of BDS provided general comments for building permits and raised no objection to the requested land use reviews (Exhibit E.8);
- The Oregon Department of Transportation (“ODOT”) responded with their findings that the proposed use would have no significant impacts to state highway facilities and raised no objections (Exhibit E.9);
- The Port of Portland responded that they had conferred with FAA guidelines and consulted with Port staff and believe that the proposal will cause no problems regarding wildlife being attracted to the Subject Property and impacting the flight paths of the airport. The Port requested a condition of approval be added prohibiting a change in use on the property that introduces outdoor storage or transfer of putrescible waste (Exhibit E.10). This concern will be addressed in the Conditional Use review approval criteria and conditions of approval; and
- The Water Bureau responded with no concerns to the requested land use reviews (Exhibit E.11).