



**DEPT OF**

**AUG 17 2017**

**LAND CONSERVATION  
AND DEVELOPMENT**

August 16, 2017

**VIA FEDEX**

Oregon Dept. of Land Conservation and  
Development  
Attn: Periodic Review Specialist  
Dept. of Land Conservation and Development  
635 Capital Street, NE Suite 150  
Salem, OR 97301

Susan Anderson, Director  
Portland Bureau of Planning and  
Sustainability  
1900 SW 4<sup>th</sup> Avenue, Suite 7100  
Portland, Oregon 97214

**Re: Kin Property #3004 - 2720 NW 35<sup>th</sup> Avenue, Portland, OR (“Property”)  
State ID#: 1N1E29BD 1300**

**That certain Notice of Adoption – 2035 Comprehensive Plan – Early  
Implementation Measures affecting the Property.**

Ladies and Gentlemen:

We write as managing agent for Mascot LLC (“Owner”), the owner of the above-referenced Property. We are in receipt of the Notice of Adoption – 2035 Comprehensive Plan – Early Implementation Measures (the “Notice”).

As the representative, and on behalf, of Owner, we again express our opposition to the establishment of the I Overlay and/or any reclassification or modification to the Property’s current base zone of IH. Any modification to our current base zone may depreciate the value of the Property, including by impacting the future use thereof. We enclose a copy of our correspondence dated October 21, 2015, and December 10, 2015.

The current Tenant at the Property is in compliance with the current zoning of the Property. However, in the event the Commission determines that Tenants’ use of the Property would violate the I Overlay, on behalf of both Owner and Tenant, we again demand that Tenant’s operations at the Property be “grandfathered in” so as to allow Tenant’s continued operation in its ordinary course of business.

This letter is not intended to set forth an exhaustive list of claims, damages, demands or other concerns that Owner has with respect to the I Overlay or its impact to the Property. Owner hereby expressly reserves any and all rights to add, amend or modify any demands made, or matters stipulated, herein; and reserves any and all rights and remedies available at law and in equity with respect hereto.

Oregon Dept. of Land Conservation and Development  
Susan Anderson, Director,  
Portland Bureau of Planning and Sustainability  
August 16, 2017  
Page 2

We appreciate your prompt attention to this matter. You may feel free to contact me at 561.620.9200 x184 or via email at [eovadia@kinproperties.com](mailto:eovadia@kinproperties.com) in order to discuss our concerns.

Sincerely,

Kin Properties Inc.



Eitan Ovadia<sup>1</sup>  
Assistant General Counsel

EO/sjd

Enclosures

cc: Bushnell's Warehouse & Trading Corp.  
c/o Mark Harris, General Manager  
at [mharris.bushnells@comcast.net](mailto:mharris.bushnells@comcast.net)  
(w/ *Notice of Adoption enclosed*)

Allen P. Lev, Esq.  
Lee Cherney  
Brett Burstell

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<sup>1</sup> Member of the Georgia Bar, only  
Authorized House Counsel of Florida



**Bureau of Planning and Sustainability**  
Innovation. Collaboration. Practical Solutions.

## Notice of Adoption – 2035 Comprehensive Plan – Early Implementation Measures

August 7 2017

Dear Participant:

Thank you for helping shape the Early Implementation Measures for Portland's new 2035 Comprehensive Plan. These measures, which are listed below, were adopted by Ordinance No. 188177 on December 21, 2016 and are scheduled to become effective on January 1, 2018. The City Council's adoption of these measures is a final decision that fulfills Task V of Portland's state-mandated Periodic Review Work Program. Transmittal of the City's final decision to the Oregon Department of Land Conservation and Development begins a state review and acknowledgment process.

### The following Early Implementation Measures were adopted with Ordinance No. 188177:

- **Zoning Map amendments** to implement the adopted 2035 Comprehensive Plan (Task V).
- **Zoning Code amendments** to implement the adopted 2035 Comprehensive Plan (Task V).
- **Further Transportation System Plan amendments** to add additional policies and update street classifications (amends Task IV).
- **Comprehensive Plan amendments** to incorporate major public trails into the land use map, and minor corrections to policy language (amends Task IV).
- **Community involvement** monitoring and evaluation for Task V (Task I.C).

### On the following pages you will find:

- Information about how to view or obtain a copy of the City's decision.
- Information about filing an objection to the City's decision.
- City and state agency contact information.

The City of Portland adopted three legislative ordinances to fulfill state periodic review requirements in 2016 (Tasks III, IV and V). Separate notices of adoption have been mailed for each legislative action that you participated in. If you participated more than one of these actions, you will have received multiple notices. This is Notice of adoption for ordinance 188177 (Task V). Notices of adoption for ordinance 187831 and 187832 (periodic Tasks III and IV) were mailed earlier this year.

**If you have questions about the content of the final City ordinance, or the 2035 Comprehensive Plan in general,** please email [pdxcompplan@portlandoregon.gov](mailto:pdxcompplan@portlandoregon.gov) or call 503-823-0195.

Sincerely,

Susan Anderson  
Director, Bureau of Planning and Sustainability



City of Portland, Oregon | Bureau of Planning and Sustainability | [www.portlandoregon.gov/bps](http://www.portlandoregon.gov/bps)  
1900 SW 4th Avenue, Suite 7100, Portland, OR 97201 | phone: 503-823-7700 | fax: 503-823-7800 | tty: 503-823-6868

# How can I see the City's final decision?

The final decision is available for public review, including the ordinance and associated exhibits:

- Online at <http://efiles.portlandoregon.gov/record/11087123>.
- On a dedicated computer terminal in the reception area of the Portland Bureau of Planning and Sustainability, 1900 SW 4th Avenue, 7th floor.
- You may order a hard copy for a fee. Call 503-823-0195 for more information.

# Can I appeal or object to the City's decision?

Anyone who participated orally or in writing in the local process leading to the final decision is eligible to submit an objection. To be valid, your objections must meet all of the following criteria:

1. Be in writing and be received by the Oregon Department of Land Conservation and Development's Salem office no later than 21 days after the date of this notice.
2. Clearly identify an alleged deficiency in the work task sufficiently to identify the relevant section of the final decision and the statute, goal, or administrative rule the submittal is alleged to have violated;
3. Suggest specific revisions that would resolve the objection; and
4. Demonstrate that you participated orally or in writing in the local process leading to the final decision. "Participated" means to have provided substantive comment, evidence, documents, correspondence, or testimony to the local government during the local proceedings regarding a decision on a work task. You have received this notice because the City has identified you as a participant.

If the Oregon Department of Land Conservation and Development receives valid objections, the department must issue a report which will address the issues raised in valid objections. A valid objection will either be sustained or rejected by the department or commission based on the statewide planning goals, or applicable statutes or administrative rules.

## The Statewide Planning Goals and the State Periodic Review Rule may be found at:

- <http://www.oregon.gov/LCD/Pages/goals.aspx> and
- [http://arcweb.sos.state.or.us/pages/rules/oars\\_600/oar\\_660/660\\_025.html](http://arcweb.sos.state.or.us/pages/rules/oars_600/oar_660/660_025.html).

# Objections may be either printed and mailed, or emailed.

<b>Printed and mailed, copies must be sent to both the State and the City at the following addresses:</b>	<b>Emailed, an email must be sent to both the State and the City at the following email addresses:</b>
Oregon Department of Land Conservation and Development: Attention: Periodic Review Specialist Department of Land Conservation and Development 635 Capitol Street NE, Suite 150 Salem, OR 97301	Oregon Department of Land Conservation and Development: DLCD.PR-UGB@state.or.us
Susan Anderson, Director Portland Bureau of Planning and Sustainability 1900 SW 4th Avenue, Suite 7100 Portland, Oregon 97214	City of Portland, Oregon Bureau of Planning and Sustainability susan.anderson@portlandoregon.gov



**KIN PROPERTIES**

Ref: Prop #3004	E0	Date: 21Oct15	SHIPPING:	21.83
Dep: LEGAL		Wgt: 0.10 LBS	SPECIAL:	0.22
		DV: 0.00	HANDLING:	0.00
			TOTAL:	21.85

Svcs: PRIORITY OVERNIGHT  
TRCK: 5308 8341 7961

October 21, 2015

VIA FEDEX  
AND VIA EMAIL AT [psc@portlandoregon.gov](mailto:psc@portlandoregon.gov)

Portland Planning and Sustainability Commission  
Employment Zones Testimony  
1900 SW 4<sup>th</sup> Avenue, Suite 7100  
Portland, OR 97201

Re: Kin Property #3004 - 2720 NW 35<sup>th</sup> Avenue, Portland, OR ("Property")  
State ID#: 1N1E29BD 1300

PSC EMPLOYMENT ZONES TESTIMONY

Those certain zoning modifications affecting the Property and the permissible uses thereof, which modifications are proposed by the Planning and Sustainability Commission for the City of Portland (the "Commission") in conjunction with the Commission's "Comprehensive Plan."

Ladies and Gentlemen:

We write as managing agent for Mascot LLC ("Owner"), the owner of the above-referenced Property. We are in receipt of the Commission's "Notice of Proposed Zoning Code and/or Map Change" dated September 21, 2015 (the "Zoning Notice"). The Zoning Notice sets forth the Commission's intention to introduce a new Prime Industrial Land zoning overlay (the "I Overlay"), which I Overlay would "reclassify parks and open areas as a Limited/Conditional Use, limit commercial outdoor recreation to no more than 20,000 square feet, prohibit self-service storage and major event entertainment uses, and prohibit future quasi-judicial Comprehensive Map Amendments."

As the representative, and on behalf, of Owner, we hereby express our opposition to the establishment of the I Overlay and/or any reclassification or modification to the Property's current base zone of IH. Any modification to our current base zone may depreciate the value of the Property, including by impacting the future use thereof.

The Property is currently leased to Bushnell's Warehouse and Trading Corp. ("Tenant"). It is Owner's contention that Tenant's operations from the Property are in compliance with the current zoning of the Property; and, further, that such use would not be in violation of any restrictions imposed by the I Overlay. In any event, if the Commission ultimately establishes the I Overlay despite Owner's objection thereto, and to the extent that the Commission determines that Tenant's use of the Property would violate the I Overlay despite Owner's assertion hereinabove, then we, on behalf of both Owner and Tenant, hereby demand that Tenant's operations at the Property be "grandfathered in" so as to allow Tenant's continued operation in its ordinary course of business.

This letter is not intended to set forth an exhaustive list of claims, damages, demands or other concerns that Owner has with respect to the I Overlay or its impact to the Property. Owner hereby

(561) 620-9200

(888) KIN-PROP toll-free

185 NW Spanish River Blvd., Suite100, Boca Raton, FL 33431

WWW.KINPROPERTIES.COM

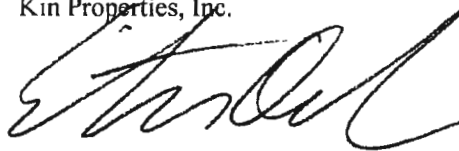
expressly reserves any and all rights to add, amend or modify any demands made, or matters stipulated, herein; and reserves any and all rights and remedies available at law and in equity with respect hereto.

We will not be present at the Commission's hearing scheduled for October 27, 2015 at 3:00 p.m., and we ask that our letter be shared with all in attendance and placed in the Public Record of the proceedings. We further request that you share this letter with all members of the Commission and any and all relevant government officials.

We appreciate your prompt attention to this matter. You may feel free to contact me at 561.620.9200 x184 or via email at [eovadia@kinproperties.com](mailto:eovadia@kinproperties.com) in order to discuss our concerns.

Sincerely,

Kin Properties, Inc.



Eitan Ovadia\*  
Assistant General Counsel

cc: Bushnell's Warehouse & Trading Corp.  
c/o Mark Harris, General Manager  
at [mharris.bushnells@comcast.net](mailto:mharris.bushnells@comcast.net)  
(w/ Zoning Notice enclosed)

Jeffrey Sandelman  
Allen P. Lev, Esq.  
Andrew Schreier  
Lee Cherney  
Brett Burstell

\*Member of the Georgia Bar, only  
Authorized House Counsel of Florida



December 10, 2015

**VIA FEDEX**

**AND VIA EMAIL AT EPUTESTIMONY@PORTLANDOREGON.GOV**

Council Clerk, Portland City Council  
1221 SW 4<sup>th</sup> Avenue, Room 130  
Portland, OR 97204

**Re: Kin Property #3004 - 2720 NW 35<sup>th</sup> Avenue, Portland, OR ("Property")  
State ID#: 1N1E29BD 1300**

**PSC EMPLOYMENT ZONES TESTIMONY**

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Ladies and Gentlemen:

We write as managing agent for Mascot LLC ("Owner"), the owner of the above-referenced Property. We are in receipt of the Commission's "Notice of Proposed Zoning Code and/or Map Change" dated September 21, 2015 (the "Zoning Notice"), to which we had responded on October 21, 2015. On November 20, 2015, Steve Kountz, Senior Economic Planner, Bureau of Planning and Sustainability, advised us that our concerns and testimony should be forwarded to you, the Council Clerk.

The Zoning Notice sets forth the Commission's intention to introduce a new Prime Industrial Land zoning overlay (the "I Overlay"), which I Overlay would "reclassify parks and open areas as a Limited/Conditional Use, limit commercial outdoor recreation to no more than 20,000 square feet, prohibit self-service storage and major event entertainment uses, and prohibit future quasi-judicial Comprehensive Map Amendments."

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(561) 620-9200

(888) KIN-PROP toll-free

185 NW Spanish River Blvd., Suite100, Boca Raton, FL 33431

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We will not be present at the Commission's hearing scheduled for October 27, 2015 at 3:00 p.m., and we ask that our letter be shared with all in attendance and placed in the Public Record of the proceedings. We further request that you share this letter with all members of the Commission and any and all relevant government officials.

We appreciate your prompt attention to this matter. You may feel free to contact me at 561.620.9200 x184 or via email at [eovadia@kinproperties.com](mailto:eovadia@kinproperties.com) in order to discuss our concerns.

Sincerely,

Kin Properties, Inc.



Eitan Ovadia\*  
Assistant General Counsel

cc: Steve Kountz, Senior Economic Planner, City of Portland (via facsimile: 503-823-7800)  
Tom Armstrong, Supervising Planner, City of Portland (via facsimile: 503-823-7800)

Bushnell's Warehouse & Trading Corp.  
c/o Mark Harris, General Manager  
at [mharris.bushnells@comcast.net](mailto:mharris.bushnells@comcast.net)

Jeffrey Sandelman  
Allen P. Lev, Esq.  
Andrew Schreier, Esq.  
Lee Cherney  
Brett Burstell  
Nicole Kaplan, Esq.  
Steven Sandelman  
Grant Schreier

\*Member of the Georgia Bar, only  
Authorized House Counsel of Florida





Svcs: PRIORITY OVERNIGHT  
TRCK: 5308 8341 7961

**SCANNED**

October 21, 2015

VIA FEDEX  
AND VIA EMAIL AT [psc@portlandoregon.gov](mailto:psc@portlandoregon.gov)

Portland Planning and Sustainability Commission  
Employment Zones Testimony  
1900 SW 4<sup>th</sup> Avenue, Suite 7100  
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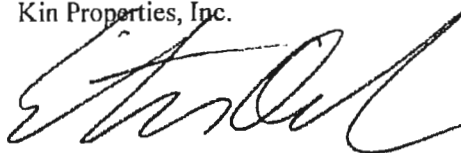
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We appreciate your prompt attention to this matter. You may feel free to contact me at 561.620.9200 x184 or via email at [eovadia@kinproperties.com](mailto:eovadia@kinproperties.com) in order to discuss our concerns.

Sincerely,

Kin Properties, Inc.



Eitan Ovadia\*  
Assistant General Counsel

cc: Bushnell's Warehouse & Trading Corp.  
c/o Mark Harris, General Manager  
at [mharris.bushnells@comcast.net](mailto:mharris.bushnells@comcast.net)  
(w/ Zoning Notice enclosed)

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Andrew Schreier  
Lee Cherney  
Brett Burstell

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Authorized House Counsel of Florida



Bureau of Planning and Sustainability  
Innovation. Collaboration. Practical Solutions.

November 20, 2015

Eitan Ovadia  
185 NW Spanish River Blvd  
Boca Raton, FL, FL 33431

Hello: Eitan Ovadia,

I'm sending you this letter because you recently testified to the Planning and Sustainability Commission about proposed zoning map changes in the Employment Zoning Project. Please be aware that these zoning map proposals are based on the draft 2035 Comprehensive Plan map and policies that are currently being considered by City Council. You can learn more about the draft 2035 Comprehensive Plan at this website:  
<http://www.portlandoregon.gov/bps/pdxcompplan>.

I am attaching a summary explanation of how to testify to City Council about the draft 2035 Comprehensive Plan. The deadline for testimony to City Council about the draft Comprehensive Plan is **January 7, 2016**. I encourage you to relay your testimony and concerns to City Council about the draft Comprehensive Plan Map.

The Employment Zoning Project is one of eight Early Implementation projects that are the final phase of the larger Comprehensive Plan Update. These phases overlap somewhat, and we recognize that this is a source of confusion for people who have testify on the different phases. If City Council changes the Comprehensive Plan Map from the draft Industrial Sanctuary or Mixed Employment designation on the property where you have concerns, the draft zoning map change will be adjusted accordingly when the Employment Zoning Project is considered by City Council in Spring 2016.

If you have questions about the Employment Zoning Project, feel free to contact me at 503-823-4551 or [steve.kountz@portlandoregon.gov](mailto:steve.kountz@portlandoregon.gov).

Sincerely

Steve Kountz  
Senior Economic Planner

C: Tom Armstrong, Supervising Planner



City of Portland, Oregon | Bureau of Planning and Sustainability | [www.portlandoregon.gov/bps](http://www.portlandoregon.gov/bps)  
1900 SW 4th Avenue, Suite 7100, Portland, OR 97201 | phone: 503-823-7700 | fax: 503-823-7800 | tty: 503-823-6868

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## HOW TO COMMENT ON THE COMPREHENSIVE PLAN      November 2015

### Share your feedback with the Portland City Council:

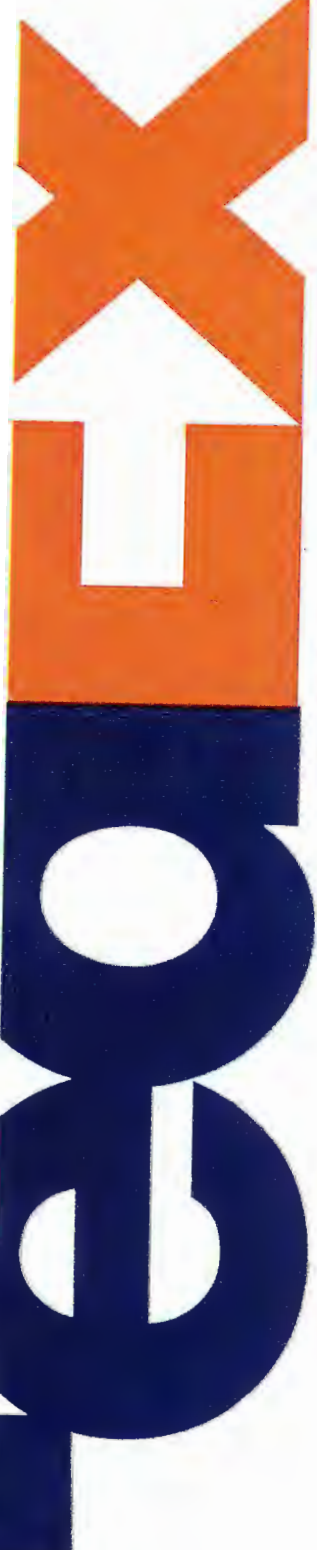
- Online via the Map App - <https://www.portlandmaps.com/bps/mapapp/> (or google "Portland Map App" to get to the web page)
- Email your comments with "Comprehensive Plan Testimony" in the Subject line to [cputestimony@portlandoregon.gov](mailto:cputestimony@portlandoregon.gov). Be sure to include your full name and mailing address.
- Mail a letter with your comments to:  
Council Clerk  
1221 SW 4th Ave, Room 130  
Portland, OR 97204
- Attend a public hearing to offer oral testimony directly to the City Council. The first public hearing for the Comprehensive Plan is tentatively scheduled for November 19, 2015 at 2 p.m. Check the Comp Plan Calendar for updated time, other hearing dates and more information. Other hearings scheduled so far:
  - December 3<sup>rd</sup> 6-9 pm at the Middleman Jewish Community Center 6651 SW Capitol Hwy, or
  - December 10<sup>th</sup> 6-9 pm at Parkrose High School 12003 NE Shaver St
  - January 7, 2016 Time/Location TBD

To be considered formal testimony and have your comments forwarded to Council members, you must include your name and mailing address in your letters, emails or online comments. Comments received without these components will not be included in the record, and the City will not be able to notify you of future hearing dates. In addition, if your name does not appear in the record for this proceeding, you may be precluded from appealing the Council's final decision.



City of Portland, Oregon | Bureau of Planning and Sustainability | [www.portlandoregon.gov/bps](http://www.portlandoregon.gov/bps)  
1900 SW 4th Avenue, Suite 7100, Portland, OR 97201 | phone: 503-823-7700 | fax: 503-823-7800 | tty: 503-823-6868

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 KIN PROPERTIES, INC.  
 KIN PROPERTIES, INC.  
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 UNITED STATES US

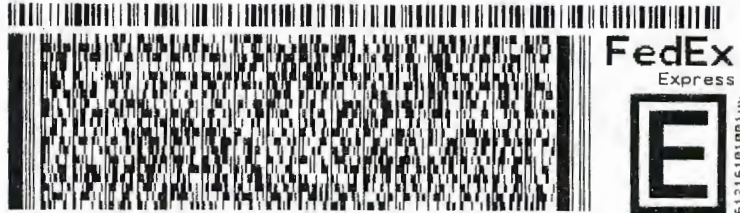
SHIP DATE: 16AUG17  
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BILL SENDER

TO PERIODIC REIEW SPECIALIST  
OREGON DEP.T OF LAND CONSERVATION  
635 CAPITAL STREET, NE SUITE 150

SALEM OR 97301

DEPT: LEGAL #3004



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97301  
OR-US PDX



Part # 156148V-434 RIT2 APV EXP 04/17

