



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Land Use Services**  
FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner  
Paul L. Scarlett, Director  
Phone: (503) 823-7300  
Fax: (503) 823-5630  
TTY: (503) 823-6868  
[www.portlandoregon.gov/bds](http://www.portlandoregon.gov/bds)

**STAFF REPORT AND RECOMMENDATION TO THE HEARINGS OFFICER**

CASE FILE: LU 11-187799 CU – Portland Playhouse  
Pre-App.: PC # 11-153886  
REVIEW BY: Hearings Officer  
WHEN: Wednesday December 21, 2011 @ 9:00 a.m.  
WHERE: 1900 SW Fourth Ave., Suite 3000  
Portland, OR 97201

It is important to submit all evidence to the Hearings Officer. City Council will not accept additional evidence if there is an appeal of this proposal.

**BUREAU OF DEVELOPMENT SERVICES STAFF: MARK WALHOOD / 503.823.7806**

**GENERAL INFORMATION**

**Applicant:** Brian Weaver (206) 419-9190  
4307 N Commercial Ave.  
Portland, OR 97217-3061

**Attorney:** Will Rasmussen (503) 224-5858  
Miller Nash LLP  
3400 US Bancorp Tower  
111 SW Fifth Ave  
Portland, OR 97204

**Property Owners:** David Morrison and Louanne Moldovan  
5546 SE Taylor St  
Portland, OR 97215-2713

**Site Address:** 602 NE PRESCOTT ST

**Legal Description:** BLOCK 3 LOT 1&2, LINCOLN PK ANX  
**Tax Account No.:** R497300340  
**State ID No.:** 1N1E23CB 03400  
**Quarter Section:** 2631

**Neighborhood:** King, contact Trace Salmon at 503-460-2756.  
**Business District:** North-Northeast Business Assoc, contact Joice Taylor at 503-445-1321.  
**District Coalition:** Northeast Coalition of Neighborhoods, contact Shoshana Cohen at 503-823-4575.

**Zoning:** **R5a** (Single-Dwelling Residential 5,000 base zone with the 'a' or Alternative Design Density overlay zone)

**Case Type:** **CU** (Conditional Use Review)

**Procedure:** **Type III**, with a public hearing before the Hearings Officer. The decision of the Hearings Officer can be appealed to City Council.

**Proposal:** The applicant, the Portland Playhouse (hereinafter ‘Playhouse’) proposes to use the old Highland Congregational/Mt. Sinai Baptist Church building at 602 NE Prescott Street as a community arts center, at which nonprofit classes, workshops, community discussion panels, art exhibits, mentorship programs, plays, and an art camp would take place. These activities have taken place at the site for the past several years. Because the site is located in a residential zone (R5), these uses are not allowed by-right. The site is currently under City enforcement for a zoning violation because the Zoning Code identifies theaters as a commercial Retail Sales and Service Use, which is prohibited in the R5 zone. A school use at the site that was previously identified as a separate issue (Shining Star Waldorf School) has been discontinued. No exterior alterations or additions to the former church building are proposed to accommodate the proposed uses.

The applicant has requested conditional use approval for Community Service Uses at the site, and that all activities at the site, including the plays, be considered Community Service Uses, and not Retail Sales and Service Uses. In addition to meeting the conditional use criteria, this review process must determine, based on the applicant’s submittal, whether the proposed uses are allowed conditionally as Community Service Uses, or whether they are a Retail Sales and Service Use. If all the proposed uses are classified during this process as Community Service Uses, and if the applicable approval criteria can be met, the request will be approved.

The specific activities proposed for the site are as follows:

<b>Activity</b>	<b>Frequency</b>	<b>Participants per Day</b>	<b>Time of Activity</b>
Outreach/Planning/Maintenance	Daily, Year-round	2 to 8	Mon. – Sat., 8am – 6pm
Classes	Daily, Year-Round	10 to 15	Mon. - Sat., 1pm – 6pm
Workshops/Training	Daily, Year-round	10 to 25	Mon. – Sat., 1pm – 6pm
Community Discussion Panels	Monthly, Year-Round	20 to 90	Mon. – Sat., 7pm – 9pm
Art Exhibition	Continuous, Year-Round	0 to 50	Ongoing
Membership Activities	Intermittent	0 to 10	Mon. – Sat., 1pm – 5pm
Three of Four Plays per Year	12 to 24 performances per play	40 to 90	Thu. – Sat., 7:30pm – 9:30pm + Sat. & Sun, 2pm – 4pm
Community-Oriented Events	Four to six per year	50 to 90	Thu. – Sat., 7:30pm – 9:30pm
Summer Art Camp	15 to 25 days in the summer	12 to 24	Mon. – Fri., 10am – 2pm

**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:

- **33.815.105.A-E, Conditional Use Approval Criteria for Institutional and Other Uses in R zones;** and
- (Community Service versus Commercial Use Determination made by analysis and classifications described in this chapter) **33.920, Descriptions of the Use Categories.**

## ANALYSIS

**Site and Vicinity:** The site is a 10,000 square foot corner parcel at the southeast corner of the intersection of NE Prescott Street and NE 6<sup>th</sup> Avenue. The site is occupied by a former church building, originally built in 1904 as Highland Congregational, but which also functioned for other congregations over the years, including the Mt. Sinai Community and Interracial Church. The building is located predominantly on the western half of the site, within approximately 5 feet of the lot line in NE 6<sup>th</sup> Avenue. The main entry doors and entry walkway face north towards NE Prescott Street, but with a greater setback (approximately 25 feet) from the lot line. The easterly portion of the site is an open garden area with grass, shrubs, and several small trees. There is no on-site vehicle parking.

The surrounding area within one block on all sides is exclusively residential in character. Most nearby structures are single-family homes, ranging from 1 to 3-story Victorian era homes to new infill townhomes and smaller detached houses. Two blocks to the west is the Martin Luther King Jr. Boulevard commercial corridor, with a variety of retail, social service, and other non-residential uses in commercial structures, as well as several multi-story apartment and other mixed-use buildings. Two blocks to the north along NE 6<sup>th</sup> Avenue is the King School Park, the King School, and the NE Coalition of Neighborhoods Offices, all on a large contiguous site. Beyond the King School site and the MLK Jr. Blvd. corridor, the next closest commercial area is four blocks north of the site along NE Alberta Street. The remainder of the nearby area is generally residential in character, with smaller apartment buildings and other small churches and institutional uses interspersed among the homes.

Both surrounding streets are improved with paved public roadways, on-street parking, curbing, and paved public sidewalks.

**Zoning:** The site is zoned R5a (Single-Dwelling Residential 5,000 base zone with the Alternative Design Density overlay zone). The R5 zone is intended to preserve land for housing and to provide housing opportunities for individual households. The single-dwelling zones implement the comprehensive plan policies and designations for single-dwelling housing. The use regulations are intended to create, maintain and promote single-dwelling neighborhoods. They allow for some non-household living uses but not to such an extent as to sacrifice the overall image and character of the single-dwelling neighborhood. Community Service uses are allowed in the R5 zone through a Conditional Use Review process. Retail Sales and Service uses are prohibited in the R5 zone.

The 'a' overlay zone provides opportunities for greater residential density in some situations, provided that additional design compatibility requirements are met with the project. The 'a' overlay zone has no bearing on this proposal.

**Land Use History:** City records indicate no prior land use reviews for this site.

**Agency Review:** A "Request for Response" was mailed **November 18, 2011**. The following Bureaus have responded:

The *Life Safety Section of the Bureau of Development Services* has reviewed the proposal and offered Life Safety-related comments and information, but no objections to the requested conditional use review. A separate building permit may be required, depending on the current legal occupancy classification of the building under applicable building codes and ordinances. It is recommended that the applicant visit the Development Services Center to research the current occupancy classification and building code requirements associated with a possible change of occupancy, including but not limited to: seismic upgrades and system development fees. Specifically, it is recommended that the applicant contact the plan review section at (503) 823-

7301 to request a preliminary Life Safety Meeting to verify building code requirements. Exhibit E.1 contains staff contact and additional information.

The *Water Bureau* has reviewed the proposal and provided information regarding available water service at the site, but no objections or concerns regarding the requested conditional use review. A metered water service is provided to the site from a water main in NE 6<sup>th</sup> Avenue. Exhibit E.2 contains staff contact and additional information.

The *Bureau of Environmental Services* (BES) has reviewed the proposal and offered informational comments, but no objections or concerns regarding the requested conditional use review. There is a public combination sewer in NE Prescott that serves the sanitary and stormwater needs of the building. The applicant submitted a sewer scope report for this review to the BES indicating that there are some sags in the sewer line, mostly near the building. This line is considered a nonconforming sewer and a conforming connection will likely be required at time of repair or redevelopment of the site. The sewer scope did indicate to BES that the proposed uses do not appear to be a significant increase in load to the sewer over what the original system was designed for. With regards to stormwater management, all development and redevelopment proposals will be subject to the requirements of the City of Portland Stormwater Management Manual at the time of building permit review. The applicant has provided a site plan showing the location of the existing downspouts and has differentiated between those discharging onsite and to the City's combined sewer. Based on the current description there are no changes to the stormwater system and there is no redevelopment proposed. The BES has no recommended conditions of approval. Exhibit E.3 contains staff contact and additional information.

The *Urban Forestry Division of Portland Parks and Recreation* has reviewed the proposal and responded with 'no concerns' but also a note saying to 'protect existing street trees'. The Urban Forestry Division is available at 503.823.4489. An electronic copy of the Urban Forestry response is included in the case file as Exhibit E.4.

The *Development Review Section of Portland Transportation* has reviewed the proposal for potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, potential impacts upon transportation services, and relevant issues in Titles 17 and 33. Detailed findings from Portland Transportation for the transportation-related approval criteria are found later in this report. Portland Transportation has no objection to the proposal provided a condition is imposed requiring the applicant to implement their submitted Transportation Demand Management (TDM) Plan. Exhibit E.5 contains staff contact and additional information.

The *Fire Bureau* has reviewed the proposal and offered informational comments, but no objections to the requested conditional use review. All current Fire Code requirements apply and are required to be met. If the requirements cannot be met, an appeal providing an alternative method is an option for the applicant. Any required building permits at the site must demonstrate conformance with applicable Fire Code requirements. Exhibit E.6 contains staff contact and additional information.

The *Site Development Section of the Bureau of Development Services* has responded to the proposal with no objections, comments or concerns. Exhibit E.7 contains staff contact information.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on December 1, 2011. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

## USE CLASSIFICATION

This application was submitted in part to address an outstanding zoning violation case at the site (11-134353 CC), because of a complaint about plays taking place at the site and the impact of the plays on on-street parking in the neighborhood. The Zoning Code identifies theaters as an example of an entertainment-oriented Retail Sales and Service use (33.920.250.C.3), which is prohibited in the R5 zone (33.110.100.D/Table 110-1). Community Service uses, however, are allowed in the R5 zone if they receive approval through the conditional use process (33.110.100.B.1/Table 110-1).

The applicant has submitted a narrative discussing their specific proposal in terms of both the Retail Sales and Service and Community Service use categories, concluding that the proposed use falls within the Community Service versus Retail Sales and Service category. This narrative occurs in the beginning section of their statement, on pages 10-22 of Exhibit A.1.

A methodology for the classification of uses is provided in the Zoning Code in Chapter 33.920, Descriptions of the Use Categories. A list of considerations is given in this chapter to use in determining the classification of a specific use based upon the descriptions and examples statements for individual use categories, later in the chapter. For ease of reference in this discussion, the classification of uses section and both the Retail Sales and Service and Community Service use category descriptions are included in italics below:

### **33.920.030 Classification of Uses**

#### **A. Considerations.**

*1. Uses are assigned to the category whose description most closely describes the nature of the primary use. The "Characteristics" subsection of each use category describes the characteristics of each use category. Developments may have more than one primary use. Developments may also have one or more accessory uses. Developments with more than one primary use are addressed in Subsection B. below. Accessory uses are addressed in Subsection C. below.*

*2. The following items are considered to determine what use category the use is in, and whether the activities constitute primary uses or accessory uses:*

- The description of the activity(ies) in relationship to the characteristics of each use category;*
- The relative amount of site or floor space and equipment devoted to the activity;*
- Relative amounts of sales from each activity;*
- The customer type for each activity;*
- The relative number of employees in each activity;*
- Hours of operation;*
- Building and site arrangement;*
- Vehicles used with the activity;*
- The relative number of vehicle trips generated by the activity;*
- Signs;*
- How the use advertises itself; and*
- Whether the activity would be likely to be found independent of the other activities on the site.*

***B. Developments with multiple primary uses.*** *When all the primary uses of a development fall within one use category, then the development is assigned to that use category. For example, a development that contains a retail bakery and a cafe would be classified in the Retail Sales And Service category because all the primary uses are in that category. When the primary uses of a development fall within different use categories, each primary use is classified in the applicable category and is subject to the regulations for that category.*

***C. Accessory uses.*** *Accessory uses are allowed by right in conjunction with the use unless stated otherwise in the regulations. Also, unless otherwise stated, they are*

*subject to the same regulations as the primary use. Common accessory uses are listed as examples with the categories.*

**D. Use of examples.** *The "Examples" subsection of each use category provides a list of examples of uses that are included in the use category. The names of uses on the lists are generic. They are based on the common meaning of the terms and not on what a specific use may call itself. For example, a use whose business name is "Wholesale Liquidation" but that sells mostly to consumers, would be included in the Retail Sales And Service category rather than the Wholesale Sales category. This is because the actual activity on the site matches the description of the Retail Sales And Service category.*

### **33.920.250 Retail Sales And Service**

**A. Characteristics.** *Retail Sales and Service firms are involved in the sale, lease or rent of new or used products to the general public. They may also provide personal services or entertainment, or provide product repair or services for consumer and business goods.*

**B. Accessory uses.** *Accessory uses may include offices, storage of goods, manufacture or repackaging of goods for on-site sale, and parking.*

**C. Examples.** *Examples include uses from the four subgroups listed below:*

- 1. Sales-oriented: Stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationery, and videos; food sales, and sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light and medium trucks, and other recreational vehicles.*
- 2. Personal service-oriented: Branch banks; urgency medical care; laundromats; photographic studios; photocopy and blueprint services; hair, tanning, and personal care services; business, martial arts, and other trade schools; dance or music classes; taxidermists; mortuaries; veterinarians; kennels limited to boarding, with no breeding; and animal grooming.*
- 3. Entertainment-oriented: Restaurants, cafes, delicatessens, taverns, and bars; indoor or outdoor continuous entertainment activities such as bowling alleys, ice rinks, and game arcades; pool halls; indoor firing ranges; theaters, health clubs, gyms, membership clubs, and lodges; hotels, motels, recreational vehicle parks, and other temporary lodging with an average length of stay of less than 30 days.*
- 4. Repair-oriented: Repair of TVs, bicycles, clocks, watches, shoes, guns, appliances and office equipment; photo or laundry drop off; quick printing; recycling drop-off; tailor; locksmith; and upholsterer.*

**D. Exceptions.**

- 1. Lumber yards and other building material sales that sell primarily to contractors and do not have a retail orientation are classified as Wholesale Sales.*
- 2. Sales of landscape materials, including bark chips and compost, is classified as Industrial Service.*
- 3. Repair and service of consumer motor vehicles, motorcycles, and light and medium trucks is classified as Vehicle Repair. Repair and service of industrial vehicles and equipment, and heavy trucks is classified as Industrial Service.*
- 4. Sales, rental, or leasing of heavy trucks and equipment is classified as Wholesale Sales.*
- 5. Hotels, restaurants, and other services which are part of a truck stop are*

*considered accessory to the truck stop which is classified as Industrial Service.*

*6. In certain situations, hotels and motels may be classified as a Community Service use, such as short term housing or mass shelter. See Community Services.*

*7. When kennels are limited to boarding, with no breeding, the applicant may choose to classify the use as Retail Sales And Service or Agriculture.*

*8. Trade schools where industrial vehicles and equipment, including heavy trucks, are operated are classified as Industrial Service.*

### **33.920.420 Community Services**

**A. Characteristics.** *Community Services are uses of a public, nonprofit, or charitable nature generally providing a local service to people of the community. Generally, they provide the service on the site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Community centers or facilities that have membership provisions are open to the general public to join at any time, (for instance, any senior citizen could join a senior center). The use may provide mass shelter or short term housing where tenancy may be arranged for periods of less than one month when operated by a public or non-profit agency. The use may also provide special counseling, education, or training of a public, nonprofit or charitable nature.*

**B. Accessory uses.** *Accessory uses may include offices; meeting areas; food preparation areas; parking, health and therapy areas; daycare uses; and athletic facilities.*

**C. Examples.** *Examples include libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, hospices, ambulance stations, drug and alcohol centers, social service facilities, mass shelters or short term housing when operated by a public or non-profit agency, vocational training for the physically or mentally disabled, crematoriums, columbariums, mausoleums, soup kitchens, park-and-ride facilities for mass transit, and surplus food distribution centers.*

**D. Exceptions.**

*1. Private lodges, clubs, and private or commercial athletic or health clubs are classified as Retail Sales And Service. Commercial museums (such as a wax museum) are in Retail Sales And Service.*

*2. Parks are in Parks And Open Areas.*

*3. Uses where tenancy is arranged on a month-to-month basis, or for a longer period are residential, and are classified as Household or Group Living.*

*4. Public safety facilities are classified as Basic Utilities.*

**Staff Comments:** The applicant has made several primary arguments in their narrative to support their view that proposed theater activities are more closely aligned with the Community Service versus Retail Sales and Service Use categories. These arguments are as follows:

1. The listing of 'theater' as an example of a potential Retail Sales and Service use does not preclude a theater from being more accurately classified within one of the Institutional Use categories, such as Community Service;
2. The Playhouse is more accurately categorized as an Institutional Community Service Use than a Commercial Retail Sales and Service use;
3. The Playhouse meets all the characteristic statements for Community Service Uses;
4. The Playhouse is not accurately or adequately described by the characteristic statements for Retail Sales and Service Uses; and
5. An analysis of the considerations used to classify uses most closely describes the Playhouse as Community Service versus Retail Sales and Service.

With regards to argument #1, above, the applicant has made several specific points. The applicant points out that theaters are listed as an example of an accessory use for College uses, which is true, indicating that some theaters can be considered accessory to a primary college use. The applicant also makes the argument that some theaters are primarily concerned with making money, while others are more community or educationally focused. The applicant argues that large commercial cinemas are very different from a theater hall attached to a college, or theaters which involve part-time use of a community center or church for a nonprofit play. The applicant states that the examples for uses under the different use categories does ‘not prevent the example from being more accurately described in another use category’. Finally, the applicant lists specific examples where a single use (museums, ‘short-term housing’, or Medical Centers) is classified in different categories.

In response to their arguments under item #1 above, it is true that theaters are listed as accessory uses for Colleges, however typically a College occupies a much larger site, and has several standard accessory uses which would as primary uses be classified as Retail Sales and Service, such as theaters, cafeterias, printing shops, bookstores, etc. Typically the floor area, activity, relative scale of the activity, related vehicle trips, and other factors make such accessory retail uses a very minor part of the overall activity at a College. At the Portland Playhouse, however, the theater component is a significant share of their overall activity, especially in terms of their events with larger numbers of attendees. Most of the activity of the Playhouse involves office-type hours Monday through Saturday, and smaller attendance at evening events. Up to as many as 114 large events with up to 90 attendees are proposed each year, however, and 96 of these large events, or 84% of the total of large events, are exclusively for the theater activity. With a significantly smaller amount and proportion of theater activity related to the other uses involved, such as with smaller runs of an amateur play at a large community center a few times a year, or with seasonal play productions on a college campus from theater students, the theater use could indeed be considered accessory to the primary Community Service use. With the Portland Playhouse, the proportion of theater activities to other activities at the site, especially when considering the larger-attended events which bring people and vehicles to the area, the theater activity is not an accessory use.

The other examples identified as appearing in two use categories are incorrect or only partially correct. Regular museums are identified as Community Service uses, but ‘commercial museums (wax museums)’ are considered retail. Short-term housing is not a use category, but instead a definition of a structure that contains one or more individual sleeping rooms, and where tenancy of all rooms may be arranged for periods of less than one month, with management by a non-profit or public agency. In the relevant zoning chapter for short-term housing (33.285), it notes that short term housing is always a Community Service use, however in zones where retail is allowed it can be classified by the applicant as a hotel, which is classified as retail. This is a use classification distinction that is based on the underlying site zoning, not the characteristics of the use as suggested by the applicant. Finally, the applicant claims that Medical Centers are also either Retail or Community Service, but the code clearly classifies larger hospitals and campus-like medical facilities as medical centers, but smaller outpatient medical clinics are on Office use, and urgency care clinics are Retail Sales and Service. These medical facility use distinctions are based on the size and services offered by each individual instance. In summary, although an *accessory* retail theater may be identified as allowed with a College use, this does not mean that theaters themselves are both Retail and Community Service uses. Retail theaters are allowed on a college campus because the relative amount of floor space, vehicle trips, hours of operation, and number of users for a theater on a College campus are relatively insignificant compared to the overall activity at the site. At the Portland Playhouse, the theater is a much larger proportional share of the overall activity at the site.

In argument #2 above, the applicant arranges the remainder of their use classification statements according to the areas in items #3 through #5.

In their comparison of the Playhouse to the Community Service use characteristics (#3), the applicant notes that the Playhouse is a nonprofit 501(c)(3) organization whose purpose is to make the arts accessible to all people. The applicant states that the Playhouse seeks to engage the community through a number of mediums, all of which are of a public, non-profit, or charitable nature. Many of the Playhouse's activities are provided to the public free of charge. The applicant states that the Playhouse matches all the specific characteristic statements for Community Service uses. For example, the activities are of a public, non-profit or charitable nature, employees are on the site on a regular bases, the services at the site are ongoing and has no membership requirements.

In their comparison of the Playhouse to the Retail Sales and Service use characteristics (#4), the applicant notes that the Playhouse activities do not involve the sale, rent, or lease of products to the general public, that the playhouse does not offer personal services for consumer or business goods, and that the word 'entertainment' is 'inaccurately narrow and demeaning to describe the Playhouse's primary use' (Exhibit A.1, p. 17). The applicant claims that identifying the theater use as 'entertainment' ignores the breadth of public service that the Playhouse provides, and does an injustice to the staff and volunteers involved. The applicant states that no sales of any kind take place during the other activities at the site beyond the plays.

With regards to item #4 above, the applicant provides a comparison of the use against the specific use consideration factors at PCC 33.920.030.A.2. The building includes approximately 6,500 square feet of space, of which 3,000 square feet is used for the assembly hall/theater space (relative amount of site or floor space). The only sales involved with the Playhouse use are sales of tickets to the plays (relative amounts of sales from each activity). The Playhouse has four part-time paid staff which supports multiple activities at the site and dozens of volunteers (relative number of employees). The playhouse is open office hours Monday through Friday, and Saturday afternoons year-round, whereas plays are sporadic and occur only during the evenings during matinee performances. Other factors are discussed, but these do not appear to have specific bearing on the distinction of Retail versus Community Service uses (customer type, building and site arrangement, vehicles used, signs, etc.). The applicant also provides information on the relative number of vehicle trips (Exhibit A.1, p. 20), indicating that the plays are not the single largest trip generator at the site, that there are no signs, that the Playhouse advertises through various media as a local arts non-profit, and that the plays are integral to the broader community arts programming and would not exist independently.

In summary, the applicant claims that the proposed theater activity at the site is more closely aligned with the 'public, non-profit, or charitable' nature of Community Service Uses than the sale of 'entertainment-oriented' personal services to the general public found in Retail Sales and Service Uses. The applicant also argues that the proposed uses match exactly with the characteristics of Community Service Uses, but not so precisely with those for Retail uses. Further, the applicant argues that the use of examples in the use category chapter does not preclude that specific use from being considered as belonging to another use category.

When comparing the use to the two categories, however, although the use is run by a nonprofit organization, the production of the plays is a significant proportion of the overall activity at the site, including vehicle trips and 'customer' visits to the site, with up to 96 individual play performances per year. The plays also, are a periodic occurrence throughout the year, unlike the other smaller-scale activity at the site which is ongoing daily, year-round: the play performances are not properly considered an 'ongoing' activity, such as you would find with most community service uses such as a community center, soup kitchen, library, museum, or senior center. Also, all sales activity at the site, according to the applicant, is associated with the play performances,

since there are no fees or charges associated with any of the other events. Although the applicant may find it offensive to characterize their play performances as fee-based commercial ‘entertainment’ service, that more accurately describes the plays at the site given the ticket fees involved compared to the other events, which are free. The applicant has provided information on four staff people and ‘dozens of volunteers’, but has excluded from their narrative the staff people (actors, lighting and stage technicians) involved in the play production themselves. The applicant has a web-site ([www.portlandplayhouse.org](http://www.portlandplayhouse.org)) that has extensive information on upcoming and past play performances, but little or no information on the community-oriented classes or other events taking place at the site.

Other theater companies in Portland were quickly researched to determine their zoned location and any relevant use classification history. This was a quick survey of smaller, likely non-profit theater companies online, with a review of their zoning and permitting history with regards to the theater use, and is not intended to be a complete survey of theater companies in Portland. Most, of these other theater companies are also non-profit organizations, but in every case their use has been considered and permitted as a retail use. These examples include the following:

<b>Theater Company</b>	<b>Address</b>	<b>Zoning/Comments</b>
Imago Theater	17 SE 8 <sup>th</sup> Avenue	EXd/ Allowed as retail theater
NW Children’s Theater	1819 NW Everett St.	EXd/ Allowed as retail theater
Hollywood Theater	4122 NE Sandy	CSd/ Allowed as retail theater
PICA	224 NW 13 <sup>th</sup> Avenue	EXd/ Allowed as retail theater
Do-Jump Theater	1515 SE 37 <sup>th</sup> Ave.	CS/ Allowed as retail theater
Artists Repertory Theater	1515 SW Morrison	RXd/ Theater allowed as a retail use only through a Nonconforming Situation Review, because site had ‘grandfather’ retail status from use of site as a private (Elks) club in the past (LU 09-126306 DZ NU)
PDX Stump	6551 N Maryland	EXd/ Allowed as retail theater

The core issue in this use classification is whether or not the play performances are of a ‘public, non-profit or charitable nature’, open to the general public on an ongoing basis such as a community center, social service agency office, or soup kitchen (Community Service) versus the sale of personal entertainment-oriented services to the public for a fee, such as theaters, bowling alleys, or game arcades (Retail Sales and Service). The applicant has also misconstrued the use of examples in the use classification chapter, by claiming that theaters are listed both as Retail and College Uses. Nowhere in Chapter 33.920 does the Zoning Code say that a single use will have two different classifications, with the exception of homeless shelters, which can be considered Retail instead of Community Service if in a commercial zone, and ‘Industrial Office’ uses, which belong in this category in parts of the Central Eastside but everywhere else are just ‘Office’. With regards to the use of examples, the Code indicates that the examples are based on the common meaning of the name, and not what a specific use may name itself. To elaborate on this distinction, the code mentions a business named ‘Wholesale Liquidation’ but that sells mostly to consumers, would be considered Retail and not Wholesale. The common meaning of the term theater is a place where plays, operas, music, or motion pictures are presented.

The Playhouse play performances are plainly within the dictionary definition of a theater use, since the activity involves the sale of tickets to a play in a performance space. This theater activity is a significant share of the overall activity at the site, involves the sale of tickets to the general public when all other activities at the site are free of charge, and includes a proportionally significant amount of staffing (including actors and stagehands), vehicle trips to the site, and forms a focus of their web site and other advertisements locally. The plays are not operated on an ongoing basis, but instead function more like special events at the site, with larger attendance than found at the ongoing daily, year-round activities. In relation to the 114 proposed annual

special events, or those attracting over 50 but up to 90 attendees, the plays occupy 96 or 84% of these larger events, making it clear that the plays are closer to a second primary use than an accessory use. The play performances are more akin to a theater use than a social service agency, community center, or soup kitchen, and do not resemble the proportional relationship between a college campus and college campus theater, which is the only other instance in the Use Classification regulations where a theater is specifically identified outside of Retail.

***Because of the plain dictionary definition of theater and the use of specific examples of uses in the Zoning Code, because the play performances are the primary revenue-generating activity at the site, and for the other reasons discussed above, the play performances at the site must be considered a Retail Sales and Service use, and therefore cannot be considered with regards to the Conditional Use application in this case.***

## **ZONING CODE APPROVAL CRITERIA**

### **33.815.010 Purpose of Conditional Use Regulations**

Certain uses are conditional uses instead of being allowed outright, although they may have beneficial effects and serve important public interests. They are subject to the conditional use regulations because they may, but do not necessarily, have significant adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose mitigation measures to address identified concerns, or to deny the use if the concerns cannot be resolved.

### **33.815.105 Institutional and Other Uses in R Zones**

These approval criteria apply to all conditional uses in R zones except those specifically listed in sections below. The approval criteria allow institutions and other non-Household Living uses in a residential zone that maintain or do not significantly conflict with the appearance and function of residential areas. The approval criteria are:

**A. Proportion of Household Living uses.** The overall residential appearance and function of the area will not be significantly lessened due to the increased proportion of uses not in the Household Living category in the residential area. Consideration includes the proposal by itself and in combination with other uses in the area not in the Household Living category and is specifically based on:

1. The number, size, and location of other uses not in the Household Living category in the residential area; and
2. The intensity and scale of the proposed use and of existing Household Living uses and other uses.

**Findings:** The site is at the location of a prior Church use, with the original church building constructed at the site in 1904. Within two blocks in each direction, stopping just shy of the King School site to the north, there is only one other non-residential use in a residential zone. This other use is another church (Allen Temple Christian) at the corner of NE 8<sup>th</sup> Avenue and NE Skidmore Streets. The proposed use would replace the former church use at the site, without increasing the number and location of other uses not in the Household Living category.

The size, intensity and scale of the proposed Community Service Uses at the site is not dissimilar to the scale and intensity of a typical church use, with somewhat

greater weekday and evening activities and fewer weekend activities than is commonly found at a church. Excluding the play activities because these are a Retail Sales and Service Use, and not eligible for consideration in this application, the extent and frequency of special events with large numbers of attendees (up to 18 per year, including 12 Community Discussion Panels and 6 Community-oriented events), and the limited frequency and attendance for the other activities, will not significantly lessen the appearance and function of the residential area beyond that experienced with the former church uses at the site. *Therefore, these criteria are met.*

**B. Physical compatibility.**

1. The proposal will preserve any City-designated scenic resources; and

**Findings:** There are no City-designated scenic resources at the site, as indicated by the absence of any 's' or Scenic Resource Protection overlay zoning at the site, as indicated on the zoning map. *This criterion does not apply.*

2. The proposal will be compatible with adjacent residential developments based on characteristics such as the site size, building scale and style, setbacks, and landscaping; or
3. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping, and other design features.

**Findings:** There are no physical changes to the site proposed, and the existing church building will remain in place as it has existed within this residential neighborhood since 1904. The building is oriented with its principal mass towards the street in NE 6<sup>th</sup> Avenue, and the easterly side yard or garden has abundant greenery with grass, shrubs along the sidewalk, and several mature trees. Because no physical changes to the exterior of the building or site improvements are proposed, there are no changes to the physical compatibility of the site with the surrounding area. *Therefore, these criteria are met.*

**C. Livability.** The proposal will not have significant adverse impacts on the livability of nearby residential zoned lands due to:

1. Noise, glare from lights, late-night operations, odors, and litter; and

**Findings:** The proposed uses occur almost exclusively indoors, thereby avoiding potential noise impacts. The applicant states that the classes, workshops, and panel discussions are rarely audible outside. No new lights are proposed on the outside of the building, and the nature of the uses is unlikely to generate odors. Because food products or other consumer items with disposable packaging are not sold at the site, litter is also unlikely to be a problem with the proposed uses. Although the use does include evening events that once monthly go as late as 9:00 p.m., the majority of events are concluded by 6:00 p.m. After operating at the site for at least two years, no noise complaints have resulted from activity at the site. *Therefore, this criterion is met.*

2. Privacy and safety issues.

**Findings:** The nature of the use, and because activity occurs inside an existing church building which was originally constructed in 1904, there are no potential

identified privacy or safety issues that could impact nearby residentially-zoned lands.  
*Therefore, this criterion is met.*

#### **D. Public services.**

1. The proposed use is in conformance with the street designations of the Transportation Element of the Comprehensive Plan;
2. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity, level of service, and other performance measures; access to arterials; connectivity; transit availability; on-street parking impacts; access restrictions; neighborhood impacts; impacts on pedestrian, bicycle, and transit circulation; safety for all modes; and adequate transportation demand management strategies;

**Findings:** The following findings for these criteria are taken directly from the Portland Transportation agency response (Exhibit E.5):

##### Street Classifications

At this location, NE Prescott Street is classified as a Neighborhood Collector, Transit Access Street, City Walkway, and Local Service street for all other transportation modes in the City's Transportation System Plan. According to City database sources, the street is improved with 28-ft of paving in a 50-ft right-of-way (r.o.w.). The site's frontage is improved with a 4-6-1 sidewalk configuration.

NE 6<sup>th</sup> Avenue is classified as a Local Service street for all transportation modes in the City's Transportation System Plan. According to City database sources, the street is improved with 30-ft of paving in a 50-ft right-of-way (r.o.w.). The site's frontage is improved with a 3-6-1 sidewalk configuration.

The applicant has applied for and received approval of a public works Design Exception to leave the existing sidewalk corridors in their current configuration instead of having to dedicate 1-ft on each frontage widen the planting strip by 0.5-ft on NE Prescott and 1.5-ft on NE 6<sup>th</sup> Avenue.

##### Street Capacity/Level of Service

The applicant has provided daily vehicle counts from PBOT traffic data that shows NE Prescott Street carries approximately 3,000 daily vehicles eastbound and 3,500 vehicles westbound on a typical weekday. For a street classified as a Neighborhood Collector, this is not an excessive amount of vehicles. Vehicle counts were not available for NE 6<sup>th</sup> Avenue. There are counts for NE Going Street and NE 7<sup>th</sup> Avenue, one block north and one block east of the site. Both streets are Local Service Streets for all modes and likely are representative to traffic levels experienced on NE 6<sup>th</sup> Avenue which is also classified as a Local Service Street for all modes. NE Going carries approximately 255 vehicles eastbound and 232 vehicles westbound. These levels are not excessive for a Local Service Street. With larger activities proposed in the afternoon or evenings, impacts to the Level of Service at intersections during AM and PM Peak Hours will be minimal.

##### Access to Arterial

The site has direct frontage on NE Prescott Street which is classified as an arterial street (Neighborhood Collector).

##### Connectivity

The site is a corner lot in an older part of the City with an established grid street system. There is no need for additional public through streets at this location.

#### Transit Availability

The site is two blocks from MLK Blvd which is classified as a Major Transit Priority Street. Also, NE Alberta Street, a Major Transit Priority Street, is four blocks north of the site.

#### On-Street Parking Impacts

The applicant has provided an on-street parking survey with data collected by volunteers that documents the total number of on-street parking spaces within two blocks in each direction of the site. The survey also documents how many on-street parking spaces are being used by residents and guests during afternoon and evening hours on a Friday and Saturday (11/18/11 & 11/19/11). An earlier survey done over Labor Day weekend was not considered a typical weekend to determine resident and guest needs since school was not yet in session and some residents may have been away.

The survey found that there are approximately 576 on-street parking spaces within the two-blocks of the site. The survey days and times were done when there were no activities occurring on the site so that typical neighborhood demand for on-street parking could be determined. The number of vehicles parking on the street ranged from a low on 173 (30% of available spaces) on Friday afternoon 11/18/11, to a high of 253 (44% of available spaces) on Saturday afternoon 11/19/11. These numbers are only slightly higher than those counted over the Labor Day weekend. The average of the four survey times found that neighborhood residents and guests generate a demand for 35% of the available on-street parking.

For the purposes of determining the potential impacts to on-street parking, transportation staff will be very conservative by assuming that 44% (highest documented count) of the on-street parking supply (253 spaces) is needed for residents and guests. This would leave 323 on-street parking spaces for non-resident/guest needs. If half of those remaining spaces were used by the Portland Playhouse, there would still be 161 (28%) on-street parking spaces available for residents and their guests.

Since the proposal will not be providing any on-site parking, all cars coming to the Playhouse for activities will use on-street parking. To determine the worst case scenario, it's assumed that all 99 people (max occupancy limit) coming to an activity drive there alone. This would represent a demand for approximately 31% of the total number of parking spaces within two blocks not used by residents and their guests.

A less conservative scenario would be to assume that only one third of attendees to events drove alone and the remainder came to the site with another person in their car. This would translate to the Playhouse generating a demand for 21% (66) of the on-street parking supply not needed by residents or their guests. When factoring in the number of persons coming to the site by transit, bike, or walking, the impacts to the availability of the on-street parking supply are even less.

The activity that would occur most frequently is the Plays. The applicant states that they anticipate up to 96 performances per year. The other activities that could have up to 99 attendees are the Community Discussions (12 per year), and Community

Oriented Events (6 per year). The Plays themselves represent 84% of the activities that could have up to 99 attendees coming to the site.

Based on the parking survey provided by the applicant the proposed activities will not have any significant impact on the availability of on-street parking for neighborhood residents and guests. With implementation of the Transportation Demand Management Plan (TDM), the impacts will be reduced further.

#### Access Restrictions

There are no access restrictions on either NE Prescott Street or NE 6<sup>th</sup> Avenue.

#### Neighborhood Impacts

There is sufficient on-street parking in the neighborhood to serve the proposed use in addition to the existing uses in the area (see On-Street Parking Impacts discussed above). The number of vehicle traffic associated with the proposed use is not expected to create any significant impact on area residents.

#### Impacts on Pedestrians, Bicycle, and Transit Circulation

The location of the site is served by a well developed transportation system. All area streets have sidewalks on both sides, transit is available close by, and NE Skidmore one block south of the site is a City Bikeway. Approval of the proposed use will have minimal impact on pedestrian, bicycle, or transit circulation

#### Safety for All Modes

No negative impacts are expected with this proposal on the safety of any mode of the transportation system.

#### Transportation Demand Management Strategies

The Portland Playhouse has submitted a TDM plan that includes strategies for supporting alternative modes. The artistic director will serve as the transportation coordinator responsible for implementing the plan. Elements of the plan include providing information about transit availability to all staff and persons attending activities at the site. The Portland Playhouse will provide a ticket price reduction for people who walk, bike, or take public transportation to plays at the Playhouse. . They will have volunteers outside the church during high-participation events to coordinate parking and discourage patrons from parking along NE 6<sup>th</sup> Avenue. Other TDM measures include providing two more on-site bicycle spaces than required by Title 33, scheduling events to avoid multiple activities at the same time, and avoid conflict with peak hours of travel whenever possible. They will set up a reporting and tracking with annual reports to PBOT, the King Neighborhood Association, and any interested neighbors. PBOT recommends that the Portland Playhouse be required to implement their TDM plan as a condition of conditional use approval.

Transportation Development Review finds the transportation system is capable of supporting the proposed use in addition to the existing uses on the area.

*With a condition of approval requiring the applicant to implement their TDM Plan, these criteria can be met.*

3. Public services for water supply, police and fire protection are capable of serving the proposed use, and proposed sanitary waste disposal and stormwater disposal systems are acceptable to the Bureau of Environmental Services.

**Findings:** Agency staff from the Water Bureau and Fire Bureau have reviewed the proposal and responded that public services for water supply and fire protection are adequate for the proposed use. The Police Bureau has not responded with objections to the request, and currently provides Police services to the area. No development is proposed at the site, and therefore the Bureau of Environmental Services has voiced no objection to the proposal with regards to sanitary waste disposal and stormwater disposal. Future development or alterations at the site will be required to meet all applicable water, fire, and sanitary/stormwater disposal issues during the required building permit process. *Therefore, this criterion is met.*

- E. Area plans.** The proposal is consistent with any area plans adopted by the City Council as part of the Comprehensive Plan, such as neighborhood or community plans.

**Findings:** Adopted area plans at the site include the *Albina Community Plan* and the *King Neighborhood Plan*. Both plans reference objectives that include providing complete neighborhood services convenient to residents, ensuring access to open space, recreational and cultural activities, and celebrating the unique ethnic diversity and historical character of the area. Specific policies for Arts and Culture in the King Neighborhood Plan seek to promote multicultural art and entertainment options in the neighborhood, as well as supporting opportunities for individual artists to live, work, perform, and market their art in the neighborhood. The proposed Community Service Uses in this application are supportive of these area plans both generally and in the specifics. *Therefore, this criterion is met.*

## DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

## CONCLUSIONS

The applicant has proposed to legalize the activities of the Portland Playhouse at the site of a former church in the King Neighborhood. Beginning operations over two years ago, the site never received the necessary land use approval for Community Service uses at the site, and is now under code enforcement action from the City.

The primary issue in this application is a use classification discussion. Theaters are listed as an example of an entertainment-oriented Retail use in the Zoning Code, which is a prohibited use in the R5 zone. The other ongoing activities at the site, including community-oriented discussion panels, workshops, classes, and other art-oriented events fall within the Community Service use category, and can be allowed to locate in the R5 zone through the conditional use process. Determining the classification of a use must consider the operational facts of the use, and the plain language and common meanings for use examples in the code are important. In this case, paying customers attending a play in a large hall or other performance space meet the definition of a theater use. The Portland Playhouse features their plays prominently on their website and in other advertisements in local media, and the plays are the only activity at the site for which community members or customers must pay for the experience or service. The plays are 84% of the larger events at the site, drawing over 50 and up to 90 people per event, and do not occur on a daily, year-round (ongoing) basis. The educational intent of the sponsoring organization and the cultural content of the plays themselves are not relevant to the use classification discussion, and instead the functional and operational components of the use itself must be considered. In this

case, the play performances are plainly a theatre use that is a central component of the overall activity at the site, however the plays can and have been performed at a different location without eliminating the other free or community-focused activities at the site. Because the theater is classified as a Retail use, this activity is prohibited in the R5 zone and cannot be requested through the conditional use review process.

With regards to the other activities at the site, these are consistent with the Community Service use category, and have no significant impacts upon the livability or appearance of the surrounding residential area, and are in keeping with the institutional nature of community-based uses in existence at the site since 1904. There are no significant impacts with regards to public services, and the proposal is consistent with policies in the Albina Community Plan and King Neighborhood Plan. With the exception of the theater uses, which cannot be proposed under current zoning, the request is able to meet the relevant approval criteria and should be approved.

### **TENTATIVE STAFF RECOMMENDATION**

(May be revised upon receipt of new information at any time prior to the Hearings Officer decision)

The play performances are an entertainment-oriented Retail Sales and Service use, and are prohibited in the R5 zone.

**Approval of a Conditional Use Review** for Community Service Uses at the site, including all the individual activities and events at the site, excluding the play performances, with times, frequencies, and attendees as identified in the proposal description at the beginning of this report and on page 1 of the applicant's narrative (Exhibit A.1). This approval is subject to the following condition:

- A. The applicant shall implement and maintain their proposed Transportation Demand Management Plan, included in Section/Tab 2 of the narrative (Exhibit A.1)

**Procedural Information.** The application for this land use review was submitted on October 21, 2011, and was determined to be complete on Nov 10, 2011.

*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. Therefore this application was reviewed against the Zoning Code in effect on October 21, 2011.

*ORS 227.178* states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on March 10<sup>th</sup>, 2012.**

**Some of the information contained in this report was provided by the applicant.**

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

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

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

**This report is not a decision. The review body for this proposal is the Hearings Officer who will make the decision on this case.** This report is a recommendation to the Hearings Officer by the Bureau of Development Services. The review body may adopt, modify, or reject this recommendation. The Hearings Officer will make a decision about this proposal within 17 days of the close of the record. Your comments to the Hearings Officer can be mailed c/o the Hearings Officer, 1900 SW Fourth Ave., Suite 3100, Portland, OR 97201 or faxed to 503-823-4347.

You will receive mailed notice of the decision if you write a letter received before the hearing or testify at the hearing, or if you are the property owner or applicant. This Staff Report will be posted on the Bureau of Development Services website. Look at [www.portlandonline.com](http://www.portlandonline.com). On the left side of the page use the search box to find Development Services, then click on the Zoning/Land Use section, select Notices and Hearings. Land use review notices are listed by the District Coalition shown at the beginning of this document. You may review the file on this case at the Development Services Building at 1900 SW Fourth Ave., Suite 5000, Portland, OR 97201.

**Appeal of the decision.** The decision of the Hearings Officer may be appealed to City Council, who will hold a public hearing. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

**Who can appeal:** You may appeal the decision only if you write a letter which is received before the close of the record for the hearing, if you testify at the hearing, or if you are the property owner/applicant. Appeals must be filed within 14 days of the decision. **Appeals must be filed within 14 days of the decision. An appeal fee of \$5,000.00 will be charged (one-half of the BDS application fee, up to a maximum of \$5,000).**

**Appeal Fee Waivers:** Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chair person or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization’s bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

**Recording the final decision.**

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- A building or zoning permit will be issued only after the final decision is recorded.

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

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope; **OR**
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

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

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

**Expiration of this approval.** An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

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

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

Planner's Name: Mark Walhood

Date: December 9, 2011

### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
  1. Original Application Narrative, Tabbed Sections 1-7
  2. Supplemental Transportation Information, received 12/5/11
- B. Zoning Map (**attached**):
- C. Plans & Drawings:
  1. Site Plan and Downspout Survey (**attached**)
- D. Notification information:
  1. Request for response
  2. Posting information and notice as sent to applicant
  3. Applicant's statement certifying posting
  4. Mailed hearing notice with mailing list
  5. Post-marked copy of hearing notice
  6. Mailed notice
- E. Agency Responses:
  1. Life Safety Section of the Bureau of Development Services
  2. Water Bureau
  3. Bureau of Environmental Services
  4. Urban Forestry Division of Portland Parks and Recreation
  5. Development Review Section of Portland Transportation

6. Fire Bureau
  7. Site Development Section of the Bureau of Development Services
- F. Letters:
1. *(none received at time of staff report publication on 12/9/11)*
- G. Other:
1. Original LUR Application
  2. Site History Research
  3. Pre-Application Conference Summary Notes – EA 11-153886

**The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).**



# ZONING

-  Site
-  Historic Landmark

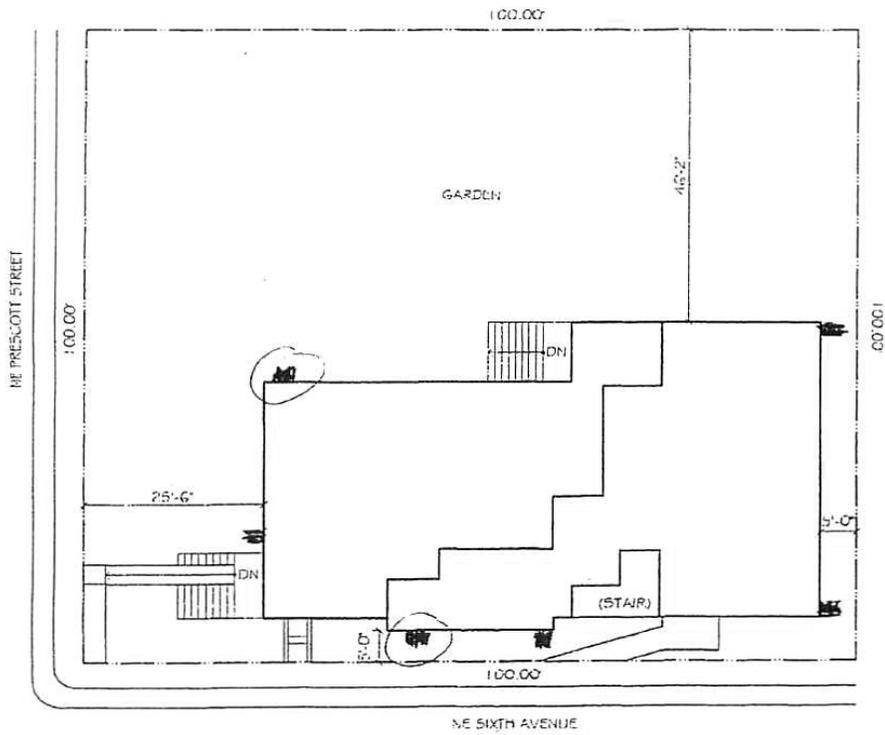


File No. LU 11-187799 CU  
 1/4 Section 2631  
 Scale 1 inch = 200 feet  
 State\_Id 1N1E23CB 3400  
 Exhibit B (Oct 24, 2011)

Exhibit 4

Portland Playhouse Downspout Survey

- ⊙ - Downspouts into city sewer
- - Downspouts onsite



SITE PLAN  
SCALE: 1/4" = 1'-0"



L111-187799CU