

CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

1900 SW 4th Avenue, Room 3100 Portland, OR 97201

phone: (503) 823-7307 - fax: (503) 823-4347 web: www.portlandoregon.gov/auditor/hearings



DECISION OF THE HEARINGS OFFICER

I. GENERAL INFORMATION

File No.:

LU 11-180993 CU (HO 4110031)

Applicant:

Jeff Delegato, Principal

St. Agatha School 7960 SE 15th Avenue Portland, OR 97202

St. Agatha Catholic Church 1430 SE Nehalem Street Portland, OR 97202

Applicant's

Representative:

Peter Fry, Land Use Consultant

2153 SW Main Street, Room 105

Portland, OR 97205

Hearings Officer:

Kenneth D. Helm

Bureau of Development Services (BDS) Staff Representative: Sylvia Cate

Site Address:

7960 SE 15TH Avenue

Legal Description:

BLOCK 6 LOT 12-15, MILLERS ADD; BLOCK 53 LOT 2-5&18,

SELLWOOD; BLOCK 53 LOT 6 LOT 17 EXC W 25' OF N 10',

SELLWOOD; BLOCK 54 LOT 1&2, SELLWOOD; BLOCK 54 LOT 18, SELLWOOD; BLOCK 72 LOT 8-12 LOT 14&15, SELLWOOD; BLOCK

1 LOT 8&9, SHINNS ADD

Tax Account No.:

R571200970, R752706310, R752706360, R752706480, R752706650,

R752711950, R767000150

State ID No.:

1S1E23DB 16800, 1S1E23CA 06500, 1S1E23CA 06400, 1S1E23CA 06600,

1S1E23CA 06700, 1S1E23DB 16900, 1S1E23CA 05100

Quarter Section:

3832

Neighborhood:

Sellwood-Moreland

Business District:

Westmoreland

District Neighborhood Coalition: Southeast Uplift

Plan District:

None

Zoning:

R5a: Single Dwelling Residential 5,000 with Alternative Design Density

overlay zone

Land Use Review:

Type III, Conditional Use

BDS Staff Recommendation to Hearings Officer: Approval and one condition

Public Hearing: The hearing was opened at 9:03 a.m. on December 5, 2011, in the 3rd floor hearing room, 1900 SW 4th Avenue, Portland, Oregon, and was closed at 9:51 a.m. The record closed on December 5, 2011, and the applicant waived final comment.

Testified at Hearing:

Sylvia Cate, 1900 SW 4th Avenue, Suite 5000, Portland, OR 97201 Jeff Delegato, 1515 SE Rex, Portland, OR 97202 Peter Fry, 2153 SW Main Street, Room 105, Portland, OR 97205 Dana McElligott, 1409 SE Lexington Street, Portland, OR 97202 Heather Stephens, 6827 SE 17th Avenue, Portland, OR 97202 Daniel Bush, 1526 SE Nehalem Street, Portland, OR 97202 Fabio de Freitas, 1900 SW 4th Avenue, Suite 5000, Portland, OR 97201

Proposal:

The applicant's site is currently developed with six buildings: St. Agatha Church, the Parish Hall, the Rectory, the Administration/Chapel, Thrifty Cottage, and the St. Agatha School building. In 2000, the applicant proposed the construction of a new grade school to replace the existing grade school on the site. That proposal was approved in case file LUR 00-00823 CU AD. The approval was also subject to a number of conditions of approval, including one voluntary condition to address the intensity of use. The new school building has been developed and the majority of the school operations are in the main school building.

The applicant seeks to remove the voluntary condition of approval in order to allow school activities within the Parish Hall and more efficiently utilize the full commercial kitchen in the Parish Hall. The school activities would include the relocation of a preschool class to the Parrish Hall so that the children in that class could have their own classroom without having to share the use of the library space. The music program would also be relocated to the Parish Hall. Finally, the applicant wishes

to remove the voluntary condition of approval so that the students can eat hot lunches in the Parish Hall. Currently, staff prepares the food in the Parish Hall and transports it across the street to the children in the new school building. The full text of the condition the applicant wishes to remove follows:

A. In order to maintain the same level of intensity of use on the site, the Church will restrict the use of the Parish Hall to non school-related activities.

The prior Conditional Use approval, LUR 00-00823 CU AD, imposed a maximum enrollment cap of 250 students. The applicant states that current school enrollment is 183 students with a total staff of 27. No new development is proposed in this application and the applicant does not request any other modifications to the original approval.

Approval Criteria:

33.815.105, Institutional and Other Uses in the R Zones

HEARINGS OFFICER'S OVERVIEW OF ISSUES AND RELEVANT APPROVAL CRITERIA:

Only one member of the public testified at the December 5, 2011, hearing. Mr. Daniel Bush testified as a neutral party. He pointed out that as proposed, the students would be crossing SE 15th Avenue about 16 times per week for lunch. This fact, and his opinion that surrounding streets had become less car friendly raised concerns for the children' safety. He also felt that cars are allowed to park too close to the intersection of SE 15th and Nehalem Street which is where the crosswalk between the School and Parish Hall is located. He stated that the situation might create sight distance problems. He testified that parking is becoming more congested because the school is now a commuter school with parents either parking or dropping their children near the school entrance. Parents, and maybe even teachers, must park further into the neighborhood which causes inconvenience, he said. He further raised concerns that the Parish Hall is a wood frame structure that would be more vulnerable to fire than the School building.

At the hearing, the Hearings Officer invited Fabio de Freitas from the Portland Bureau of Transportation to discuss the traffic issues raised by Mr. Bush. He stated that PBOT had concluded that the proposal, because it does not seek to increase the number of enrolled students or number of teachers, has little to no impact on the surrounding transportation system. He considered Mr. Bush's concerns to be related to existing conditions around the school, and not to conditions that would result from the proposal. He testified that he has communicated with Mr. Bush through e-mail and had offered him information about addressing his concerns through City programs outside of this application process. As to existing traffic and parking around the school, he stated that the school implements a drop-off and pick-up plan that works well. Parking may be a little tight during those periods, but is still adequate in the vicinity.

The Hearings Officer concludes that Mr. Bush's comments are largely directed at the school's existing functions. While the Hearings Officer understands the concerns about safety as the children cross SE 15th Avenue, the evidence in the record shows that the kids will be well monitored and utilize the crosswalk. No evidence was submitted to suggest that the school's procedures would not render a safe environment for those times when the children are going back and forth from lunch. As such, the Hearings Officer concludes that the issues raised by Mr. Bush do not warrant denial of the application.

II. ANALYSIS

Site and Vicinity: The site comprises seven lots that make up an institutional campus located near the intersection of SE Nehalem Street and SE 15th Avenue. The existing church, parish hall, and rectory are located on the west side of SE 15th Avenue between SE Nehalem Street and SE Miller Street. An administration building and church donation center (Thrifty Cottage) are located on the south side of SE Nehalem Street and the west side of SE 15th Avenue. The existing school building is located on the east side of SE 15th Avenue, between SE Nehalem Street and SE Miller Street. The school building has an associated parking area/playground to the north of the school building.

The total site area is 87,773 square feet. The area surrounding the site is primarily developed with single-dwelling residences. Southeast 13th Avenue, one block west of the site, is zoned Storefront Commercial (CS). Development along SE 13th Avenue consists primarily of small retail establishments. Southeast Tacoma Street, two blocks south of the site, is zoned Mixed Commercial (CM). Development along SE Tacoma Street includes a mix of commercial and multi-dwelling residential uses.

Southeast 15th Avenue, SE Miller Street, and SE Nehalem Street are developed with paved roadways, curbs, and six-foot wide sidewalks. All three streets are designated Local Service streets for all modes of transportation.

Zoning: The site is zoned Single-Dwelling Residential 5,000 with an Alternative Design Density Overlay Zone (R5a). The R5 zone is a single-dwelling residential zone that allows one dwelling unit per 5,000 square feet. The purpose of the R5 zone is to preserve land for housing and to provide opportunities for individual households. The Alternative Design Density ('a') Overlay Zone allows increased density for residential development that meets additional design compatibility requirements. The 'an' overlay zone is not relevant to this proposal. Religious facilities and schools are allowed in the R5 zone if approved through a Conditional Use review.

Land Use History: City records indicate that prior land use reviews include the following:

- PC 3471C: Planning Commission action approving construction of a new parish hall and an enlargement of the property for St. Agatha's Parish.
- PC 7549C: Planning Commission action granting a revocable permit for a church-sponsored thrift shop (Thrifty Cottage).
- CU 79-61: Conditional Use approval for additions to the rectory.

- CU 68-85: Conditional Use. The file is missing and no further information about this case is available.
- LUR 00-00823 CU AD approved a Conditional Use for the replacement of the 1912 school building with a new school building and Adjustments to 3 development standards. The decision included Conditions of Approval.

Agency Review: A "Request for Response" was mailed on November 11, 2011. The following bureaus have responded:

- Bureau of Environmental Services (BES) has no objections, and notes that any future development on the site will be subject to the applicable stormwater management regulations at time of building permit review.
- Water Bureau has no objections, and notes that water service is already available to the Parrish Hall
- Fire Bureau has no objections, and notes that a building permit will be required for the proposed use. The Fire Bureau also notes that requirements are generated from the 2007 Oregon Fire Code. All current Fire Code requirements apply and are required to be met. If these conditions cannot be met, an appeal providing an alternative method is an option for the applicant.
- Site Development Section of BDS notes no concerns.
- Bureau of Parks-Forestry Division notes no concerns.
- Life Safety [Plans Examiners] Section of BDS notes that a building permit and a Change of Occupancy permit is required.
- The Portland Bureau of Transportation (PBOT) Engineering, responded with no objections to the proposal as well as comments regarding transportation adequacy, which are discussed below under criteria 33.815.105.D.1&2.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on November 11, 2011. One written response was received from a notified property owner in response to the proposal. The letter opposes the proposed removal of the condition of approval, and raised several concerns: 1) that the Parish Hall has safety issues that precludes allowing a school use within the building; 2) that the so-called "voluntary" condition was made to the neighborhood in good faith; 3) that the author of the letter is surprised to see the request to use the Parish Hall as it was not a feasible alternative to their 2000 projects; 4) that there are no unusual conditions that did not exist or could not have been foreseen in 2000 that can justify an enlargement of their use in the neighborhood; and 5) the school's representatives have been consistently disingenuous in dealing with the City and the neighbors since their first discussions in 2000.

ZONING CODE APPROVAL CRITERIA

33.815.010 Purpose of Conditional Uses

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

Findings: In the 2000 Conditional Use decision, the residential area was defined as follows:

Major streets (SE Milwaukie) and commercial zones (along SE 13th, SE Tacoma and near Milwaukie Avenue) were determined to be logical and natural boundaries, and were used to define the residential area on the east, south and west. Because no logical boundary occurs to the north of the site, the residential area within 600 feet north of the site was included as part of the 'residential area.'

The Hearings Officer finds that the proposal will not alter the number, size or location of other uses not in the Household Living category in the residential area. The site exists as a cluster of church and school related uses that were established circa 1912. No new development is proposed. The existing school use operates on the site within the enrollment limits established by the conditional approval rendered in LUR 00-00823 CU AD. The proposal requests removal of a voluntary condition of approval that was imposed by the Hearings Officer's decision in LUR 00-00823 CU AD. The function and operation of the St. Agatha School would be revised slightly in that the school would be able to conduct specific school activities within the existing Parish Hall. These three changes include:

1. Allowing the students to eat lunch within the Parish Hall where a full commercial kitchen exists. Currently, school staff prepares lunch in the kitchen and then transports the food across the street to students in phased lunchtimes.

- 2. A preschool class would be relocated to the Parish Hall and have their own classroom rather than sharing space within the school's Library, and
- 3. Relocate the music program to the Parish Hall from a music room which is next door to the school's Library.

In the original decision, the Hearings Officer made the following findings regarding the opposition to the then proposed new school building:

Testimony was received at the hearing and written evidence was submitted by neighbors in opposition to the applicant's proposal suggesting that the number, size and location of other uses not in the Household Living category would increase as a result of the applicant's proposal. The Hearings Officer finds that the evidence presented by the neighbors in opposition relating to an increase in non-household uses because of the proposed project is without merit.

The Hearings Officer also noted the following:

The applicant submitted a map showing uses not in the Household Living category within a defined residential area Because no logical boundary occurs to the north of the site, the map includes the area within 600 feet north of the site. Within this defined residential area, there are six non-Household Living uses — the Immanuel Lutheran Church established in 1951, Meeting Rooms established in 1966, St. Agatha church and school, St. John the Baptist Church established in 1927, the Sellwood Community Center, and the Church of Greater Portland established in 1980.

BDS Staff noted that the applicant submitted a map depicting institutional uses within the vicinity of St Agatha's site, similar to the one submitted for the previous Conditional Use review. That map has been updated and shows that two of the previous institutional uses are now gone, with no replacements. BDS Staff suggests, and the Hearings Officer agrees, that this evidence underscores the 'without merit' argument raised during the 2000 Conditional Use review that the proposed changes on the site would affect other nonhousehold uses and create additional such uses within a close proximity to the church site.

The Hearings Officer finds that the current proposal will affect the school operations in a relatively minor way and will not change the proportion of nonhousehold uses in the neighborhood, nor will this proposed change, in combination with other nonhousehold uses within 1,000 feet of the site, have any adverse impacts on the function or the appearance of the surrounding residential area. This criterion is met.

2. The intensity and scale of the proposed use and of existing Household Living uses and other uses.

Findings: No new development is proposed, and the current school operations include an enrollment level of 183 students and a total staff of 27 which is well below the maximum student enrollment cap of 250 students imposed in LUR 00-00823 CU AD.

The term "intensity' is a defined term within Chapter 33.910:

Intensity. The amount or magnitude of a use on a site or allowed in a zone. Generally, it is measured by floor area. It may also be measured by such things as number of employees, amount of production, trip generation, or hours of operation....

The Hearings Officer's findings under this criterion in the previous Conditional Use review acknowledged that the Condition of Approval the applicant is currently seeking to have lifted is voluntary:

The Hearings Officer, for the purposes of the findings for A.2, finds that there is no substantial evidence to show that the overall residential appearance and function of the area will be lessened because of an increase in intensity if the applicant's proposal is approved. In fact, the Hearings Officer was not persuaded that there was any increase in intensity in use at the site. The applicant presented evidence that the uses which are currently existing are the same uses which will occur if the application is approved. The applicant has voluntarily agreed to limit the use of space within the Parish Hall (space currently used by the school for school activities) to non-school-related activities. It is true that the Parish space vacated by the school upon completion of the new school building could be used for "additional church related uses." However, no evidence was presented suggesting that such speculative additional uses would impact the overall residential appearance and function of the neighborhood...

Institutional uses are inherently different from residential uses. However, institutional uses are allowed in residential zones if the overall impacts to the residential area can be limited or mitigated.

The intensity of a use can be defined in terms of activity levels, hours of operation, the number of users, etc. With this proposal, the intensity of the existing uses on this site will not increase. The proposal results in the consolidation of school activities within one building. Currently, the gym and several classrooms are located in the Parish Hall, across the street from the existing school.

The remaining school activities are located in the existing school building. The new building will incorporate a gym and an adequate number of classrooms, eliminating the need for students and faculty to travel between two buildings. In order to maintain the same level of intensity of use on the site, the Church will restrict the use of the Parish Hall to non school-related activities.

The Hearings Officer finds that that there will not be an increase in the intensity of the use of the overall site within the customary measures of 'intensity' as set out by the zoning code. The proposal to lift the Condition of Approval will not result in any increase in floor area, nor will the number of employees, students, trip generation or hours change as a result of removing the Condition of Approval.

BDS Staff also points out, and the Hearings Officer agrees, that because the prior Condition of Approval was voluntary, and was described as such by the Hearings Officer in the 2000 decision, there are no findings discussing a legal nexus for the condition. Thus, it is reasonable to conclude that the Hearings Officer did not impose the Condition of Approval under ORS 197.522 which requires local jurisdictions to issue approvals unless the application cannot be made consistent with the comprehensive plan and land use regulations through imposition of reasonable conditions of approval. The Hearings Officer's findings state that he was not persuaded that the proposed new school building in the 2000 Conditional Use review would result in an increase intensity of use on a site that has contained a church and a church school use since circa 1912. This criterion is met.

B. Physical compatibility.

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

Findings: City-designated scenic resources are identified on the zoning maps by a lower case "s." There are no City-designated scenic resources on or adjacent to the site; therefore this criterion is not applicable.

 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

Findings: No new development is proposed. Removing the voluntary Condition of Approval will not affect the site size, building scale or style, setbacks or landscaping. The physical compatibility of the site with adjacent residential developments will remain unchanged from the original findings of LUR 00-00823 CU AD under this criterion. This criterion is met.

3. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping, and other design features.

Findings: The proposal will not cause differences in appearance or scale of the development on the site. The original findings made under this criterion in LUR 00-00823 CU AD remain unchanged. This criterion is 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 record shows that the proposed removal of the voluntary Condition of Approval is not likely to result in any increase in potential impacts such as noise, glare, late night operations or litter. The location of the classrooms in the Parish Hall are located within the building such that they are closer to the other properties owned by the church, or closer to the streets than to any adjacent or proximate residential use. The applicant notes that the music room practices will not be heard outside of the Parish Hall. There are no aspects of the proposed changes resulting from removing the condition of approval that would cause glare from lights, there are no late-night operations associated with the preschool class, the school lunches or the music classroom. There are no anticipated odors or litter associated with the proposal. Therefore, with the removal of the voluntary Condition of Approval, there are no anticipated significant adverse impacts on livability of the residential neighborhood. This criterion is met.

2. Privacy and safety issues.

Findings: BDS Staff concluded, and the Hearings Officer agrees, that the prior Condition of Approval has no impact on either privacy or safety issues in regard to the livability of nearby residentially zoned lands. There is no aspect of the Condition of Approval that is relevant to avoiding or minimizing impacts on privacy. The safety category under this criterion is specifically related to an evaluation of the proposal in relation to any potential impacts on safety in regard to livability of nearby residentially zoned lands. The only aspect of the proposal that requires an analysis regarding safety is the portion of the proposal wherein the students are being escorted from the school building to the Parish Hall, which requires crossing SE 15th Avenue. This activity is occurring between properties under the St Agatha ownership and the public right of way, and therefore, has no impact on safety for adjacent residential uses.

The Hearings Officer concludes that the removal of the Condition of Approval will not result in any adverse impacts on privacy or safety to the livability of the adjacent residential properties. 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;

Findings: At this location, SE Miller, SE Nehalem and NE 15th Avenue are classified as Local Service streets for all transportation modes in the City's Transportation System Plan. The proposed Conditional Use request at St Agatha Catholic School is supportive of the various street designations of the abutting streets. The Transportation System Plan states that, "Local Service streets provide local circulation for traffic, pedestrians and bicyclists." The TSP also states that, "Local Service Traffic Streets are intended to distribute local traffic and provide access to local residences or commercial uses." The proposal does nothing to detract from the purposes of the above referenced street designations. This criterion is met.

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: No new development is proposed and the applicant does not request any other modifications to the original approval. PBOT found, and the Hearings Officer agrees, that this approval criterion is not applicable in this instance. PBOT also noted that in relation to the proposed Conditional Use request, the applicant provided the City with a very comprehensive and adequate narrative which included detailed information relative to the school's mode split, pick-up and drop-off program and parking opportunities. That information suggests that the school has been, and will continue to be, pro-active in minimizing transportation-related impacts to the surrounding residential neighborhood.

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: Water, fire and police protection remains unchanged with the removal of the voluntary condition of approval as proposed. No new development is proposed, so stormwater management does not change. Sanitary services are available to the site. None of the applicable service bureaus noted any objections or concerns. 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: The site lies within the boundaries of the Sellwood-Moreland Neighborhood Plan, adopted by the City and effective since April 1998. The Sellwood-Moreland Neighborhood Plan articulates the neighborhood's preferences for accommodating growth and redevelopment, and represents the neighborhood's position on issues that will affect its future. The applicable policies are discussed below.

IV. Policy III: Community Livability

The church and school have been a part of the neighborhood since the early 1900's. Members of the congregation are active in the Sellwood-Moreland Neighborhood Association. The removal of a voluntary condition of approval will allow the school to function more efficiently within the site. Allowing the proposed changes to the school function will not have a negative impact on the livability of the area, as discussed above under criterion 33.815.105.C.

IV. Policy XI: Residential Areas

The church and school are existing developments. The removal of a voluntary condition of approval does not diminish the availability or affordability of the housing stock in the neighborhood.

Policy XIV: Community Services

The church and school have been a part of the neighborhood since the early 1900's. This institutional use offers social, religious, and education services that help create a strong sense of community for both the parishioners and the residents. The religious institution and school are one piece of the overall mix of uses and activities in the Sellwood-Moreland neighborhood.

The Hearings Officer finds that the proposal is consistent with the applicable area plan.

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.

III. CONCLUSION

The Applicant has demonstrated that all applicable approval standards are met.

IV. DECISION

Approval of:

- Conditional Use review for the purpose of removing Condition of Approval "A" of LUR 00-00823 CU AD in order to allow:
 - o the students of St Agatha's school to eat school lunches in the Parish Hall;
 - o the relocation of a preschool class to the Parish Hall; and
 - o the relocation of the music classroom to the Parish Hall,

subject to the following condition:

A. As part of the building permit/change of occupancy permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1. The sheets on which this information appears must be labeled, "Proposal as approved in Case File # LU 11-180993 CU."

Kenneth D. All

Kenneth D. Helm, Hearings Officer

12-21-11

Date

Application Determined Complete: October 18, 2011

Report to the Hearings Officer:

November 23, 2011

Decision Mailed:

December 22, 2011

Last Date to Appeal:

4:30 p.m., January 5, 2012

Effective Date:

January 6, 2012

Appeal of the decision. ANY APPEAL OF THE HEARINGS OFFICER'S DECISION MUST BE FILED AT 1900 SW 4TH AVENUE, PORTLAND, OR 97201 (503-823-7526). Until 3:00 p.m., Tuesday through Friday, file the appeal at the Development Services Center on the first floor. Between 3:00 p.m. and 4:30 p.m., and on Mondays, the appeal must be submitted at the Reception Desk on the 5th Floor. An appeal fee of \$5,000 will be charged (one-half of the application fee for this case, up to a maximum of \$5,000). Information and assistance in filing an appeal can be obtained from the Bureau of Development Services at the Development Services Center.

Who can appeal: You may appeal the decision only if you wrote a letter which is received before the close of the record on hearing or if you testified at the hearing, or if you are the property owner or applicant. 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.

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.

- Unless appealed, The final decision may be recorded on or after the day following the last day to appeal. The Hearings Officer's decision will note these dates.
- 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.
- 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.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

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.

EXHIBITSNOT ATTACHED UNLESS INDICATED

A. Applicant's Statement

- 1. Narrative supporting the request and addressing approval criteria, with parking evaluation maps attached.
- B. Zoning Map (attached)
- C. Plans and Drawings
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Request for response
 - 2. Posting letter sent to applicant
 - 3. Notice to be posted
 - 4. Applicant's statement certifying posting
 - 5. Mailing list
 - 6. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of Bureau of Development Services
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety/Plans Examiner Section of BDS
 - 8. Portland Police Bureau
- F. Letters:
 - 1. Brown/Binford; November 15, 2011; in opposition
- G. Other:
 - 1. Original LUR Application
 - 2. Site History Research
 - 3. Pre Application Conference Summary notes
 - 4. LUR 00-00823 CU AD Hearings Officers Decision
- H. Received in the Hearings Office
 - 1. Notice of Public Hearing Sylvia Cate
 - 2. Staff Report Sylvia Cate
 - 3. PowerPoint presentation copy Sylvia Cate
 - 4. Photos Peter Fry
 - 4a. Photos Peter Fry
 - 4b. Photos Peter Fry
 - 4c. Photos Peter Fry
 - 4d. Photos Peter Fry
 - 5. Certificate of Occupancy Peter Fry



