



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

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Date: October 7, 2019
To: Interested Person
From: Andrew Gulizia, Land Use Services
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**NOTICE OF A PUBLIC HEARING ON A PROPOSAL
IN YOUR NEIGHBORHOOD**

CASE FILE: LU 19-192268 CU
(PC # 19-124871)
REVIEW BY: Hearings Officer
WHEN: October 30, 2019 at 9:00am
WHERE: 1900 SW Fourth Ave., Suite 3000
Portland, OR 97201

A proposal in your neighborhood requires land use review. The proposal, review process, and information on how to respond to this notice are described below. A copy of the zoning map is attached. I am the staff person handling the case. Please call me if you have questions regarding this proposal. Please contact the applicant if you have questions regarding any future development on the site.

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

Applicant's Representative: Chris Hagerman | The Bookin Group LLC
1140 SW 11th Ave., Ste. 500 | Portland, OR 97205
(503) 502-8693 | hagerman@bookingroup.com

Applicant: Cynthia Haruyama | Portland Japanese Garden
611 SW Kingston Ave. | Portland, OR 97205

Property Owner: Kingston House:
Japanese Garden Foundation of Oregon
PO Box 3847 | Portland, OR 97208

Washington Park tax lots containing Japanese Garden lease area:
City of Portland
1120 SW 5th Ave. #609 | Portland, OR 97204

Site Address: Kingston House:
369 SW Kingston Ave.

Washington Park tax lots containing Japanese Garden lease area:
400 WI/ SW Kingston Ave.
611 SW Kingston Ave.

Legal Description: BLOCK 11 LOT 18&26 TL 5800, ARLINGTON HTS & RPLT; TL 200 4.22 ACRES, SECTION 32 1N 1E; TL 200 21.12 ACRES, SECTION 05 1S 1E
Tax Account No.: R037503150, R941321360, R991050840
State ID No.: 1N1E32DD 05800, 1N1E32 00200, 1S1E05 00200
Quarter Section: 3026
Neighborhood: Arlington Heights, contact Kathy Goeddel at president@arlingtonheightspdx.org
Business District: None
District Coalition: Neighbors West/Northwest, contact Mark Sieber at 503-823-4212

Zoning: Kingston House:
R7c – Single-Dwelling Residential 7,000 with a portion of the site in the Environmental Conservation (“c”) overlay

Washington Park tax lots containing Japanese Garden lease area:
OS/OSc/OScs/OSp – Open Space with portions of the site in the Environmental Conservation (“c”), Scenic (“s”), and Environmental Protection (“p”) overlays

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: In 2009, a Type III Conditional Use Review approval added the property at 369 SW Kingston Ave. to the Portland Japanese Garden’s Conditional Use site so the house on this property (“Kingston House”) could be used as administrative offices for the garden (LU 09-143061 CU AD). Condition of approval D from LU 09-143061 CU AD limited the use of the Kingston House as administrative offices for 10 years. The applicant requests Type III Conditional Use Review approval to amend condition of approval D and extend the use of the Kingston House as administrative offices for the Japanese Garden for another 10 years. The applicant is not requesting any alterations to the existing house or grounds.

Besides condition of approval D, no changes are requested to the conditions of approval from LU 09-143061 CU AD, which continue to apply. These conditions limit the regular hours of the office use to 7am to 7pm weekdays. Meetings held at the Kingston House are limited to 12 people and must conclude by 9:30pm. The conditions also require the applicant to observe a prior Good Neighbor Agreement with the Arlington Heights Neighborhood Association.

Approval Criteria: To be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The applicable approval criteria are in Zoning Code Section 33.815.105.A-E.

The City’s 2035 Comprehensive Plan has been appealed. Because Zoning Code Section 33.815.105.A-E is considered an “unacknowledged land use regulation” while the appeal is pending, this proposal must also comply with applicable Statewide Planning Goals. Should the applicable City approval criteria become “acknowledged” during the review, the proposal may no longer be required to demonstrate compliance with the Statewide Planning Goals.

Zoning Code Section 33.700.080 states that land use review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal or complete within 180 days. This application was submitted on July 12, 2019 and determined to be complete on September 18, 2019.

DECISION MAKING PROCESS

The Bureau of Development Services will make a recommendation on this proposal. The staff report and recommendation will be available 10 days before the hearing. The staff report will be posted on the Bureau of Development Services website at

<https://www.portlandoregon.gov/bds/35625>. Land use review notices are listed by the District Coalition shown at the beginning of this document. The file and all evidence on this case are available for your review by appointment only. Please call (503) 823-7617 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. A digital copy of the Portland Zoning Code is available on the internet at <http://www.portlandonline.com/auditor/index.cfm?c=28197>

The neighborhood association, listed on the first page of this notice, may take a position on this application and may have scheduled an open meeting prior to making their recommendation to the Bureau of Development Services. Please contact the person listed as the neighborhood contact to determine the time and date of this meeting.

We are seeking your comments on this proposal. The evidentiary proceeding before the Hearings Officer will be the only opportunity for the parties to submit oral and written evidence in this matter. Any appeal to the City Council will be limited to legal arguments concerning the Hearings Officer decision and the evidence in the record compiled by the Hearings Officer in support of that decision.

To comment, you may write to the Land Use Hearings Officer, 1900 SW Fourth Ave., Suite 3100, Portland, OR 97201, or FAX your comments to 503-823-4347, or testify at the hearing. In your comments, you should address the approval criteria. The Hearings Officer does not accept comments via e-mail. Please refer to the file number when seeking information or submitting testimony. Written comments must be received by the end of the hearing. Please note that all correspondence and testimony received will become part of the public record. The applicant and Bureau of Development Services staff will be at the hearing to answer questions and respond to comments. The general order of appearance for oral testimony at the hearing is as follows: Bureau of Development Services staff report, applicant testimony, testimony of interested parties who wish to ask questions or testify, staff response and closing comments, and applicant's closing comments. Hearings Officer will make a decision about this proposal within 17 days of the close of the record.

The applicant and proponents have the burden of proof to show that each and every element of the approval criteria are satisfied. In order to prevail, the opponents must persuade the Hearings Officer to find that the applicant has not carried the burden of proof with regard to one or more of the approval criteria. The opponents may also explain to the Hearings Officer how or why the facts asserted by the applicant are not supported by evidence in the record. Opponents may wish to recommend conditions of approval which will make the proposal more acceptable, if approved.

Prior to the conclusion of the hearing before the Hearings Officer, any participant may request an opportunity to present additional evidence or testimony regarding the application. If such a request is made, the record will be held open for seven days to receive the new evidence and the record shall be held open for at least an additional seven days to provide the other parties an opportunity to respond to that new evidence.

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 extended at the request of the applicant.

APPEAL PROCESS

You can appeal the Hearings Officer decision to City Council. However, the appeal to City Council will be conducted as an on-the-record review of the Hearings Officer decision. The City Council will consider legal arguments (for example arguments pointing out ways the Hearings Officer decision improperly interprets or applies relevant approval criteria). The City Council will also consider arguments that the Hearings Officer findings are not supported by the evidence submitted to the Hearings Officer. However, the City Council will not accept or consider new evidence that was not submitted to the Hearings Officer.

A fee is charged for appeals. Recognized neighborhood associations may qualify for an appeal fee waiver. City Council's decision may be appealed to the Oregon Land Use Board of Appeals (LUBA).

Failure to raise an issue, in person or by letter, by the close of the record by the Hearings Officer in this case may preclude an appeal to LUBA on that issue. Also, if you do not provide enough detailed information to the Hearings Officer, they may not be able to respond to the issue you are trying to raise. In such a situation, an appeal to LUBA on that issue may not be allowed.

HEARING CANCELLATION

This public hearing will be cancelled due the inclement weather or other similar emergency. This public hearing will be cancelled if the City of Portland is closed. Check local television or the City of Portland website (www.portlandoregon.gov) for closures. Contact the Hearings Office at 503-823-7307, for immediate information regarding cancellations or rescheduling.

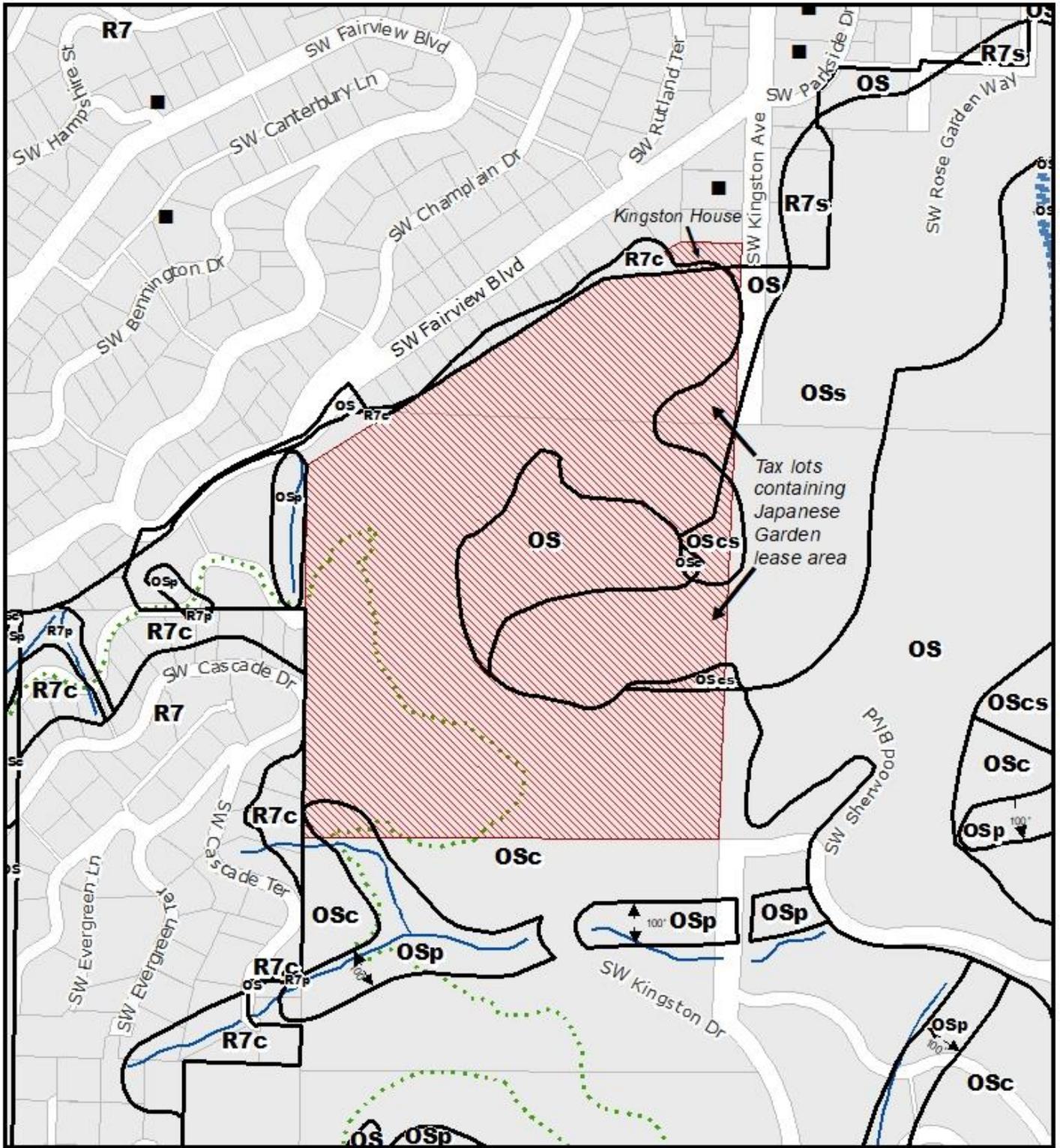
The hearing will be rescheduled for the earliest possible date. A renotification notice will not be sent.

Tri-Met buses and trains stop near the BDS building. Tri-Met information is available at (503) 238-7433 or www.trimet.org. Hourly rated public parking is available a half block south of the building on Fourth Ave.

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).

Enclosure:

Zoning map



ZONING



- Site
- Stream
- Historic Landmark
- Recreational Trails

File No.	LU 19-192268 CU
1/4 Section	3026
Scale	1 inch = 300 feet
State ID	1N1E32DD 5800
Exhibit	B Jul 15, 2019