



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

Dan Ryan, Commissioner  
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**Date:** November 2, 2021  
**To:** Interested Person  
**From:** Marguerite Feuersanger, Land Use Services  
503-823-7619 / Marguerite.Feuersanger@portlandoregon.gov

**NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

**CASE FILE NUMBER: LU 21-076813 AD**

**GENERAL INFORMATION**

**Applicant:** Jericho Bankston and Amy Tallent  
VLMK Engineering + Design  
3933 S Kelly Ave.  
Portland, OR 97239  
(971) 254-8298  
jerichob@vlmk.com

**Owner:** Hayden Meadows Terminal LLC  
1010 S 336<sup>th</sup> St. #202  
Federal Way, WA 98003

**Site Address:** 720 N HAYDEN MEADOWS DR

**Legal Description:** BLOCK 3 LOT 1, DELTA MEADOWS  
**Tax Account No.:** R204703500  
**State ID No.:** 1N1E03CA 00200  
**Quarter Section:** 2029 & 2030

**Neighborhood:** East Columbia NA, contact Maryhelen Kincaid at jamasu88@msn.com  
**Business District:** Columbia Corridor Association, contact at info@columbiacorridor.org  
**District Coalition:** North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-8877.

**Zoning:** IG2hk / IG2chk – General Industrial 2 base zone. The entire site is in the Aircraft Landing (“h”) and Prime Industrial (“k”) overlay zones and the south part of the site is in the Environmental Conservation (“c”) overlay zone

**Case Type:** AD – Adjustment Review  
**Procedure:** Type II, an administrative decision with appeal to the Adjustment Committee

**Proposal:** Peninsula Trucking Lines proposes changes to this site including a new office, a new service shop, an expanded loading dock, and a reconfiguration of the existing vehicle area. The proposed improvements will require site improvements that address certain zoning code standards (Section 33.258.070.D.2, Nonconforming Development). One of the required site improvements is for screening of exterior storage areas, which must be set back at least 25 feet from N. Union Court (Section 33.140.245.C.2, and Table 140-4). For the proposed exterior storage along the N Union Ct. lot line, the applicant requests an Adjustment to reduce the setback requirement from 25 feet to 10 feet. The 10-foot setback would be planted with new evergreen trees and tall evergreen shrubs, meeting the L3 landscaping standard in Zoning Code Section 33.248.020.C.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are found in Section 33.805.040.A through F, Adjustments.

## ANALYSIS

**Site and Vicinity:** The subject 311,000 square-foot property has street frontage along N. Hayden Meadows Drive, N. Union Court, and N. Kerby Avenue. Delta Park is located north of the site. North Martin Luther King Jr. Boulevard is located east of the site and provides access to Interstate 5 via NE Marine Drive. Drainage and vegetated natural areas are located along the south portion of the site and also within the N Union Court right of way adjacent to the site.

The site contains industrial warehouse and distribution development. Surrounding properties are similarly developed. Trees and other landscaping border the N Union Court and N Martin Luther King Jr. Blvd rights-of-way near the site. A natural area and drainage area is located within this right-of-way and extends into the southeast portion of the site. This natural area is contained within Environmental Conservation (c) overlay zone.

**Zoning:** IG2chk – The IG2 General Industrial 2 zone is one of the three zones that implement the Industrial Sanctuary map designation of the Comprehensive Plan. The zone provides areas where most industrial uses may locate, while other uses are restricted to prevent potential conflicts and to preserve land for industry. IG2 areas generally have larger lots and an irregular or large block pattern. The area is less developed, with sites having medium and low building coverages and buildings which are usually set back from the street.

The “k” Prime Industrial overlay zone protects land that has been identified as Prime Industrial and prioritizes these areas for long-term retention. The regulations protect these areas by preventing, or requiring an off-set for, conversion of the land to another zone or use that would reduce industrial development capacity. The proposed warehouse and distribution use is allowed within the Prime Industrial overlay zone.

The “h” Aircraft Landing overlay zone limits the height of structures and vegetation in the vicinity of the Portland International Airport. The height limit for this site is approximately 300 feet (measured from the PDX airport landing strip elevation of 18 feet above sea level). The proposed buildings meet the maximum height limit of the “h” overlay zone.

The “c” Environmental Conservation overlay zone is intended to conserve important environmental features and resources while still allowing compatible development. New development and exterior modifications to existing development must meet environmental standards or are subject to environmental review. The proposal does not affect the part of the site within the “c” overlay zone.

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

**Agency Review:** A “Notice of Proposal in Your Neighborhood” was mailed **September 28, 2021**. The following Bureaus have responded with no issues or concerns:

- Bureau of Transportation (Exhibit E-2);
- Water Bureau (Exhibit E-3); and
- Site Development Section of BDS (Exhibit E-5).

The following Bureaus have no objection to the proposed Adjustment but cite requirements that will apply during the review of building permit plans:

- Bureau of Environmental Services staff note the need to identify and protect a drainage easement along the west portion of the site (Exhibit E-1);
- Fire Bureau (Exhibit E-4); and
- Life Safety Plan Review Section of BDS (Exhibit E-6).

The Oregon Department of Transportation (ODOT) has no objection to the proposed Adjustment and provides the following comments:

*ODOT has reviewed the submitted application materials for the proposed development at the Peninsula Trucking Lines facility. The proposed changes include a new office, service shop, expanded loading dock, and reconfiguration of the existing vehicle area. ODOT supports the updated site plan, which shows closure of the existing driveways on N Hayden Meadows Drive. This consolidation of accesses to one driveway on N Kerby Avenue will result in improved safety and operations of the road network by reducing potential conflicts between vehicles, pedestrians, and bicyclists at closely spaced driveways.*

- *Please note that the applicant will need to obtain an ODOT Miscellaneous Permit for any work in the state right-of-way along the site’s N Union Court frontage.*
- *The applicant must obtain an ODOT permit to place trees in the state right of way. Tree spacing and design must be consistent with the ODOT Highway Design Manual section 4.2.6 ([http://www.oregon.gov/ODOT/Engineering/Documents\\_RoadwayEng/HDM\\_04-Cross-Sections.pdf](http://www.oregon.gov/ODOT/Engineering/Documents_RoadwayEng/HDM_04-Cross-Sections.pdf)).*

ODOT’s complete written comments are found in Exhibit E-7. The applicant notes that a survey of the property was conducted, and all proposed trees are on the site (Exhibits A-4 and C-2). However, during the building permit review, additional trees may be required within the right-of-way frontage and therefore will be subject to ODOT’s permitting process.

**Neighborhood Review:** One written response was received from a nearby property owner in response to the Notice of Proposal. A representative from Old Dominion Freight Line, Inc., the business located directly south of the site, wrote to express support for the proposal and cited no negative impacts to the surrounding environment, traffic flow, or aesthetics of the area (Exhibit F-1).

## ZONING CODE APPROVAL CRITERIA

### 33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F. below have been met.

**A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

**Findings:** The applicant is requesting an Adjustment to **Section 33.140.245, Exterior Display, Storage, and Work Activities**. The purpose of this regulation (Section 33.140.245.A) has four statements that are identified and discussed below:

*The exterior development standards of this section are intended to assure that exterior display, storage, and work activities:*

- *Will be consistent with the desired character of the zone;*

The desired character of the area is the preferred and envisioned character of the area based on the purpose or character statements of the IG2 zone and overlay zones:

The purpose of the IG2 (Section 33.140.010) is to reserve areas for industrial uses. The character of the IG2 zone (Section 33.140.030.C) is to promote viable and attractive industrial areas that are in character with existing development. The IG2 zone is described as a zone that will generally have larger lots that are less developed with medium and low building coverage and buildings that are usually set back from the street. Viewed in the context of the IG2-zoned neighborhood surrounding the site, the proposal is consistent with this envisioned character of the IG2 zone. Development near the site consists mostly of large warehouse and manufacturing buildings. Much of the landscaping in this stretch is located in the street rights-of-way and within “c” overlay zone areas. The proposed landscaping on the site adjacent to the N. Union Court frontage will include a mix of 18 large evergreen trees and 13 small evergreen trees, and tall evergreen shrubs. The selected evergreen species of large trees and small shrubs will provide year-round screening and complement the existing landscaping that abuts the N Union Court roadway and landscaping found on adjacent industrial sites. The proposed evergreen planting plan mitigates for the reduced setback area width.

The purpose of the ‘c’ environmental conservation overlay zone is to protect identified environmental resources and resource values. A portion of the site where it abuts the Columbia Slough is within the ‘c’ environmental overlay zone. No development or other disturbance is proposed within the ‘c’ overlay zone portion of the site. The proposal is consistent with the purpose of the ‘c’ overlay, as no development is proposed within the ‘c’ overlay zoned portion of the site. The proposed landscaping plan includes native species, namely 12 Douglas fir trees and over 100 Pacific wax myrtle shrubs. As the “c” overlay zone requires planting of native vegetation, the proposal supports the purpose of this overlay zone.

The purpose of the ‘h’ Airport Landing Zone is to limit the height of structures to provide safe operating conditions for aircraft in the vicinity of the Portland International Airport. The proposal is consistent with this purpose as no structures exceeding the height limit of the ‘h’ overlay are proposed.

The purpose of the ‘k’ Prime Industrial overlay zone is to protect the conversion of land to another zone or use that would reduce industrial development capacity. The proposal is consistent with this purpose as it will benefit a new industrial use in an industrial zone, thereby retaining the industrial development capacity of the land.

Based on the above, the proposal to reduce the width of the L3 landscape setback for exterior storage from 25 feet to 10 feet is consistent with the desired character of the area as reflected in the purpose and character statements of the IG2 base zone, and the purpose statements of the ‘c’, ‘h’, and ‘k’ overlay zones. This purpose is equally or better met.

- *Will not be a detriment to the overall appearance of an employment or industrial area;*
- *Will not have adverse impacts on the adjacent properties, especially those zoned residential; and*

There are no residentially zoned properties adjacent to the site. Adjacent properties are zoned industrial, and most properties surrounding the site are developed with industrial uses. The addition of the 10-foot-wide landscape area on the subject site adjacent to N Union Court will improve the appearance of the site and the adjacent area and have no adverse impacts on these adjacent properties. During the building permit review for the proposal, additional landscaping will be provided within and around the perimeter of the vehicle parking area, which will further enhance – and cause adverse impacts – to the adjacent properties and nearby industrial area. These purposes are equally or better met.

- *Will not have an adverse impact on the environment.*

No development or other disturbance is proposed within the 'c' overlay zone portion of the site. The proposal is consistent with the purpose of the 'c' overlay, as there will be no impacts on the resource and resource values in the 'c' overlay zoned portion of the site. The proposal will result in no impacts on the environmentally sensitive portion of the site within the 'c' zone, therefore this purpose is equally met.

As all the purposes for the landscape setback requirements for exterior storage areas are met, this criterion is equally or better met.

**B.** If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

**Findings:** The site is in the IG2 zone; therefore, the proposal must be consistent with the classifications of adjacent streets and with the desired character of the area. The site is within a Freight district and has frontage along three streets with the following classifications:

- N. Union Court: Local Service Street, Major City Bikeway and City Walkway
- N. Hayden Meadows Drive: Local Service Street, Transit Priority Street
- N. Kerby Avenue: Local Service Street

The proposal is consistent with the above designations, as it is for a reduction in the required setback distance from N Union Court. A planting plan including large evergreen trees and tall evergreen shrubs is supportive of the bikeway and walkway designations as the landscaping will provide an attractive appearance from the sidewalk and will help screen the exterior storage area year-round.

As noted in the comments from ODOT (Exhibit E-7), closure of the site's driveway on N Hayden Meadows will support the Freight District classification that is intended to prioritize truck traffic on the street. It is also consistent with the Transit Priority classification as the driveway closure will reduce potential conflicts with bus movements on N Hayden Meadows Drive.

The desired character of the area is the preferred and envisioned character of the area based on the purpose or character statements of the IG2 zone, the 'c', 'h', and 'k' overlay zones. The proposal must be found to be consistent with these purpose and character statements. This question is discussed in the findings within Criterion A. Repeated here, the proposal is found to be consistent with the desired character for the following reasons:

- The purpose of the IG2 (Section 33.140.010) is to reserve areas for industrial uses. The character of the IG2 zone (Section 33.140.030.C) is to promote viable and attractive industrial areas that are in character with existing development. The IG2 zone is described as a zone that will generally have larger lots that are less developed with medium and low building coverage and buildings that are usually set back from the street. Viewed in the context of the IG2-zoned neighborhood surrounding the site, the proposal is consistent with this envisioned character of the IG2 zone. Development near the site consists mostly of large warehouse and manufacturing buildings. Much of the landscaping in this stretch is located in the street rights-of-way and within "c" overlay zone areas. The proposed landscaping on the site adjacent to the N. Union Court frontage will include a mix of 18 large evergreen trees and 13 small evergreen trees, and tall evergreen shrubs. The selected evergreen species of large trees and small shrubs complement the existing landscaping that abuts the N Union Court roadway and landscaping found on adjacent industrial sites. The proposed evergreen planting plan mitigates for the reduced setback area width.
- The purpose of the 'c' environmental conservation overlay zone is protect identified environmental resources and resource values. A portion of the site where it abuts the Columbia Slough is within the 'c' environmental overlay zone. No development or other

disturbance is proposed within the 'c' overlay zone portion of the site. The proposal is consistent with the purpose of the 'c' overlay, as no development is proposed within the 'c' overlay zoned portion of the site. The proposed landscaping plan includes native species, namely 12 Douglas fir trees and over 100 Pacific wax myrtle shrubs. As the "c" overlay zone requires planting of native vegetation, the proposal supports the purpose of this overlay zone.

- The purpose of the 'h' Airport Landing Zone is to limit the height of structures to provide safe operating conditions for aircraft in the vicinity of the Portland International Airport. The proposal is consistent with this purpose as no structures exceeding the height limit of the 'h' overlay are proposed.
- The purpose of the 'k' Prime Industrial overlay zone is to protect the conversion of land to another zone or use that would reduce industrial development capacity. The proposal is consistent with this purpose as it will benefit a new industrial use in an industrial zone, thereby retaining the industrial development capacity of the land.

As detailed in the findings above, the proposal to reduce the width of the setback for exterior storage, from 25 feet to 10 feet, is consistent with the classifications of the adjacent streets and with the desired character of the area as reflected in the purpose and character statements of the IG2 base zone, and the purpose statements of the 'c', 'h', and 'k' overlay zones. Therefore, this criterion is met.

**C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

**Findings:** Only one adjustment is requested. This criterion does not apply.

**D.** City-designated scenic resources and historic resources are preserved; and

**Findings:** City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot, and by historic and conservation districts. There are no such resources present on the site. Therefore, this criterion does not apply.

**E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

**Findings:** There are no discernible impacts that would result from granting the requested adjustment. This criterion is met.

**F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

**Findings:** The southeast portion of the site is within the Environmental Conservation (c) overlay zone. No development or other disturbance is proposed within the 'c' overlay zone portion of the site. In addition, the applicant's landscape plan includes native tree and shrub species, which supports the resource values of the "c" overlay zone. As there will be no impacts on the resource and resource values in the 'c' overlay zoned portion of the site, 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 requirements of Title 11 can be met, and 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's proposal to reduce the setback distance for exterior storage along Union Court meets the intended purpose of the setback requirement. Large evergreen tree species and tall evergreen shrubs proposed in the landscape plan (Exhibit C-2) provide adequate year-round screening and meet the required L3 landscape standard of Chapter 33.248. In addition, the applicant has selected some native tree and shrub species, which supports the resource values of the Environmental Conservation overlay zone on the southeast portion of the site.

Based on proposed tree and shrub species, the conditions of the site, adjacent rights-of-ways, and nearby industrial properties, the proposal will not have adverse impacts on adjacent properties or the environment and is consistent with the classifications of surrounding streets. Therefore, the proposal satisfies the Adjustment approval criteria and can be approved.

## ADMINISTRATIVE DECISION

Approval of an **Adjustment** to reduce the minimum setback for exterior storage areas along the site's N. Union Court frontage, from 25 feet to 10 feet (Section 33.140.245.C.2, and Table 140-4), per the approved site plans, Exhibits C-1 and C-2, signed and dated October 27, 2021, subject to the following conditions:

- A. As part of the building 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 and C-2. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 21-076813 AD. No field changes allowed."

**Staff Planner: Marguerite Feuersanger**

**Decision rendered by:**  **on October 27, 2021.**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: November 1, 2021.**

**About this Decision.** This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

**Procedural Information.** The application for this land use review was submitted on August 11, 2021 and was determined to be complete on September 22, 2021.

*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 August 11, 2021.

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 January 20, 2021.**

**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 decision 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.

**Appealing this decision.** This decision may be appealed to the Adjustment Committee, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on November 16, 2021. The completed appeal application form must be emailed to [LandUseIntake@portlandoregon.gov](mailto:LandUseIntake@portlandoregon.gov) and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II and IIX decisions on property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Please contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**Recording the final decision.**

If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **November 16, 2021** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

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.

#### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  1. Original Submittal
  2. Updated Submittal, September 9, 2021
  3. Updated Submittal, September 22, 2021
  4. Applicant's email response to ODOT comments
- B. Zoning Map (attached)
- C. Plans/Drawings:
  1. Site Plan (attached)
  2. Landscape Plan (attached)
- D. Notification information:
  1. Mailing list
  2. Mailed notice
- E. Agency Responses:
  1. Bureau of Environmental Services
  2. Bureau of Transportation
  3. Water Bureau
  4. Fire Bureau
  5. Site Development Review Section of BDS
  6. Life Safety Plan Review Section of BDS
  7. Oregon Department of Transportation (ODOT)
- F. Correspondence:
  1. Jeff Lorenzini, Old Dominion Freight Line, Inc., October 14, 2021, writing in support of the proposal
- G. Other:
  1. Letter to applicant regarding incomplete application,

**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).**