



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

Dan Ryan, Commissioner  
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[www.portland.gov/bds](http://www.portland.gov/bds)

**Date:** June 29, 2022  
**To:** Interested Person  
**From:** Morgan Steele, Land Use Services  
503-865-6437 / [Morgan.Steele@portlandoregon.gov](mailto:Morgan.Steele@portlandoregon.gov)

**NOTICE OF A PUBLIC HEARING ON A PROPOSAL**  
**IN YOUR NEIGHBORHOOD**

**CASE FILE:** LU 21-056437 EN (Hearings Office 4220010)  
PC # 20-136055  
**REVIEW BY:** Hearings Officer  
**WHEN:** August 8, 2022 @ 9:00 AM

This land use hearing will have two options for participation:

- (1) Remote via the Zoom platform, or
- (2) In person at 1900 SW 4<sup>th</sup> Avenue, Room 3000 (3<sup>rd</sup> Floor).

See the instructions on how to participate attached to this notice.

Development has been proposed in your neighborhood requiring a land use review. The proposal, review process, and information on how to respond to this notice are described below. A copy of the site plan and zoning map are attached. I am the staff person handling the case. Please contact 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. City Council will not accept additional evidence if there is an appeal of this proposal.

**BUREAU OF DEVELOPMENT SERVICES STAFF: MORGAN STEELE / [MORGAN.STEELE@PORTLANDOREGON.GOV](mailto:MORGAN.STEELE@PORTLANDOREGON.GOV)**

**GENERAL INFORMATION**

**Applicant:** Gina Dorsey & Harrison Harp | Kinder Morgan  
1001 Louisiana Street, Suite 1000 | Houston, TX 77002

**Owner:** Portland Parks & Recreation | Attn: Kendra Petersen-Morgan  
1120 SW 5<sup>th</sup> Avenue, Room 858 | Portland, OR 97204

**Owner:** Portland City Of  
1120 SW 5<sup>th</sup> Ave #1302 | Portland OR 97204

**Consultant:** Paige Anderson | AECOM  
111 SW Columbia Street, #1500 | Portland, OR 97201  
971.323.6318 | [Paige.Anderson@aecom.com](mailto:Paige.Anderson@aecom.com)

Public Notice Case File LU 21-056437 EN

**Site Address:** Two locations within Forest Park & [one location within Highway 30 right-of-way east of 6647 NW St Helens Road](#)

**Legal Description:** TL 600 157.63 ACRES, SECTION 14 1N 1W; TL 200 61.65 ACRES, SECTION 14 1N 1W; TL 700 80.00 ACRES, SECTION 14 1N 1W; TL 500 40.00 ACRES, SECTION 14 1N 1W

**Tax Account No.:** R961140030, R961140080, R961150580, R961150570, R91550310, R915503270

**State ID No.:** 1N1W14 00600, 1N1W14 00700, 1N1W15DD 00100, 1N1W13BD 00800, 1N1W13BD 00900, 1N1W15DD 00200, 1N1W15DD 00100

**Quarter Section:** 2219,2318-20, 2418-19

**Neighborhood:** Linnton, contact Sarah Taylor at [sarahsojourner@mac.com](mailto:sarahsojourner@mac.com) & Forest Park, contact Jerry Grossnickle at [landuse@forestparkneighbors.org](mailto:landuse@forestparkneighbors.org).

**Business District:** NONE

**District Coalition:** Neighbors West/Northwest, contact Darlene Urban Garrett at [darlene@nwnw.org](mailto:darlene@nwnw.org)

**Plan District:** Northwest Hills - Forest Park

**Other Designations:** *Forest Park Natural Resource Management Plan (Joints 1730 & 2160); Northwest Hills Natural Area Protection Plan – Resource Sites 91 (Joint 240) 94 (Joint 1730), 95 (Joint 2160); Landslide Hazard Area; Wild Lands Fire Hazard (Joints 1730 & 2160)*

**Zoning:** *Base Zones: Open Space (OS), Residential 10,000 (R10)*  
*Overlay Zones: Environmental Conservation (c), Environmental Protection (p)*

**Case Type:** EN – Environmental 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, Kinder Morgan, is requesting approval for the repair or replacement of joint sites at three different locations along an existing pipeline in Forest Park and adjacent right-of-way (Highway 30). Kinder Morgan owns and operates an existing 115-mile refined petroleum products pipeline that runs from Portland to Eugene, Oregon. Approximately 1.8 miles of the pipeline runs through Forest Park and adjacent right-of-way. One of the sites along the pipeline (Joint 2160) was replaced in the fall of 2021 through an emergency exemption (33.430.080.B) to ensure the pipe remained in good working order and is being retroactively reviewed through this review. The repair/replacement work at the other two sites (Joint 240 and 1730) has yet to be completed and the applicant is seeking proactive approval through this review.

The work at Joint 2160 included a full replacement of a joint along the pipeline within the central portion of the park and required the removal of 13 trees and temporarily disturbed a total of 3,461 square feet of area within the Environmental Protection overlay zone. To mitigate for permanent impacts and to restore temporarily disturbed areas, the applicant planted 29 trees and 94 shrubs within the vicinity of the joint work. The proposed work at Joint 1730 is also a joint replacement and requires the removal of 7 trees and 7,089 square feet of disturbance. The proposed work at Joint 240 is a joint repair and requires only 695 square feet of disturbance outside of the Highway 30 right-of-way footprint; no tree removal is proposed at this location. To mitigate for these temporary and permanent impacts, the applicant is proposing to plant native trees and shrubs in the vicinity of the work as well as spread a native seed mix in all temporarily disturbed areas.

One of the sites (Joint 240) is located within the Environmental Conservation overlay zone. Because there is work within an Environmental Zone, certain standards must be met to allow work to occur by right. In this case, the applicant is proposing disturbance that exceeds the maximum allowed (33.430.140.D.2). For this reason, a Type II Environmental Review is triggered. Further, two sites (Joint 1730 & 2160) are within the City's Environmental Conservation and Environmental Protection overlay zones, within the City's *Forest Park Natural Resource Management Plan* (Forest Park NRMP). The Forest Park NRMP includes a list of certain projects/actions that are in conformance with the NRMP, and which are allowed without a land use review. The NRMP does not specifically address the repair and replacement of the Kinder Morgan pipeline and vicinity. Therefore, this proposal is considered

an "exception" to the NRMP and is required to be approved through a Type III Environmental Review. All proposed work will be processed through one, Type III review procedure.

All sites are also within the Forest Park Subdistrict of the Northwest Hills Plan District and must meet the additional approval criteria for that subdistrict.

**Approval Criteria:**

To be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The applicable approval criteria are:

- ❖ The "Approval Criteria for Exceptions" including criteria **A through E in Section B** on page 217 of the [Forest Park Natural Resources Management Plan](#) (Joints 1730 & 2160)
- ❖ 33.430.250.A, Utilities (Joint 240)
- ❖ Approval Criteria for Environmental Review within the Forest Park Subdistrict in the [Northwest Hills Plan District](#) in Zoning Code section **33.563.210 A, B, and C**. The proposal is also subject to the prohibition of clearing between October 1 and April 30 in section 33.563.200. (All Joints)

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 June 11, 2021 and determined to be complete on December 7, 2021.

**DECISION MAKING PROCESS**

The Bureau of Development Services will be making a recommendation on this proposal; our report and recommendation will be available 10 days before the hearing. The 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.

If you are interested in viewing information in the 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>.

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, FAX your comments to 503-823-4347, or e-mail your comments to [HearingsOfficeClerks@portlandoregon.gov](mailto:HearingsOfficeClerks@portlandoregon.gov), or testify during the hearing. Please see the enclosed insert for further information on how to testify. In your comments, you should address the approval criteria. 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 available during 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 element of the approval criteria are satisfied. To prevail, the opponents must persuade the Hearings Officer to find that the applicant has not carried the burden of proof about 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.

Thank you for any information you can provide to help us make this decision. Please call me if you have any questions. My name and number are on the first page of this notice.

#### **HEARING CANCELLATION**

This public hearing may be canceled due inclement weather or other similar emergency. Contact the Hearings Office at 503-823-7307 for immediate information regarding cancellations or rescheduling. If canceled, the hearing will be rescheduled for the earliest possible date. A renotification notice will not be sent.

**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).**

#### **Enclosures:**

Zoning Map

Site Plan

Land Use Hearing Participation Information