



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

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Date: November 14, 2022
To: Interested Person
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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 22-158987 CU AD

GENERAL INFORMATION

Applicant: Jill Hutchinson, Portland Parks & Recreation
1120 SW 5th Ave, Suite 858 | Portland, OR 97204
Jill.Hutchinson@portlandoregon.gov | 971-940-5733

Owner: City of Portland
1120 SW 5th Ave #858 | Portland, OR 97204

Representative: Matt Hastie, MIG/APG
506 SW 6th Ave #400 | Portland, OR 97204
mhastie@migcom.com | 503-539-7680

Site Address: 7736 N KERBY AVE

Legal Description: TL 200 13.78 ACRES, SECTION 10 1N 1E; TL 300 0.05 ACRES, SECTION 10 1N 1E

Tax Account No.: R941100340, R941101380, R816104160

State ID No.: 1N1E10D 00200, 1N1E10D 00300, 1N1E10CA 08700

Quarter Section: 2229 & 2230

Neighborhood: Piedmont, contact Deanne Gomez at gomez.deanne@yahoo.com

Business District: Soul District Business Association, contact at Info@nnebaportland.org

District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at 503-823-8877.

Plan District: None

Zoning: OSh – Open Space base zone with “h” Aircraft Landing Zone Overlay

Case Type: CU AD – Conditional Use Review with concurrent Adjustment Review

Procedure: Type II, an administrative decision with appeal to the Hearings Officer.

Proposal:

Portland Parks & Recreation is proposing to expand the existing playground at Farragut Park to include age-appropriate equipment for younger children ages 2-5; replace an aging restroom building with two new prefabricated Portland Loos; improve existing pathways, picnic tables,

benches, and other existing amenities; and make changes to increase accessibility to the playground and park. The basketball court adjacent to N Kerby Ave on the west side of the park is also slated for replacement; the existing concrete surface will be demolished, and a new asphalt court will be installed in the same location. Conditional Use review is required because the park is a conditional use site due to the recreational field and the scale of the alterations require review. Public street improvements associated with this project are outside the scope of this review.

The cost of the improvements exceeds the threshold to address nonconforming upgrades per Zoning Code Section 33.258.070.D. The applicant requests an Adjustment to two standards that are not currently met: buffering from an abutting residential zone; and buffering across the street from a residential zone, both listed in Table 110-9 and required to be met on this OS-zoned Conditional Use site per Zoning Code Section 33.100.200.B.1.

Adjacent to residential zones (in this case, along the eastern half of the south property line adjacent to the Applegate Head Start site), the requirement is 15 feet of buffering to the L3 high-screen landscaping standard. Across the street from residential sites – along the rest of the south property line and most of the west – the requirement is 15 feet of buffering to the L1 standard (grass with occasional trees). The applicant proposes to maintain current conditions along these property lines through Adjustment of the standards.

RELEVANT APPROVAL CRITERIA:

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

- 33.815.100.A-D, Uses in the Open Space Zones (Conditional Use Review); and
- 33.805.040.A-F, Approval Criteria (Adjustment Review).

ANALYSIS

Site and Vicinity: The subject site is approximately 14 acres in area and is located in the Piedmont neighborhood in North Portland. The site has frontage on three streets: N Kerby Ave to the west, N Farragut St along part of the south property line, and N Vancouver Ave to the east. To the north runs a railroad right-of-way (Exhibit B). Development in the existing Farragut Park, including baseball field, basketball court and play areas, is in the roughly southernmost two-thirds of the park. The rest of the site has grassy areas and trees and the site slopes down to the north. A Head Start program abuts the site to the south. Most other neighboring properties are developed with single-dwelling homes, with an electrical substation across N Vancouver Ave to the east and the railway lines to the north.

The abutting streets have the following street classifications:

	Traffic	Transit	Bike	Pedestrian	Freight
SE 46th Ave	Neighborhood Collector	Major Transit Priority	City Bikeway	Major City Walkway	Local Service
SE Harney Drive	Neighborhood Collector	Local Service	City Bikeway	City Walkway	Truck Access Street
SE 52nd Ave	Neighborhood Collector	Local Service	City Bikeway	City Walkway	Truck Access Street
SE Tenino Dr	Local Service	Local Service	Local Service	Local Service	Local Service
SE Tenino Ct	Local Service	Local Service	Local Service	Local Service	Local Service

Zoning: The Open Space (OS) zone is intended to preserve public and private open, natural, and improved park and recreation areas identified in the Comprehensive Plan. These areas serve many functions including: providing opportunities for outdoor recreation; providing contrasts to the built environment; preserving scenic qualities; protecting sensitive or fragile

environmental areas; preserving the capacity and water quality of the stormwater drainage system; and providing pedestrian and bicycle transportation connections.

The Aircraft Landing Zone “h” overlay provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. The current proposal meets the height limits of the overlay.

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

- **CU 47-90 (LU 90-002008 CU):** Conditional Use approval to add a paved play area to Farragut Park to serve adjacent Applegate School, with conditions.
- **CU 45-80 (LU 80-001931 CU):** Conditional Use approval for several park improvements: relocating play equipment; constructing a lighted basketball court; providing lighting throughout the park; installing asphalt paths, bike rack, picnic tables and benches; and installing landscaping.
- **CU 59-71 (LU 71-002388 CU):** Conditional Use approval to renovate an existing building at the west end of Farragut Park.

Agency Review: A “Notice of Proposal in Your Neighborhood” was mailed first on **August 5, 2022**, then a revised notice including the replacement of the basketball court was mailed on **September 22, 2022**. The following Bureaus have responded with no issues or concerns:

- Water Bureau (Exhibit E.3); and
- Fire Bureau (Exhibit E.4).

The Site Development Section of the Bureau of Development Services indicated additional geotechnical information would be required at time of permit (Exhibits E.5.a and E.5.b).

The Bureau of Environmental Services (BES) reviewed the provided stormwater report and concluded the submitted stormwater management and utility plans are acceptable for the purpose of reviewing the submitted Conditional Use Review application. BES requested no recommended conditions of land use approval. Additionally, BES concluded the requested adjustments do not appear to have an impact on the location of a stormwater management system or sanitary connection for the current project, and therefore, BES does not object to the requested adjustments. Finally, BES noted the proposed development will be subject to BES standards and requirements during the permit review process. (Exhibit E.1.b).

The Bureau of Transportation (PBOT) indicated no objection to either requested Adjustment or the Conditional Use Review. PBOT findings for criterion 33.815.100.B.1-2 are included in the findings below (Exhibit E.2.a).

The Life Safety Plans Examiner stated no objections to the reviews and noted a separate building permit is required for the proposed work (Exhibit E.6).

The Urban Forestry Section of Parks and Recreation stated they do not object to the proposed development and that the development will be subject to Title 11 regulations during the permit review process. The response noted that the project would have an overall positive impact on the urban tree canopy and has been reviewed by Urban Forestry in case 21-087620 UF (Exhibits E.7.a and b).

The Police Bureau noted no concerns with the proposal, and stated the Bureau “is currently serving the existing playground at the site and will be able to continue to provide services after the proposed modifications” (Exhibit E.8).

Neighborhood Review: No written responses were received from either the Neighborhood Association or notified property owners in response to the two proposals.

ZONING CODE APPROVAL CRITERIA

Conditional Use Review

33.815.100 Uses in the Open Space Zone

These approval criteria apply to all conditional uses in the OS zone except those specifically listed in other sections below. The approval criteria allow for a range of uses and development that are not contrary to the purpose of the Open Space zone. The approval criteria are:

A. Character and impacts.

1. The proposed use is consistent with the intended character of the specific OS-zoned area and with the purpose of the OS zone;

Findings: The Portland Zoning Code does not define “intended character,” but defines a similar term, “desired character,” as “the preferred and envisioned character (usually of an area) based on the purpose statement or character statement of the base zone, overlay zone, or plan district. It also includes the preferred and envisioned character based on any adopted area plans or design guidelines for an area.”

The purpose of the OS zone is stated in Zoning Code Section 33.100.010:

The Open Space zone is intended to preserve and enhance public and private open, natural, and improved park and recreational areas identified in the Comprehensive Plan. These areas serve many functions including:

- *Providing opportunities for outdoor recreation;*
- *Providing contrasts to the built environment;*
- *Preserving scenic qualities;*
- *Protecting sensitive or fragile environmental areas;*
- *Enhancing and protecting the values and functions of trees and the urban forest;*
- *Preserving the capacity and water quality of the stormwater drainage system; and*
- *Providing pedestrian and bicycle transportation connections.*

The proposal is limited to the areas of the park that already have development; Sheet L0.00 in Exhibit A.13 shows the development impact area being under 129,000 square feet of the roughly 608,000-square-foot park. Within those areas, the proposal provides a new play area for the youngest Portlanders, supporting the purpose of providing opportunities for outdoor recreation. Likewise, the replacement of the basketball court upgrades outdoor recreation amenities. Improvements to pedestrian paths, the replacement of the bathrooms, and other upgrades will make the park more accessible and more usable for the public at large. At the same time, the proposal does not impact the undeveloped natural areas to the north where the slope is greater, preserving those areas and continuing to provide a contrast to the industrial areas to the north. No sensitive or fragile environmental areas are designated on or near this site.

Since this is City-owned property, the applicant is working with Urban Forestry on trees in the park. The Urban Forester notes one tree has been shown for removal before or during the construction – a 5-inch-diameter giant sequoia in the area of the toddler play area as shown on sheet TR1.0 in Exhibit A.13 – and that “[o]ne or more additional trees may be approved for removal through the Urban Forestry CIP permit later as final plan details are verified, and tree impacts are reviewed.” The comments go on to say the project, through planting, has an overall positive impact on the urban tree canopy (Exhibit E.7.b). Sheet L5.01 shows that four new trees are proposed to be added to the development impact area (Exhibit A.13). By minimizing tree removals and adding new trees to the site, the proposal

meets the purpose of enhancing and protecting the values and functions of trees and the urban forest.

Most of the park would remain open area which infiltrates rainwater naturally, and the Bureau of Environmental Services (BES) found the applicant's stormwater management plan for the proposed impervious surfaces can meet BES requirements (Exhibit E.1.b). Upgraded pathways would provide pedestrian and bicycle connections through the park to each of the adjacent streets.

The Aircraft Landing overlay zone purpose states the overlay "provides safer operating conditions for aircraft in the vicinity of the Portland International Airport by limiting the height of structures, vegetation, and construction equipment." None of the proposed structures exceeds either the base zone height limit or the limits of the Aircraft Landing overlay. Therefore, this purpose is met. The site is not within the boundaries of a Plan District.

The site is within both the Albina Community Plan boundary and the Piedmont Neighborhood Plan boundary. The vision statement for the Albina area states that "[o]pen spaces offering an opportunity for rest and quiet are found throughout the area," and that there are "facilities which primarily serve community residents." The further development of Farragut Park supports recreational opportunities for area residents of all ages and preserves a large open area within a neighborhood. The proposal, therefore, is consistent with the envisioned character of the Albina area.

While Farragut Park is noted as one of the two parks in the Piedmont Neighborhood Plan area, the vision statement for the neighborhood only notes that Peninsula Park is a recreational hub of the neighborhood. However, there is a paragraph about buffering industrial uses to the north by other uses and landscaping; Farragut Park serves that function.

For these reasons, staff finds approval criterion A.1 is met.

2. Adequate open space is being maintained so that the purpose of the OS zone in that area and the open or natural character of the area is retained; and

Findings: The only vertical structures proposed for the site are two small Portland Loos that are taking the place of the restroom building, to be removed. More than 75% of the site would be grassland and trees with a natural character, not including the improved play areas, sports courts, and walkways on the southern portion of the park. Therefore, staff finds approval criterion A.2 is met.

3. Impacts on mature trees and tree groves are minimized and City-designated environmental resources, such as views, landmarks, or habitat areas, are protected or enhanced.

Findings: As noted under number 1 above, one 5-inch-diameter tree is proposed to be removed in the area of the toddler play area, and four trees are proposed to be planted. The other trees in the development area will be retained and protected. City-owned sites are subject to review by the Urban Forestry Section of Parks and Recreation during land use review and building permit review (Tree Code Section 11.50.040.C.2), and Urban Forestry staff have worked with the applicant during the planning process through 21-087620 UF. Urban Forestry has reviewed the proposal and supports approval (Exhibit E.7.a and b).

There are no City-designated environmental resources on or near this site, so that aspect of the approval criterion is not applicable.

For these reasons, staff finds approval criterion A.3 is met.

B. Public services.

1. The proposed use is in conformance with the street designations of the Transportation Element of the Comprehensive Plan;

Findings: PBOT reviewed the proposal and submitted the following response to approval criteria B.1 (Exhibit E.2.a):

The Transportation Element of the Comprehensive Plan, also known as the Transportation System Plan (TSP), provides numerous classifications for each roadway. The applicant provided a table detailing the TSP classifications of all abutting roadways in Table 1 on page 4 of the submitted TIS. The TSP provides definitions for each classification in Section 3. Excerpts from these definitions are not reproduced in this response due to the large number of classifications. The proposal will result in a small increase in trips to the site. As noted on page 2 of the TIS, "The park is existing with multiple recreational facilities and is already serving the community. Given the park is close to a few destination parks with large playground facilities including Kenton Park and Peninsula Park, the proposed toddler play area is intended to serve the nearby neighborhood within a walking distance to the park. For these reasons, the proposed improvements are not expected to increase the capacity of the park and the increase of vehicular trips should be very minimal." Staff concurs with the applicant. The continued use of the park as a park is in conformance with the street designations of the TSP.

Staff concurs that criterion B.1 is met.

2. Transportation system:
 - a. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include safety, street capacity, level of service, connectivity, transit availability, availability of pedestrian and bicycle networks, on-street parking impacts, access restrictions, neighborhood impacts, impacts on pedestrian, bicycle, and transit circulation. Evaluation factors may be balanced; a finding of failure in one or more factors may be acceptable if the failure is not a result of the proposed development, and any additional impacts on the system from the proposed development are mitigated;
 - b. Measures proportional to the impacts of the proposed use are proposed to mitigate on- and off-site transportation impacts. Measures may include transportation improvements to on-site circulation, public street dedication and improvement, private street improvements, intersection improvements, signal or other traffic management improvements, additional transportation and parking demand management actions, street crossing improvements, improvements to the local pedestrian and bicycle networks, and transit improvements;
 - c. Transportation improvements adjacent to the development and in the vicinity needed to support the development are available or will be made available when the development is complete or, if the development is phased, will be available as each phase of the development is completed;

Findings: PBOT submitted the following response to approval criteria B.2 (Exhibit E.2.a):

The submitted TIS addressed each evaluation factor individually.

Safety

The submitted TIS addresses safety on pages 5 and 6. ODOT crash data was studied for both the intersection of N. Lombard St. at N. Kerby Ave. and N. Lombard St. at N Commercial Ave. Both intersections were found to have low crash rates. No safety concerns were identified through the TIS process. There are no existing parking areas on

site and no vehicle access that is open to the public. Maintenance vehicles do access the park. Most of the access provided to the park is for pedestrians and bicycles. This is not proposed to change. PBOT staff have identified no safety concerns related to the proposal.

Street Capacity/Level of Service

Page 6 of the submitted TIS states the following:

The park will not be changing land uses and park users are already using the facility. Given the park is close to multiple destination parks with large playgrounds - including Kenton Park and Peninsula Park - the proposed toddler play area is intended to serve the nearby neighborhood within a walking distance to the park. For these reasons, the proposed improvements are not expected to increase the capacity of the park and the increase of vehicular trips should be very minimal. An additional aspect of the project includes replacing an existing restroom with two single prefabricated Portland Loos, which does not support an increase in capacity. As such, no trip generation was developed for this project.

PBOT staff concurs with the applicants that the proposal will result in an increase in trips to the site, but it is likely that few additional motor vehicle trips will be generated. It is probable that many of the expanded users of the park will walk or roll to the park to access the proposed toddler playground. The remaining aspects of the project are upgrades for accessibility or modernizing restrooms. Staff concurs that the proposal is unlikely to result in such a substantive change in the number of users accessing the park that street capacity and level of service will be negatively impacted.

Connectivity

New public street and sidewalk connections are not typically sought through large institutional uses such as parks. The overall project will be upgrading on-site pathways and bringing the site closer into conformance with the ADA. Page 11 of the submitted TIS states:

The proposed toddler play area will have comprehensive pedestrian access and connectivity via sidewalks which will connect the new and existing playgrounds, address ADA concerns, and improve connectivity to other park facilities and sidewalks in the area.

Transit Availability

Transit service is currently available on N. Lombard St, approximately 1,000 feet south of the site. Since only a small number of additional trips are anticipated, the proposed park upgrades are not anticipated to have any effect on the availability of transit.

Availability of Pedestrian and Bicycle Networks

The construction of additional playground equipment interior to the existing site and associated site upgrades should have no impact on the availability of public pedestrian and bicycle networks. It will not block any existing public access or prevent any future planned public bicycle or pedestrian access. Some of the proposed on-site pathway work will provide a net benefit to people walking or rolling through the area, especially the upgraded path connecting the on-site pathway system to N Vancouver Ave.

On-street Parking Impacts

The submitted TIS includes substantial information regarding potential on-street parking impacts on pages 6 through 9. The applicant's traffic engineer estimates the upgrades to the park will result in additional demand for 1 on-street parking space. A parking study was conducting surround the park. On-street parking observations were made during the peak demand hours for the surrounding residential uses, which is overnight on weeknight, and during the peak demand hours for a park, which is mid-day on a

weekend. The study found a total of 362 on street parking spaces. Of these, 103 spaces contained parked vehicles on a typical weeknight and 85 contained parked vehicles mid-day on a Saturday. This means well over 250 on-street parking spaces were available during both observational periods. Staff concurs with the applicant that the on-street supply has ample capacity to absorb the small anticipated increase in on street parking.

Access Restrictions

The site does not contain any parking areas or vehicle access other than access for maintenance vehicles. No new access is proposed. No restrictions are warranted.

Neighborhood Impacts

As discussed throughout the TIS and these findings, the improvements to the park are anticipated to result in only a small change in the number of trips to the site. The majority of these trips are anticipated to be non-vehicular trips such as walking or biking. Very few new car trips are anticipated. Parking demand is anticipated to be 1 additional on street parking space beyond the demand currently generated. There should be few transportation impacts to the neighborhood from the park improvements.

Impacts on Pedestrian, Bicycle, and Transit Circulation

While some new trips are anticipated, they are not anticipated to rise to the level where circulation on existing streets and sidewalks will be impacted. The proposal will not block any existing or planned public accessways or streets. The proposal is creating an improved connection between the on-site pathway network and the sidewalk for N. Vancouver St. As such, the project should have no negative impact on pedestrian, bicycle, or transit circulation and should have a positive impact for people accessing the park from N. Vancouver St.

PBOT staff has reviewed the applicant's findings for these criteria, and concur that transportation system is capable of serving the proposal in addition to the existing uses in the area without the need for mitigation.

Based on these findings from PBOT, staff finds approval criteria B.1 and B.2 are met.

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

Findings: The Water Bureau had no concerns with the proposal (Exhibit E.3). Water is available to this site from the 8" CI water main in N Kerby Avenue, as well as from the 6" DI water main in N Farragut Street, the 6" CI in N Commercial Avenue, and the 12" steel water main in N Vancouver Avenue (see Water Bureau notes from Early Assistance meeting 21-059388). The Police Bureau reviewed the proposal and indicated that the Police Bureau is currently serving the existing playground at the site and will be able to continue to provide services after the proposed modifications (Exhibit E.8). The Fire Bureau reviewed the proposal and responded with no concerns, indicating that fire protection services would also be adequate (Exhibit E.4). The Bureau of Environmental Services (BES) ultimately found the applicant's proposal for sanitary sewer connections and stormwater management to satisfy this approval criterion (Exhibit E.1.b).

With these findings, staff finds approval criterion B.3 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
2. Privacy and safety issues.

Findings: The components of approval criterion C are discussed individually below:

Noise

The expansion of the play area is immediately adjacent to the existing play area; the basketball court is proposed to be replaced in the same location. These activity centers in the park are not located immediately adjacent to neighboring homes (Exhibit C.1). As concluded in the Transportation Impact Study, the proposed improvements are not expected to increase the capacity of the park (Exhibit A.3). Therefore, staff finds the proposal would not cause significant additional adverse impacts related to noise.

Glare from lights

The existing lighting along pathways and by the play areas is shown on sheet LD.01 in Exhibit A.13. No new lighting is proposed.

Late-night operations

No late-night operations are proposed. Park hours are not changing, and the toddler play area is not likely to generate new late-night visits to the park. The other proposed work replaces existing development so will not generate new late-night operations.

Odors

Use of the park is not likely to generate unusual or offensive odors perceptible on neighboring lots.

Litter

Portland Parks and Recreation staff will continue to maintain the facility, and trash receptacles throughout the park will help prevent litter.

Privacy

The park alterations would not significantly impact neighbors' privacy. Work includes replacing bathrooms and a basketball court in roughly their same location, and expanding the existing play area with a new toddler play area, along with additional upgrades not part of this review. The new play area is across the street from residential properties and at minimum is 100 feet from the nearest residential lot, and 120 feet from the nearest residential house. Staff finds no new challenges to privacy for neighboring properties from the proposal.

Safety

The Fire Bureau and Police Bureau both reviewed the proposal and responded with no concerns (Exhibits E.4 and E.8, respectively). The applicant noted, and staff concurs, that the proposed replacement of walkways and upgrading of facilities to meet ADA standards will positively impact park circulation and safety for park users (Exhibit A.12, page 26).

Summary

For the reasons discussed above, staff finds the proposal would not create significant adverse impacts related to noise, glare, late-night operations, odors, litter, privacy, or safety. Therefore, staff finds approval criterion C is met.

D. 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 is within the boundaries of two area plans adopted by the City Council: the Piedmont Neighborhood Plan and the Albina Community Plan.

The following statements from the Piedmont Neighborhood Plan are found to be relevant:

- *Policy 2 (The Emerald Neighborhood), Objective 2: Maintain and enhance existing neighborhood park structures and vegetation. Provide better handicap access to all park facilities.*

- *Policy 2 (The Emerald Neighborhood), Objective 5: Promote the use of Peninsula and Farragut Parks for neighborhood and city-wide activities.*

The following statements from the Albina Community Plan are found to be relevant:

- *Policy IX (Community Image and Character), Policy B: Urban Design, Objective 3: Design and install public improvements that are attractive and responsive to the needs of the area.*
- *Policy IX (Community Image and Character), Policy B: Urban Design, Objective 7: Create a network of safe, comfortable, pedestrian pathways that link the district's neighborhoods, commercial areas, transit facilities, parks, water features and other attractions.*
- *Policy X (Environmental Values), Objective 1: Preserve and enhance community assets and amenities.*

The proposal updates existing parks facilities including the basketball court, picnic tables, and bathrooms, thereby preserving and enhancing existing neighborhood park structures and amenities. It adds a new amenity for the community identified as deficient in the area by Portland Parks and Recreation: a play area designed for children aged 2-5. The upgraded and new facilities will encourage public use of the park and help serve the recreational needs of the North Portland community.

The other work proposed includes ADA upgrades to the existing play area, improvements to the pedestrian paths in the park, as well as required right-of-way upgrades that will improve access to the park's facilities and contribute to the network of safe, comfortable pedestrian pathways envisioned in the Albina Community Plan.

For these reasons, staff finds the proposal is consistent with the Piedmont Neighborhood Plan and the Albina Community Plan. Staff finds approval criterion D is met.

Adjustment Review

33.805.040 Approval Criteria

Adjustment requests will be approved if the applicant has demonstrated 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 requests the following Adjustments to Zoning Code requirements for the project:

15-foot-wide perimeter landscaping buffer from abutting residential zone

The requirement for the 15-foot-wide L3 (high screen) landscaping buffer along lot lines abutting residentially zoned lots is in Zoning Code Table 110-9 and is applicable to this project per Zoning Code Section 33.100.200.B.1. The purpose for Zoning Code Table 110-9 requirements is stated in Zoning Code Section 33.110.245.A:

The general base zone development standards are designed for residential buildings. Different development standards are needed for institutional uses which may be allowed in single-dwelling zones. The intent is to maintain compatibility with and limit the negative impacts on surrounding residential areas.

Without this Adjustment, the applicant would be required to plant a formal row of trees and 6-foot-tall evergreen shrubs along the eastern half of the southern lot line. This landscaping

would almost fully block views between the park and abutting R5-zoned Head Start program to the south. While this requirement may be appropriate for more intensely developed institutional uses near homes, staff does not find this requirement to be necessary for the park to maintain compatibility and limit negative impacts on residences, since the park does not directly abut any houses.

Further, if the park were zoned single-dwelling, the Institutional Development Standards of Zoning Code Section 33.110.270.C would apply to the site. Within those standards is an exemption from the L3 standard for grassy and natural areas, which are not required to meet the L3 landscaping standard of Table 110-9. Since the park is zoned OS, only Table 110-9 applies to the site, not the full development standards of 33.110.270.C, and this Adjustment is required, but the fact that there is an exemption for natural or grassy areas bolsters staff support for waiving the screening in this circumstance as well.

15-foot-wide perimeter landscaping buffer across a street from residential zone

Buffers are required by the Zoning Code to limit impacts of uses to neighbors. The L1 standard is primarily a required groundcover punctuated by occasional trees and, if the area is deep enough, occasional shrubs. The buffer across the street from a residential site, therefore, is designed to provide physical separation and additional distance, with some screening from trees, from an institutional use like a school or a church that is expected to generate impacts – activity, noise, etc.

In this case, all activity areas are more than 15 feet from the property lines, and the only new activity area, the toddler play area, is not expected to increase trips to the park and is set back from nearby property lines more than current activity areas. As described in the findings for criterion 33.815.100.C above, the park facilities are not expected to generate negative impacts on neighboring properties. The facilities will be compatible with the rest of the park and therefore with the residential area.

For these reasons, staff finds this criterion is met for both requested Adjustments.

- 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: Since the site is zoned OS, the Adjustment requests must be consistent with the classifications of the adjacent streets and the desired character of the area.

Street classifications

The classifications of the adjacent streets in the Transportation Element of the Comprehensive Plan are listed under Site and Vicinity above. The Portland Bureau of Transportation (PBOT) found the adjacent streets can support the expanded park use and that significant, negative impacts on these streets are not expected (Exhibit E.1.a). Therefore, staff finds the proposal to be consistent with the classifications of the adjacent streets.

Desired character of area

“Desired character” is defined in Zoning Code Chapter 33.910. Desired character was addressed above under the findings for approval criteria 33.815.100.A.1, and the adopted area and neighborhood plans were explored in more detail in criterion 33.815.100.D.

Those findings satisfactorily address this criterion, but to summarize, the alterations to Farragut Park would increase opportunities for outdoor recreation by providing both updated and new public recreational facilities in the neighborhood. The park already contrasts with the built environment on surrounding properties, especially the industrial area to the north, and the proposal does not jeopardize this pleasant, scenic environment. No sensitive or fragile environmental areas are designated on or near this site, but the

urban forest would be preserved with only one small tree slated for removal and four new trees added, all on the south end of the park. Most of the park would remain open area which infiltrates rainwater naturally, and the Bureau of Environmental Services (BES) found the applicant's stormwater management plan for the proposed impervious surfaces can meet BES requirements (Exhibit E.1.b). Updated pathways would provide pedestrian and bicycle connections through the park to each of the adjacent streets. For these reasons, staff finds the proposal is consistent with the purpose of the OS zone.

The proposal makes modest upgrades to existing facilities like bathrooms, basketball court, and picnic tables. A new toddler play area, designed for children ages 2-5, will increase amenities on the site, and the existing play areas will get ADA upgrades. The new and upgraded facilities will encourage public use of the park and help serve the recreational needs of the area, while contributing to the livability and attractiveness of the neighborhood.

No significant safety impacts are anticipated, and the Fire Bureau and Police Bureau both reviewed the proposal and responded with no concerns (Exhibits E.4 and E.8, respectively).

The Portland Bureau of Transportation (PBOT) reviewed the proposal and found the transportation infrastructure in the neighborhood for motor vehicles, bikes, and pedestrians would be adequate to support the proposal (Exhibit E.2.a). In addition, upgraded pathways would provide pedestrian and bicycle connections through the park to each of the adjacent streets.

For these reasons, staff finds the proposal is consistent with the Piedmont Neighborhood Plan and the Albina Community Plan.

Summary

With the conclusions above, and considering the findings above for Zoning Code Section 33.815.100, staff finds approval criterion B 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: Two Adjustments are requested; therefore, this criterion is applicable. The purpose of the OS zone is stated in Zoning Code Section 33.100.010 and was addressed in the findings for approval criterion 33.815.100.A.1 and 33.805.105.B above. The proposal with both Adjustments to buffering standards still aligns with the purposes for the Open Space zone. This criterion is met.

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

Findings: City-designated scenic resources are identified on the official zoning maps with a lower case "s," and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic resources or historic resources mapped on the subject site, this criterion is not applicable.

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

Findings: Staff has identified no negative impacts specifically resulting from the Adjustments requested. Therefore, staff finds this criterion is not applicable.

- 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: Environmental overlay zones are designated on the official zoning maps with either a lowercase "p" (Environmental Protection overlay zone) or a "c" (Environmental

Conservation overlay zone). As there are no environmental overlay zones mapped on the site, this criterion is not applicable.

DEVELOPMENT STANDARDS

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

CONCLUSIONS

Staff finds the proposed alterations to Farragut Park would be consistent with the purpose of the OS zone and with relevant objectives from the Piedmont Neighborhood Plan and Albina Community Plan. Staff finds the proposal would not cause significant, negative impacts on neighbors' livability, and that public services are adequate to support the proposal.

Staff finds the requested Adjustments to landscape buffering requirements are consistent with the purposes of the requirements to be modified, with the purpose of the OS zone, and with relevant objectives from the Piedmont Neighborhood Plan and Albina Community Plan.

Staff finds the approval criteria for the Conditional Use Review and Adjustment Review can be met and the proposal should be approved.

ADMINISTRATIVE DECISION

Conditional Use Approval for upgrades to Farragut Park, including a new toddler play area; replacement basketball court; replacement of existing bathroom building with two new Portland Loos; and other upgrades including to picnic tables, benches, and pedestrian paths.

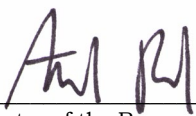
Approval of two Adjustments to Table 110-9 to do the following:

- Waive the requirements for a 15-foot-wide L3 (high-screen) landscaping buffer along the lot line abutting residentially-zoned lots (Zoning Code Section 33.100.200.B.1, Zoning Code Table 110-9); and
- Waive the requirements for a 15-foot-wide L1 landscape buffer along all lot lines across the street from residentially-zoned lots (Zoning Code Section 33.100.200.B.1, Zoning Code Table 110-9).

All approvals are per the approved site plans, Exhibits C.1 through C.5, signed and dated November 9, 2022, 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-C.5. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 22-158987 CU AD."

Staff Planner: Amanda Rhoads

Decision rendered by:  **on November 9, 2022**
By authority of the Director of the Bureau of Development Services

Decision mailed: November 14, 2022

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 June 30, 2022, and was determined to be complete on August 1, 2022.

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 June 30, 2022.

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 requested that the 120-day review period be extended 44 days (Exhibits A.10 and A.14). Unless further extended by the applicant, **the 120 days will expire on: January 12, 2023.**

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 Hearings Officer, 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 28, 2022. The completed appeal application form must be emailed to 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 Hearings Officer 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 Hearings Officer 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 28, 2022** 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 Narrative (superseded by A.12)
 - 2. Original Plans (superseded by C exhibits and A.13)
 - 3. Public Works Review and Transportation Impact Study
 - 4. Portland Loo Details and Nonconforming Upgrades Expenses
 - 5. Incomplete Response
 - 6. Revised Narrative (superseded by A.12)
 - 7. Urban Forestry Form for City-Owned Properties
 - 8. Updated Nonconforming Upgrades Expenses
 - 9. Updated Plans (superseded by C Exhibits and A.13)
 - 10. 120-Day Extension Form for 14 Days, dated August 25, 2022
 - 11. Stormwater Report
 - 12. Final Narrative
 - 13. Final Plans
 - 14. 120-Day Extension Form for 30 Days, dated September 19, 2022
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Overall Site Plan
 - 2. Detailed Site Plan (attached)
 - 3. Playground Plan
 - 4. Toddler Playground Plan (attached)
 - 5. Planting Plan
- D. Notification information:
 - 1. Original Mailing List
 - 2. Original Mailed Notice, mailed August 5, 2022
 - 3. Revised Mailing List
 - 4. Revised Mailed Notice, mailed September 22, 2022
- E. Agency Responses:
 - 1.a Bureau of Environmental Services, August 25, 2022
 - 1.b Bureau of Environmental Services, October 13, 2022
 - 2.a Bureau of Transportation, August 25, 2022
 - 2.b Bureau of Transportation, October 10, 2022
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5.a Site Development Review Section of BDS, August 18, 2022
 - 5.b Site Development Review Section of BDS, October 10, 2022
 - 6. Life Safety Plans Examiner
 - 7.a Urban Forestry Section of Portland Parks & Recreation, August 26, 2022
 - 7.b Urban Forestry Section of Portland Parks & Recreation, October 18, 2022
 - 8. Police Bureau
- F. Correspondence: none received
- G. Other:
 - 1. Original Land Use Application
 - 2. Incomplete Letter, July 15, 2022

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).