



City of Portland, Oregon
Bureau of Development Services
Land Use Services

1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
503-823-7300
Fax 503-823-5630
TTY 503-823-6868
www.portlandonline.com/bds

RENOTIFICATION

**NOTICE OF A PUBLIC HEARING BEFORE
THE CITY COUNCIL ON AN APPEAL OF THE
PORTLAND LAND USE HEARINGS OFFICER**

You have already received a Notice regarding this appeal hearing.

Due to City Council business, **the time certain has been changed to 3:00PM.**

Please make a note of this one hour later time certain, and plan your arrival accordingly.

CASE FILE: LU 10-200954 CU AD Tualatin Valley Water District
WHEN: *Thursday, July 14, 2011, now starting at 3:00 PM*
WHERE: COUNCIL CHAMBERS, 1221 SW FOURTH AVENUE

Date: July 1, 2011

To: Interested Person

From: Sylvia Cate, Land Use Services, 503-823-7771

A public hearing will be held to consider an appeal of the Hearings Officer's decision to approve a conditional Use demolish two existing steel water tanks, each with the capacity of .5 million gallons ['MG'] and replacing them with a single 2 MG concrete reservoir at 6217 SW Garden Home Road. An Adjustment to allow the vehicle access areas on the site to remain in gravel rather than be paved with impervious asphalt was also approved. The Hearings Officer's decision of approval with conditions has been appealed by the Ashcreek Neighborhood Association. At the hearing City Council will consider the appeal. You are invited to testify at the hearing.

This will be an On-the-Record hearing, one in which new evidence cannot be submitted to the City Council. For a general explanation of the City Council hearing process please refer to the last page of this notice.

GENERAL INFORMATION

File No.: LU 10-200954 CU AD (HO 4100031)

Applicants: Mark Knudson, Chief Engineer
Peter Boone, Project Manager
Tualatin Valley Water District
1850 SW 170th Avenue
Beaverton, OR 97006

Garden Home Water District, property owner
6217 SW Garden Home Road
Portland, OR 97219-3140

**Applicants'
Representatives:** Montey Hurley and Chris Goodell
AKS Engineering and Forestry, LLC
13910 SW Galbreath Drive, Suite 100
Sherwood, OR 94140

Hearings Officer: Gregory J. Frank
Bureau of Development Services (BDS) Staff Representative: Sylvia Cate
Site Address: 6217 SW GARDEN HOME ROAD
Legal Description: TL 5700 0.35 ACRES, SECTION 19 1S 1E; TL 5600 0.30 ACRES, SECTION 19 1S 1E
Tax Account No.: R991193100, R991196590
State ID No.: 1S1E19CB 05700, 1S1E19CB 05600
Quarter Section: 3823
Neighborhood: Ashcreek
Business District: None
District Neighborhood Coalition: Southwest Neighborhoods Inc.
Plan District: None
Zoning: R10: Single Dwelling Residential
Land Use Review: Type III, CU AD: Conditional Use and Adjustments

BDS Staff Recommendation to Hearings Officer: Approval with conditions

Public Hearing: The hearing was opened at 1:30 p.m. on February 16, 2011, in the 3rd floor hearing room, 1900 SW 4th Avenue, Portland, Oregon, and was closed at 3:19 p.m. The record was held open until 4:30 p.m. on April 15, 2011 for new written evidence and until 4:30 p.m. on April 22, 2011 for the Applicants' final rebuttal. The record was closed at that time.

Testimony and Exhibits Considered in Making Decision: The Hearings Officer considered all testimony offered at the public hearing and also all written documents contained in the public record excepting for Exhibit H.52. The Hearings Officer notes that extensive instructions were communicated by the Hearings Officer, at the close of the public hearing, regarding the submission of documents that would be considered by the Hearings Officer in making this decision. In particular, the Hearings Officer stated that the Hearings Office date/time stamp would be considered as the "official time" reference in determining if a document was to be considered submitted timely. Based upon the "official time" stamp, Exhibit H.52 was considered submitted after the record closed and therefore not considered in making this decision.

Testified at the Hearing:

Sylvia Cate, BDS Staff Representative
Chris Goodell, AKS Engineering, 13910 SW Galbreath Drive, Suite 100, Sherwood, OR 97140
Peter Boone, Tualatin Valley District, 1850 SW 170th Avenue, Beaverton, OR 97006
Joseph Carmody, 8116 SW 62nd Place, Portland, OR 97219
Jack Klinker, Ashcreek Neighborhood Association President/Representative, 8700 SW 54th Avenue, Portland, OR 97219
Dean Smith, 8802 SW 52nd Avenue, Portland, OR 97219
Nancy Donner, 6254 SW Garden Home Road, Portland, OR 97219
Dr. Charold Baer, 8039 SW 62nd Place, Portland, OR 97219
Lyndon Ruhnke, 8121 SW 62nd Place, Portland, OR 97219

Proposal: Applicant, Tualatin Valley Water District ("TVWD"), operates a water reservoir and distribution facility at real property generally described as 6217 SW GARDEN HOME ROAD (legal description above- hereafter referred to as the "Site"). The other Applicant, Garden Home Water District, is the owner of the Site.

Currently located on the Site are two steel water tanks, each with the capacity of .5 million gallons ("MG"). One water tank was constructed in 1952 and the other water tank was constructed approximately ten years later. TVWD proposes to upgrade and redevelop the water tank facility at the Site by demolishing the existing water tanks and replacing them with a single 2 MG concrete reservoir. TVWD notes that the existing tanks are approaching 50 and 60 years old and do not meet current codes for seismic standards, nor do they contain an ideal amount of storage capacity to provide an adequate supply of water to the surrounding community.

The existing tanks are approximately 45 feet in height and the proposed concrete reservoir will be approximately 46 feet in height. The Site has a fenced compound around the two water tanks, with an open area to the southwest landscaped with low plants and shrubs with wide gravel pathways and public benches. The east and northern portion of the Site is landscaped with a relatively dense and mature border of sequoia trees. TVWD notes that a few of these trees will be removed to accommodate the improvements, but the majority will remain and be preserved.

At the time of the public hearing TVWD was requesting two Adjustments. Per Exhibits H.40b and H.48 TVWD now requests only one Adjustment. The remaining Adjustment, if granted, would allow vehicle access areas on the Site to remain in gravel rather than be paved with impervious asphalt.

This application triggers a Type III Conditional Use review due to the extent of the redevelopment of an existing conditional use in a residential zone. The requested Adjustment is reviewed concurrently.

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:

- 33.815.105 Conditional Use approval criteria
- 33.805.040. A-F, Adjustment approval criteria

Hearings Officer's DECISION

Approval of

- A Conditional Use to demolish two water tanks and replace with one water reservoir not to exceed 2 million gallon storage capacity consistent with Exhibits H.41, H.41a, H.41b, H.41c, H.41d, H.41e and H.41f.;
- An Adjustment to 33.266.130.D.1 to allow vehicle areas on site to remain in gravel;

subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through D) must be noted on each of the four required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 10-200954 CU AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. In order to ensure that visual appearance remains similar to the existing facility, the new facility must utilize the same black finish on the existing chain link security fence and any new sections of security fencing must have the same black finish.
- C. Any plant materials that need to be substituted in lieu of those called out in the landscaping plan should be native species, as recommended by the Bureau of Environmental Services. Applicant shall maintain all berms, trees, shrubs, pathways, pavers and ground cover consistent with Exhibit H.40d.
- D. Applicant shall submit to the Bureau of Development Services, as part of the building permit review process, a specific Emergency Notification Plan that has been approved by the City of Portland Office of Emergency Management, to provide emergency notice alerts to owners/occupants of real property with an elevation of 396 feet elevation or lower (such notification area not to extend beyond 500 feet from any Site boundary).

APPEAL

The Hearings Officer's decision of approval with conditions has been appealed by Ashcreek Neighborhood Association. According to the appellants' statement, the appeal of the Hearings Officer's decision is based on arguments that:

The proposal does not meet the provisions of Chapter 33.815.105 that it must be compatible with adjacent residential developments based on characteristics such as "... building scale and style." The proposal does not meet the allowable FAR as set forth in Chapter 33.110.246.

Review of the case file: The Hearings Officer's decision and all evidence on this case are now available for review at the Bureau of Development Services, 1900 SW 4th Avenue, # 5000, Portland OR 97201. Copies of the information in the file can be obtained for a fee equal to the City's cost for providing those copies. I can provide some of the information over the phone.

We are seeking your comments on this proposal. The hearing will be held before the City Council. To comment, you may write a letter in advance, or testify at the hearing. In your comments, you should address the approval criteria, as stated above. Please refer to the file number when seeking information or submitting testimony. Written comments **must be received by the end of the hearing** and should include the case file number and the name and address of the submitter. It must be given to the Council Clerk, in person, or mailed to 1221 SW Fourth Avenue, Room 140, Portland, OR 97204. A description of the City Council Hearing process is attached.

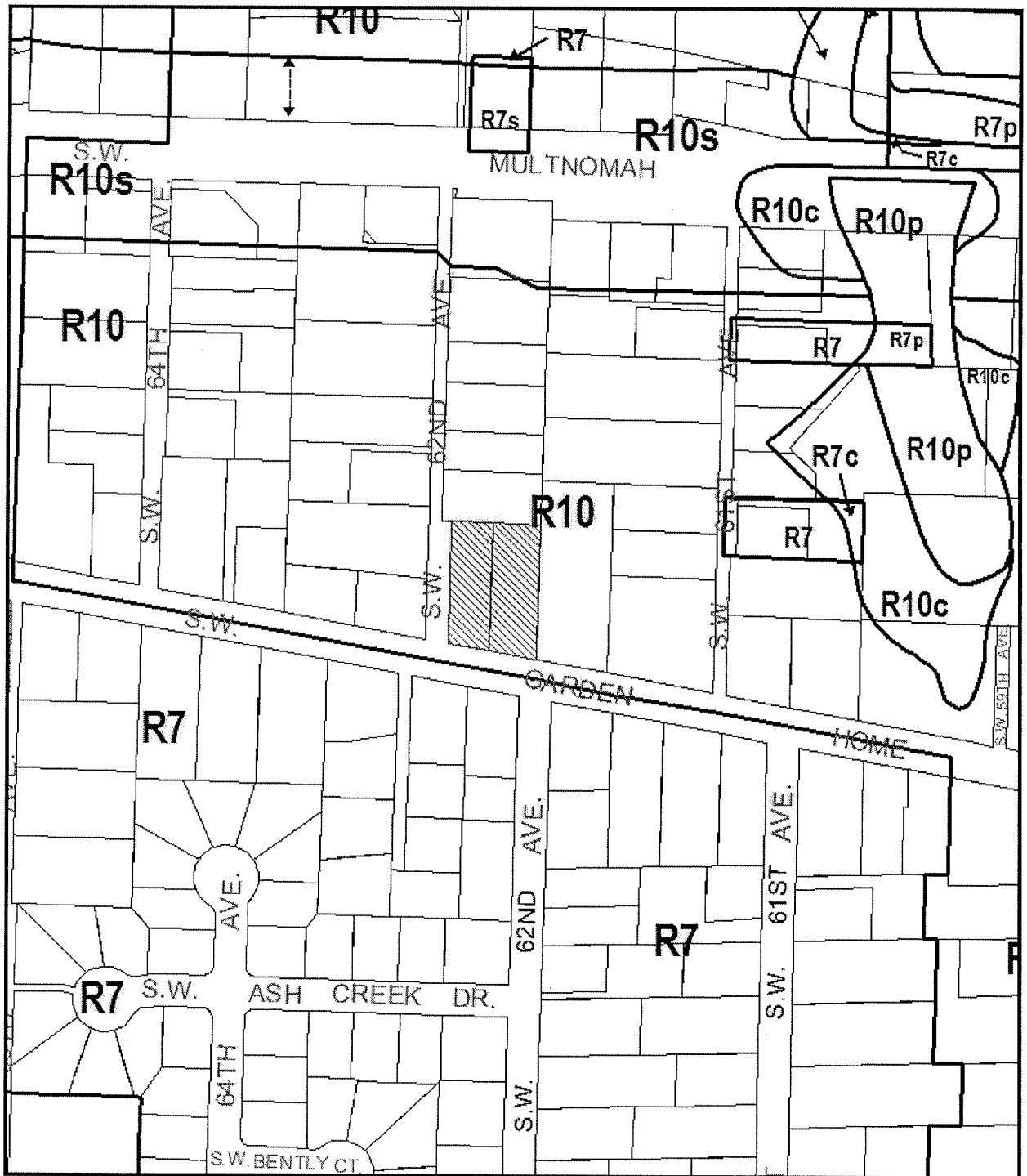
If you choose to provide testimony by electronic mail, please direct it to the Council Clerk (kmoore-love@ci.portland.or.us). Due to legal and practical reasons, City Council members cannot accept electronic mail on cases under consideration by the Council. Any electronic mail on this matter must be received no less than one hour prior to the time and date of the scheduled public hearing. The Council Clerk will ensure that all City Council members receive copies of your communication.

City Council's decision is final. Any further appeal must be filed with the Oregon Land Use Board of Appeals (LUBA). Failure to raise an issue in a hearing, in person or by letter, by the close of the record or at the final hearing on the case or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to LUBA on that issue. Also, if you do not provide enough detailed information to the City Council, they may not be able to respond to the issue you are trying to raise. For more information, call the Auditor's Office at (503) 823-4086.


If you have a disability and need accommodations, please call 503-823-4085 (TDD: 503-823-6868). Persons requiring a sign language interpreter must call at least 48 hours in advance.

Attachments

1. Zoning Map
2. Site plan: Existing
3. Site Plan: Proposed
4. Site Plan: Updated draft landscape plan
5. Appeal Statement
6. City Council Appeal Process



ZONING

 Site



File No. LU 10-200954 CU,AD
 1/4 Section 3823
 Scale 1 inch = 200 feet
 State_Id 1S1E19CB 5700
 Exhibit B (Dec 21, 2010)

RECEIVED

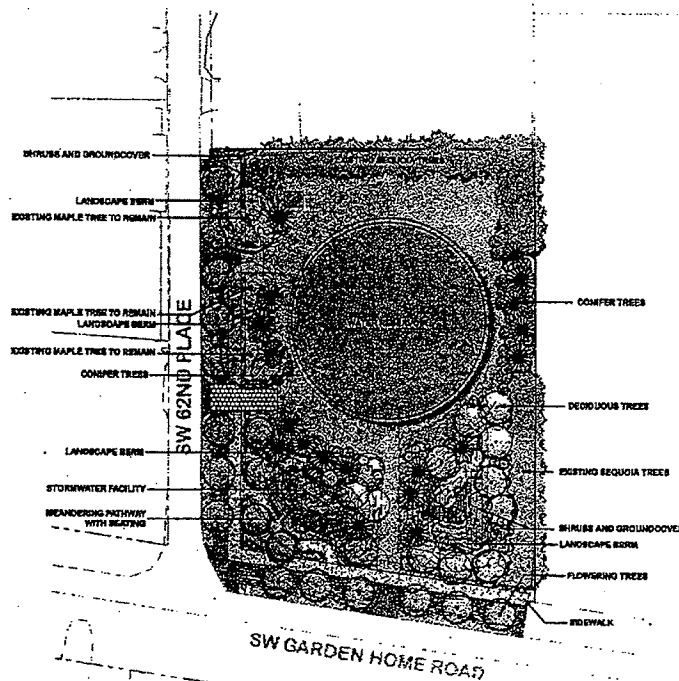
APR 05 2011

HEARINGS OFFICE

GARDEN HOME RESERVOIR UPDATED DRAFT LANDSCAPE PLAN

Additional Landscape Features:

- Eliminates gravel on east and west side of water reservoir to allow for additional landscaping.
- Adds pedestrian amenities such as a bench and meandering pathway.
- Contouring and berming add a natural appearance to the site and further screen water reservoir from the street.
- Uses larger plant sizes at planting for a more mature appearance and fuller screening.
- Preserves three existing trees on west side of the site for additional mature screening.
- Stormwater facility has a less uniform and more natural appearance.
- Includes additional evergreen screening on the south and west sides of the site with a mix of flowering and pyramidal deciduous trees to add four-season color, texture, and form.
- Understory of mixed evergreen and deciduous shrubs and groundcovers provide pedestrian scale relating to the surrounding neighborhood.

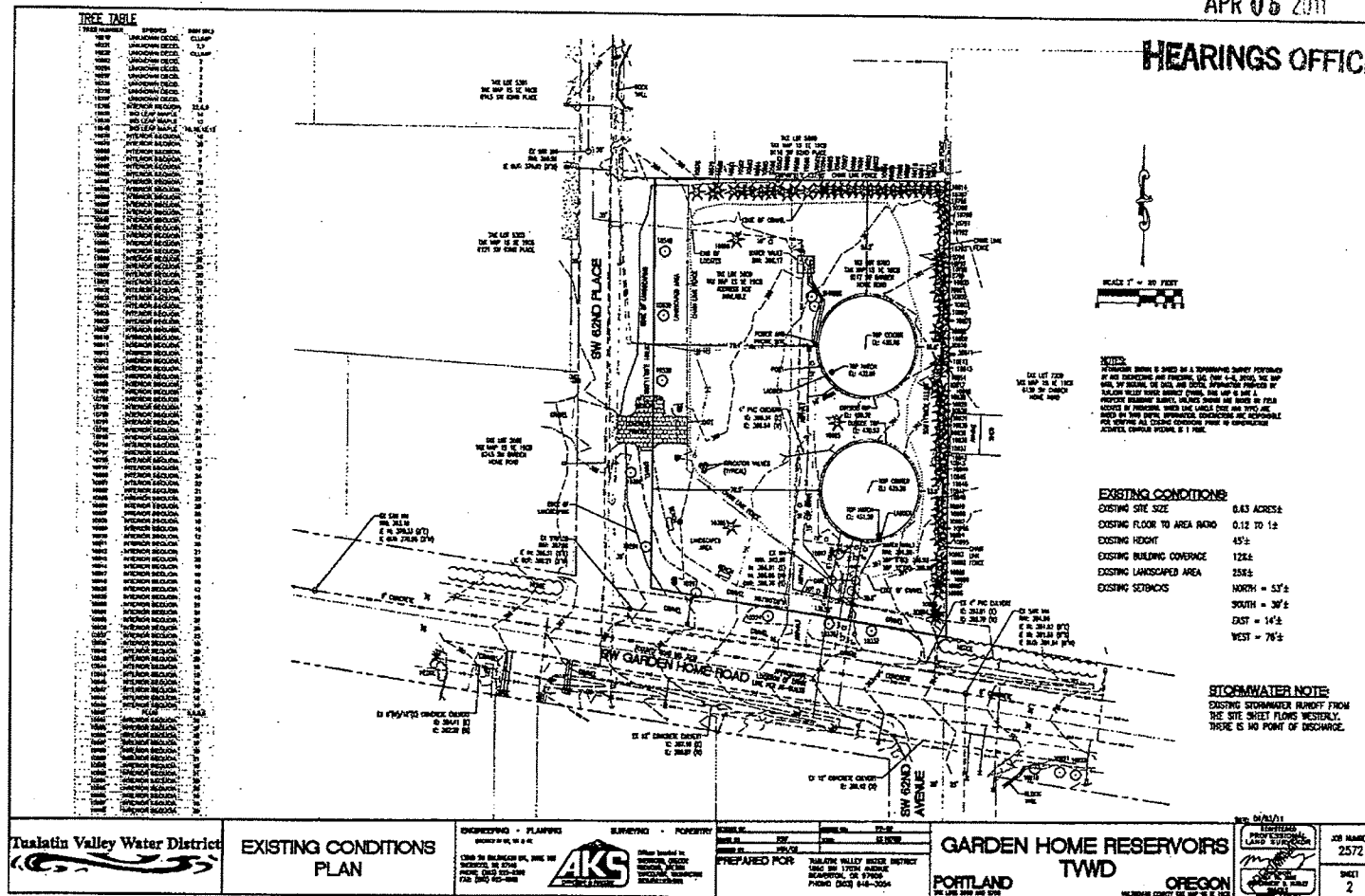


CITY OF PORTLAND
HEARINGS OFFICE
EXHIBIT #H-40C
Case # 4100031
Bureau Case # 10-200954 CU AD

RECEIVED

APR 05 2011

HEARINGS OFFICE

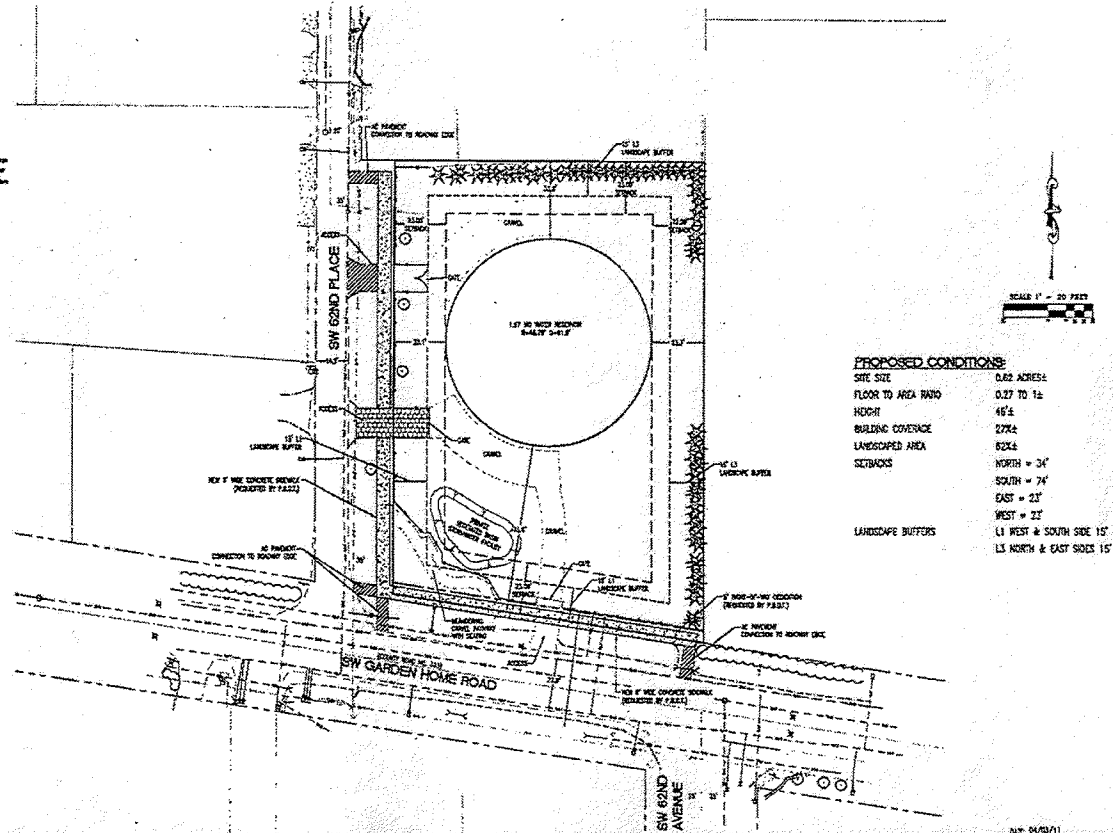


CITY OF PORTLAND
 HEARINGS OFFICE
 Exhibit #H-41a
 Case # 4100031
 Planning Case # 10-200954 C11 AD

RECEIVED

APR 05 2011

HEARINGS OFFICE



Tualatin Valley Water District

PRELIMINARY SITE PLAN

ENGINEERING - PLUMBING

1580 IN CALIFORNIA DR. SUITE 100
DOWNEY, CA 90404



Office located at
SHERWOOD, ILLINOIS
REDAWOOD, OREGON
WACONIA, MINNESOTA
JULIUS-ROBERT

NAME _____

PREPARED FOR

NAME	7-2
DATE	10-10

YAMATO VALLEY WATER CO
1850 DE 17TH AVENUE

GARDEN HOME RESERVOIRS
TVWD

PORTLAND
TAXI LOTS 2000 AND 8 PM

TVWD

OREGON

019-04/23/11

EXHIBIT

LINE 30A

JOB NUMBER
0570

2572

OUT

5

CITY OF PORTLAND
HEARINGS OFFICE
Exhibit #H-41d
Case # 4100031
Bureau Case # 10-200054 CUMM



City of Portland, Oregon - Bureau of Development Services

1900 SW Fourth Avenue • Portland, Oregon 97201 • 503-823-7526 • www.portlandonline.com/bds



Type III Decision Appeal Form

LU Number: LU 10-200954 CU AD

FOR INTAKE, STAFF USE ONLY

Date/Time Received 5/23/11 1:00 pm ☒ Action Attached
 Received By Char Sharkey Fee Amount 5,716.50
 Appeal Deadline Date 5/23/11 ☒ [N] Fee Waived
☐ Entered in Appeal Log Bill # 3236522
☒ Notice to Auditor [Y] [N] Unincorporated MC
☒ Notice to Dev. Review

APPLICANT: Complete all sections below that apply to the proposal. Please print legibly.

The appeal must be filed by the deadline listed in the Decision

Development Site
 Address or Location 6217 SW GARDEN HOME ROAD
 Date 5/22/2011 Land Use Number LU-10-200954 CU AD
 Appellant's Name ASHCREEK NEIGHBORHOOD ASSOCIATION (JENN S. SMITH, PRESIDENT)
 Street Address 8802 SW 52ND AVENUE
 City PORTLAND State OR Zip Code 97219
 Day Phone 503-351-0521 FAX email smithj@lll.comcast.net

Appellant's Interest in the case (applicant, neighbor, etc.) NEIGHBORHOOD ASSOCIATION

Appellant's Statement Please describe how the proposal meets or does not meet approval criteria, or how the City erred procedurally. The statement must address specific approval criteria or procedures and include the appropriate code citation(s).

THE PROPOSAL DOES NOT MEET THE PROVISIONS OF CHAPTER 33.815.101 THAT IT MUST BE COMPATIBLE WITH ADJACENT RESIDENTIAL DEVELOPMENTS BASED ON CHARACTERISTICS SUCH AS "BUILDING SCALE AND STYLE."

THE PROPOSAL DOES NOT MEET THE AUGUSTUS FAR AS SET FORTH IN CHAPTER 33.110.246.

Appellant's Signature [Signature]

To file this appeal, take the following to the Development Services Center

- ☒ This completed appeal form
- ☒ A copy of the Type III Decision being appealed
- ☐ An appeal fee as follows:
 - ☐ Appeal fee as stated in the Decision, payable to City of Portland
 - ☒ Fee waiver for ONI Recognized Organizations approved
 - ☐ Fee waiver for low income individual approved (attach letter from Director)
 - ☐ Fee waiver for Unincorporated Multnomah County recognized organizations is signed and attached

The Portland City Council will hold a hearing on this appeal. The land use review applicant, those who testified and everyone who received notice of the initial hearing will receive notice of the appeal hearing date.

The appeal must be filed by the deadline listed in the Decision. To ensure the appeal is received within this deadline, the appeal should be filed in the Development Services Center at 1900 SW 4th Ave, 1st Floor, Suite 1500, Portland, Oregon, between 8:00 a.m. and 3:00 p.m. on Tuesday through Friday. On Mondays, and between 3:00 - 4:30 p.m. on Tuesday through Friday, the form(s) must be submitted at the Reception Desk on the 5th Floor.

Information about the appeal hearing procedure and fee waivers is on the back of this form.

CASE NO. 10-200954 CUAD
 EXHIBIT A-I-I

**GENERAL EXPLANATION OF CITY COUNCIL APPEAL HEARING PROCESS FOR
ON-THE-RECORD APPEALS**

1. SUBMISSION OF LEGAL ARGUMENT

- a. On-the record appeals are limited to legal argument only. The only evidence that will be considered by the City Council is the evidence that was submitted to the Hearings Officer prior to the date the Hearings Officer closed the evidentiary record. Parties may refer to and criticize or make arguments in support of the validity of evidence received by the Hearings Officer. However, parties may not submit new evidence to supplement or rebut the evidence received by the Hearings Officer.
- b. Legal argument may be mailed to the Council Clerk, 1221 SW Fourth Avenue, Room 140, Portland, OR 97204. Written legal argument must be received by the time of the hearing and should include the case file number.
- c. Legal argument may be submitted orally (see below).

2. COUNCIL REVIEW

- a. The order of appearance and time allotments are generally as follows:

Staff Report	10 minutes
Appellant	10 minutes
Supporters of Appellant	3 minutes each
Principal Opponent	15 minutes
Other Opponents	3 minutes each
Appellant Rebuttal	5 minutes
Council	

- b. The applicant has the burden of proof to show that the evidentiary record compiled by the Hearings Officer demonstrates that each and every element of the approval criteria is satisfied. If the applicant is the appellant, the applicant may also argue the criteria are being incorrectly interpreted, the wrong approval criteria are being applied or additional approval criteria should be applied.
- c. In order to prevail, the opponents of the applicant must persuade the City Council to find that the applicant has not carried the burden of proof to show that the evidentiary record compiled by the Hearings Officer demonstrates that each and every element of the approval criteria is satisfied. The opponents may wish to argue the criteria are being incorrectly applied, the wrong approval criteria are being applied or additional approval criteria should be applied.

3. OTHER INFORMATION

- a. Prior to the hearing, the case file and the Hearings Officer decision are available for review, by appointment, at the Bureau of Development Services, 1900 SW 4th Avenue, #5000, Portland, OR 97201. Call 503-823-7617 to make an appoint to review the file.

If you have a disability and need accommodations, please call 823-4085 (TDD: 823-6868). Persons requiring a sign language interpreter must call at least 48 hours in advance.

97203249 035
97204915873

JACK KLINKER
ASHCREEK NEIGH. ASSN.
8700 SW 54TH AVENUE
PORTLAND, OR 97219

NANCY DONNER
6254 SW GARDEN HOME RD
PORTLAND, OR 97219

DR. CHAROLD & RICHARD BAER
8039 SW 62ND PLACE
PORTLAND, OR 97219

LYNDON AND TARA RUHNKE
8121 SW 62ND PLACE
PORTLAND, OR 97219

SHARON R. PHILLIPS
8030 SW 62ND PLACE
PORTLAND, OR 97219

MIKE CRALL
8014 SW 62ND PL
PORTLAND, OR 97219

MARIAN AND VICTORITA GHIONE
8104 SW 62ND PLACE
PORTLAND, OR 97219

PRISCILLA LANE
5529 SE MORRISON
PORTLAND, OR 97215

INES VOGLAR
6234 SW GARDEN HOME RD
PORTLAND, OR 97219

TONY AND CARLY SALAZAR
6246 SW GARDEN HOME RD
PORTLAND, OR 97219

MAX & ROBERT M. LARSON
6218 SW GARDEN HOME RD
PORTLAND, OR 97219

LARRY DONNER
5840 SW NEBRASKA ST.
PORTLAND, OR 97221

ALAN SMITH
8050 SW 62ND PL
PORTLAND, OR 97219

TRAVIS & ELIZABETH STENERSON
6317 SW GARDEN HOME RD
PORTLAND, OR 97219

TIMOTHY A. KALBERG
6222 SW GARDEN HOME RD
PORTLAND, OR 97219

GREGORY L. POTTER
8121 SW 64TH AVE
PORTLAND, OR 97219

MARK S. AND DOREEN E. WOOD
7942 SW 64TH AVE
PORTLAND, OR 97219

CAROLIEN BEISER
6338 SW GARDEN HOME RD
PORTLAND, OR 97219

KAYLA LEOPOLD
7939 SW 62ND PL
PORTLAND, OR 97219

STACIE HARTMAN
8014 SW 62ND PL
PORTLAND, OR 97219

LAURA GHIONE-SMITH
8050 SW 62ND PL
PORTLAND, OR 97219

DOROTHY GAGE
8000 SW 54TH AVE
PORTLAND, OR 97219

TOMMY BROOKS
1001 SW 5TH AVE
STE 2000
PORTLAND, OR 97204

CHRIS GOODELL
AKS ENGINEERING
13910 SW GALBREATH DR
SUITE 100
SHERWOOD, OR 97140

PETER BOONE
TUALATIN VALLEY DISTRICT
1850 SW 170TH AVENUE
BEAVERTON, OR 97006

LU 10-200954 HO
MAILED 5-23-2011
55 LABELS
RENOTIFICATION MAILED 7-1-2011

131/340/MAYOR/AMY RUIZ

YVONNE POELWIJK
1900 SW 4TH AVE, STE 5000
PORTLAND, OR 97204

SYLVIA CATE
DEVELOPMENT SERVICES
299 / 5000

PLANNING AND SUSTAINABILITY
299 / 7100

DOUG MORGAN
DEVELOPMENT SERVICES
299 / 5000

BES / DEV. SERVICES
106 / 1100

KURT KRUEGER
PBOT
106 / 800

DAWN KRANTZ
PORTLAND FIRE BUREAU
472 / 100

WATER BUREAU PERMITS
106 / 601

OREGONIAN
PORTLAND TEAM
1320 SW BROADWAY
PORTLAND, OR 97201

MARK KNUDSON
C/O PETER BOONE
TUALATIN VALLEY WATER DIST
1850 SW 170TH AVE
BEAVERTON, OR 97006

~~GARDEN HOME WATER DISTRICT~~
~~6217 SW GARDEN HOME RD~~
~~PORTLAND, OR 97219-3140~~
UNDELIVERABLE ADDRESS

MONTEY HURLEY
C/O CHRIS GOODELL
AKS ENGINEERING & FORESTRY
13910 SW GALBREATH DRIVE
SUITE 100
SHERWOOD, OR 97140

GARY MINISZEWSKI
8343 SW 57TH AVENUE
PORTLAND, OR 97219

LEONARD GARD
SW NEIGHBORHOODS INC
7688 SW CAPITOL HWY
PORTLAND, OR 97219

ANTHONY AND TERRI SCRIBNER
7930 SW 62ND PLACE
PORTLAND, OR 97219

KAYLA MARY LEOPOLD
1306 SW BERTHA BLVD
PORTLAND, OR 97219

OLIVIA LAMB
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PORTLAND, OR 97219

PERRY C. AND VIRGINIA OTTMAR
6245 SW GARDEN HOME RD
PORTLAND, OR 97219

JOSEPH AND LIAM CARMODY
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PORTLAND, OR 97219

ESTER D. MCGINNIS
8331 SW GARDEN HOME RD
PORTLAND, OR 97219

IRWIN C. SCHOONOVER
6316 SW GARDEN HOME RD
PORTLAND, OR 97219

JIM AND IRENE LINMAN
8015 SW 62ND PL
PORTLAND, OR 97219

ROBERT PERKINS
6511 SW GARDEN HOME RD
PORTLAND, OR 97223

NANCY TRULLINGER
5445 SW DOLPH DRIVE
PORTLAND, OR 97219

CHARLES S. OSBORNE
8021 SW 61ST AVE
PORTLAND, OR 97219

MATTHEW & ELIZABETH RUCKWARDT
8105 SW 62ND PL
PORTLAND, OR 97219

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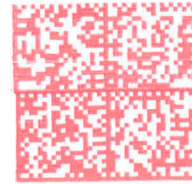
MIKE & GAYLE CLOPTON
8115 SW 62ND PLACE
PORTLAND, OR 97219

LEE PERLMAN
512 NE BRAZEE STREET
PORTLAND, OR 97212



**CITY OF
PORTLAND, OREGON
OFFICE OF THE CITY AUDITOR**

1221 SW 4th Ave, Room 140
Portland, Oregon 97204-1987



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06/21/2011

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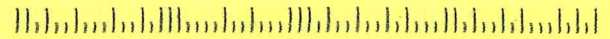
GARDEN HOME WATER DISTRICT
6217 SW GARDEN HOME RD
PORTLAND, OR 97219-3140

NIXIE 970 DE 1 00 06/23/11

RETURN TO SENDER
VACANT
UNABLE TO FORWARD

BC: 97204198799 *0229-01250-21-41

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972041987





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

Dan Saltzman, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

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BDS Staff Recommendation to Hearings Officer: Approval with conditions

Public Hearing: The hearing was opened at 1:30 p.m. on February 16, 2011, in the 3rd floor hearing room, 1900 SW 4th Avenue, Portland, Oregon, and was closed at 3:19 p.m. The record was held open until 4:30 p.m. on April 15, 2011 for new written evidence and until 4:30 p.m. on April 22, 2011 for the Applicants' final rebuttal. The record was closed at that time.

Testimony and Exhibits Considered in Making Decision: The Hearings Officer considered all testimony offered at the public hearing and also all written documents contained in the public record excepting for Exhibit H.52. The Hearings Officer notes that extensive instructions were communicated by the Hearings Officer, at the close of the public hearing, regarding the submission of documents that would be considered by the Hearings Officer in making this decision. In particular, the Hearings Officer stated that the Hearings Office date/time stamp would be considered as the "official time" reference in determining if a document was to be considered submitted timely. Based upon the "official time" stamp, Exhibit H.52 was considered submitted after the record closed and therefore not considered in making this decision.

Testified at the Hearing:

Sylvia Cate, BDS Staff Representative

Chris Goodell, AKS Engineering, 13910 SW Galbreath Drive, Suite 100, Sherwood, OR 97140

Peter Boone, Tualatin Valley District, 1850 SW 170th Avenue, Beaverton, OR 97006

Joseph Carmody, 8116 SW 62nd Place, Portland, OR 97219

Jack Klinker, Ashcreek Neighborhood Association President/Representative, 8700 SW 54th Avenue, Portland, OR 97219

Dean Smith, 8802 SW 52nd Avenue, Portland, OR 97219

Nancy Donner, 6254 SW Garden Home Road, Portland, OR 97219

Dr. Charold Baer, 8039 SW 62nd Place, Portland, OR 97219

Lyndon Ruhnke, 8121 SW 62nd Place, Portland, OR 97219

Proposal: Applicant, Tualatin Valley Water District ("TVWD"), operates a water reservoir and distribution facility at real property generally described as 6217 SW GARDEN HOME ROAD (legal description above- hereafter referred to as the "Site"). The other Applicant, Garden Home Water District, is the owner of the Site.

Currently located on the Site are two steel water tanks, each with the capacity of .5 million gallons ("MG"). One water tank was constructed in 1952 and the other water tank was constructed approximately ten years later. TVWD proposes to upgrade and redevelop the water tank facility at the Site by demolishing the existing water tanks and replacing them with a single 2 MG concrete reservoir. TVWD notes that the existing tanks are approaching 50 and 60 years old and do not meet current codes for seismic standards, nor do they contain an ideal amount of storage capacity to provide an adequate supply of water to the surrounding community.

The existing tanks are approximately 45 feet in height and the proposed concrete reservoir will be approximately 46 feet in height. The Site has a fenced compound around the two water tanks, with an open area to the southwest landscaped with low plants and shrubs with wide gravel pathways and public benches. The east and northern portion of the Site is landscaped with a relatively dense and mature border of sequoia trees. TVWD notes that a few of these trees will be removed to accommodate the improvements, but the majority will remain and be preserved.

At the time of the public hearing TVWD was requesting two Adjustments. Per Exhibits H.40b and H.48 TVWD now requests only one Adjustment. The remaining Adjustment, if granted, would allow vehicle access areas on the Site to remain in gravel rather than be paved with impervious asphalt.

This application triggers a Type III Conditional Use review due to the extent of the redevelopment of an existing conditional use in a residential zone. The requested Adjustment is reviewed concurrently.

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:

- 33.815.105 Conditional Use approval criteria
- 33.805.040. A-F, Adjustment approval criteria

Hearings Officer's DECISION

Approval of

- A Conditional Use to demolish two water tanks and replace with one water reservoir not to exceed 2 million gallon storage capacity consistent with Exhibits H.41, H.41a, H.41b, H.41c, H.41d, H.41e and H.41f.;
- An Adjustment to 33.266.130.D.1 to allow vehicle areas on site to remain in gravel;

subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through D) must be noted on each of the four required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 10-200954 CU AD." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. In order to ensure that visual appearance remains similar to the existing facility, the new facility must utilize the same black finish on the existing chain link security fence and any new sections of security fencing must have the same black finish.
- C. Any plant materials that need to be substituted in lieu of those called out in the landscaping plan should be native species, as recommended by the Bureau of Environmental Services. Applicant shall maintain all berms, trees, shrubs, pathways, pavers and ground cover consistent with Exhibit H.40d.
- D. Applicant shall submit to the Bureau of Development Services, as part of the building permit review process, a specific Emergency Notification Plan that has been approved by

the City of Portland Office of Emergency Management, to provide emergency notice alerts to owners/occupants of real property with an elevation of 396 feet elevation or lower (such notification area not to extend beyond 500 feet from any Site boundary).

APPEAL

The Hearings Officer's decision of approval with conditions has been appealed by Ashcreek Neighborhood Association. According to the appellants' statement, the appeal of the Hearings Officer's decision is based on arguments that:

The proposal does not meet the provisions of Chapter 33.815.105 that it must be compatible with adjacent residential developments based on characteristics such as "... building scale and style." The proposal does not meet the allowable FAR as set forth in Chapter 33.110.246.

Review of the case file: The Hearings Officer's decision and all evidence on this case are now available for review at the Bureau of Development Services, 1900 SW 4th Avenue, # 5000, Portland OR 97201. Copies of the information in the file can be obtained for a fee equal to the City's cost for providing those copies. I can provide some of the information over the phone.

We are seeking your comments on this proposal. The hearing will be held before the City Council. To comment, you may write a letter in advance, or testify at the hearing. In your comments, you should address the approval criteria, as stated above. Please refer to the file number when seeking information or submitting testimony. Written comments **must be received by the end of the hearing** and should include the case file number and the name and address of the submitter. It must be given to the Council Clerk, in person, or mailed to 1221 SW Fourth Avenue, Room 140, Portland, OR 97204. A description of the City Council Hearing process is attached.

If you choose to provide testimony by electronic mail, please direct it to the Council Clerk (kmoore-love@ci.portland.or.us). Due to legal and practical reasons, City Council members cannot accept electronic mail on cases under consideration by the Council. Any electronic mail on this matter must be received no less than one hour prior to the time and date of the scheduled public hearing. The Council Clerk will ensure that all City Council members receive copies of your communication.

City Council's decision is final. Any further appeal must be filed with the Oregon Land Use Board of Appeals (LUBA). Failure to raise an issue in a hearing, in person or by letter, by the close of the record or at the final hearing on the case or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to LUBA on that issue. Also, if you do not provide enough detailed information to the City Council, they may not be able to respond to the issue you are trying to raise. For more information, call the Auditor's Office at (503) 823-4086.

If you have a disability and need accommodations, please call 503-823-4085 (TDD: 503-823-6868). Persons requiring a sign language interpreter must call at least 48 hours in advance.

Attachments

1. Zoning Map
2. Site plan: Existing
3. Site Plan: Proposed
4. Site Plan: Updated draft landscape plan
5. Appeal Statement
6. City Council Appeal Process



City of Portland, Oregon - Bureau of Development Services

1900 SW Fourth Avenue • Portland, Oregon 97201 • 503-823-7526 • www.portlandonline.com/bds



Type III Decision Appeal Form

LU Number: LU 10-200954 CU AD

FOR INTAKE, STAFF USE ONLY

Date/Time Received 5/23/11 1:00 pm

Received By Char Sharkey

Appeal Deadline Date 5/23/11

☐ Entered in Appeal Log

☒ Notice to Auditor

☒ Notice to Dev. Review

☒ Action Attached

Fee Amount 5,716.50

☒ [N] Fee Waived

Bill # 3236522

☐ [Y] [N] Unincorporated MC

APPLICANT: Complete all sections below that apply to the proposal. Please print legibly.

The appeal must be filed by the deadline listed in the Decision

Development Site

Address or Location 6217 SW GARDEN HOME ROAD

Date 5/22/2011

Land Use Number LU-10-200954 CU AD

Appellant's Name ASHCREEK NEIGHBORHOOD ASSOCIATION (JEAN S. SMITH, PRESIDENT)

Street Address 8802 SW 52ND AVENUE

City PORTLAND

State OR

Zip Code 97219

Day Phone 503-351-0521

FAX

email smithd1111@comcast.net

Appellant's Interest in the case (applicant, neighbor, etc.) NEIGHBORHOOD ASSOCIATION

Appellant's Statement Please describe how the proposal meets or does not meet approval criteria, or how the City erred procedurally. The statement must address specific approval criteria or procedures and include the appropriate code citation(s).

THE PROPOSAL DOES NOT MEET THE PROVISIONS OF CHAPTER 33.815.101 THAT IT MUST BE COMPATIBLE WITH ADJACENT RESIDENTIAL DEVELOPMENTS BASED ON CHARACTERISTICS SUCH AS, IN BUILDING SCALE AND STYLE,...

THE PROPOSAL DOES NOT MEET THE AUGUSTUS FAR AS SET FORTH IN CHAPTER 33.110.246.

Appellant's Signature [Signature]

To file this appeal, take the following to the Development Services Center

☒ This completed appeal form

☒ A copy of the Type III Decision being appealed

☐ An appeal fee as follows:

☐ Appeal fee as stated in the Decision, payable to City of Portland

☒ Fee waiver for ONI Recognized Organizations approved

☐ Fee waiver for low income individual approved (attach letter from Director)

☐ Fee waiver for Unincorporated Multnomah County recognized organizations is signed and attached

The Portland City Council will hold a hearing on this appeal. The land use review applicant, those who testified and everyone who received notice of the initial hearing will receive notice of the appeal hearing date.

The appeal must be filed by the deadline listed in the Decision. To ensure the appeal is received within this deadline, the appeal should be filed in the Development Services Center at 1900 SW 4th Ave, 1st Floor, Suite 1500, Portland, Oregon, between 8:00 a.m. and 3:00 p.m. on Tuesday through Friday. On Mondays, and between 3:00 - 4:30 p.m. on Tuesday through Friday, the form(s) must be submitted at the Reception Desk on the 5th Floor.

Information about the appeal hearing procedure and fee waivers is on the back of this form.

CASE NO. 10-200954 CUAD
EXHIBIT H.1

Type III Appeal Hearing Procedure

A Type III Decision may be appealed only by the applicant, the owner, or those who have testified in writing or orally at the hearing, provided that the testimony was directed to a specific approval criterion, or procedural error made. It must be filed with the accompanying fee by the deadline listed in the decision. The appeal request must be submitted on the Type III Appeal Form provided by the City and it must include a statement indicating which of the applicable approval criteria the decision violated (33.730.030) or what procedural errors were made. If the decision was to deny the proposal, the appeal must use the same form and address how the proposal meets all the approval criteria. There is no local Type III Appeal for cases in unincorporated Multnomah County.

Appeal Hearings for Type III Decisions are scheduled by the City Auditor at least 21 days after the appeal is filed and the public notice of the appeal has been mailed.

Appellants should be prepared to make a presentation to the City Council at the hearing. In addition, all interested persons will be able to testify orally, or in writing. The City Council may choose to limit the length of the testimony. Prior to the appeal hearing, the City Council will receive the written case record, including the appeal statement. The City Council may adopt, modify, or overturn the decision of the review body based on the information presented at the hearing or in the case record.

Appeal Fees

In order for an appeal to be valid, it must be submitted prior to the appeal deadline as stated in the decision and it must be accompanied by the required appeal fee or an approved fee waiver. The fee to appeal a decision is one-half of the original application fee. The fee amount is listed in the decision. The fee may be waived as follows:

Fee Waivers (33.750.050)

The director may waive required fees for Office of Neighborhood Involvement (ONI) Recognized Organizations and for low-income applicants when certain requirements are met. The decision of the director is final.

A. ONI Recognized Organizations Fee Waiver

Neighborhood or business organizations recognized by the City of Portland Office of Neighborhood Involvement (ONI) or Multnomah County are eligible to apply for an appeal fee waiver if they meet certain meeting and voting requirements.

These requirements are listed in the Type III Appeal Fee Waiver Request for Organizations form and instruction sheet available from the Bureau of Development Services Development Services Center, 1st floor, 1900 SW 4th, Portland, OR 97201. Recognized organizations must complete the Type III Appeal Fee Waiver Request for Organizations form and submit it prior to the appeal deadline to be considered for a fee waiver.

B. Low Income Fee Waiver

The appeal fee may be waived for an individual who is an applicant in a land use review for their personal residence, in which they have an ownership interest, and the individual is appealing the decision of their land use review application. In addition, the appeal fee may be waived for an individual residing in a dwelling unit, for at least 60 days, that is located within the required notification area. Low income individuals requesting a fee waiver will be required to certify their annual gross income and household size. The appeal fee will only be waived for households with a gross annual income of less than 50 percent of the area median income as established and adjusted for household size by the federal Department of Housing and Urban Development (HUD). All financial information submitted to request a fee waiver is confidential. Fee waiver requests must be approved prior to appeal deadline to be considered for a fee waiver.

An information sheet on how to apply for a fee waiver for a low income individual is available at the Development Services Center, 1900 SW 4th Avenue, 1st floor, 503-823-7526

Information is subject to change

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DEVELOPMENT SERVICES
299 / 5000

PLANNING AND SUSTAINABILITY
299 / 7100

DOUG MORGAN
DEVELOPMENT SERVICES
299 / 5000

BES / DEV. SERVICES
106 / 1100

KURT KRUEGER
PBOT
106 / 800

DAWN KRANTZ
PORTLAND FIRE BUREAU
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WATER BUREAU PERMITS
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GARDEN HOME WATER DISTRICT
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PORTLAND, OR 97219-3140

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C/O CHRIS GOODELL
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TO BE SENT *mailed 6/21*
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