

Council Motions

Council Meeting October 10, 2012

Motion to tentatively uphold the appeal and overturn Hearing Officer's decision contingent upon the following conditions of approval: address the issue of open space tract, maintenance agreements, public street improvements, public water main extension, Fire Bureau requirements, performance guaranteed for mitigation plans and monitoring construction management development standards and monitoring requirements in corresponding maintenance and these conditions be roughly similar to staff memo dated July 30, 2012, staff prepare findings and conclusions for October 31, 2012 at 2:00 p.m. Time Certain: Moved by Leonard and seconded by Fish.

Commissioners voted as follows:

Yea: Fish, Saltzman, Leonard. No: Fritz

Council Meeting October 31, 2012

Motion to adopt findings and grant the appeal, overturn the hearings officer's decision and approve the land division and other reviews applied for: Moved by Commissioner Leonard and seconded by Commissioner Fish.

Commissioners voted as follows:

Yea: Fish, Leonard, Adams. No: Fritz

Portland, Oregon
FINANCIAL IMPACT and PUBLIC INVOLVEMENT STATEMENT
For Council Action Items

(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator Rachel Whiteside		2. Telephone No. 503-823-7605	3. Bureau/Office/Dept. Land Use Services - BDS
4a. To be filed (hearing date): October 10, 2012, 2:00 TC	4b. Calendar (Check One) Regular <input checked="" type="checkbox"/> Consent <input type="checkbox"/> 4/5ths <input type="checkbox"/>		5. Date Submitted to Commissioner's office and FPD Budget Analyst: October 1, 2012
6a. Financial Impact Section: <input checked="" type="checkbox"/> Financial impact section completed		6b. Public Involvement Section: <input checked="" type="checkbox"/> Public involvement section completed	

1) Legislation Title:

This is an appeal of a **quasi-judicial** action. There is no legislation involved.

Case number: **LU 11-153362 LDS ENM (SE Berkeley Way and SE Cesar Chavez Boulevard).**

2) Purpose of the Proposed Legislation:

There is no legislation involved. This is an appeal of a **quasi-judicial** action (an appeal of a Land Use Review decision). Legislative Procedures described in Zoning Code Chapter 33.740 are handled by the Bureau of Planning & Sustainability. Quasi-Judicial Procedures described in Zoning Code Chapter 33.730, commonly known as "Land Use Reviews," are handled by the Bureau of Development Services. Quasi-judicial procedures allow for Type III Land Use Review decisions to be appealed to City Council, per 33.730.030.F.

In this case, the Land Use Reviews included a land division, Environmental Review, and Modifications to various development standards.

The Hearings Officer's decision of denial has been appealed by the applicant.. The applicant/appellant is challenging the Hearing's Officer's decision and argues that all of the approval criteria have been satisfied.

3) Which area(s) of the city are affected by this Council item? (Check all that apply—areas are based on formal neighborhood coalition boundaries)?

The proposal is for an individual ownership in Southwest Portland; it is no an area.

- | | | | |
|--|---|------------------------------------|--------------------------------|
| <input type="checkbox"/> City-wide/Regional | <input type="checkbox"/> Northeast | <input type="checkbox"/> Northwest | <input type="checkbox"/> North |
| <input type="checkbox"/> Central Northeast | <input checked="" type="checkbox"/> Southeast | <input type="checkbox"/> Southwest | <input type="checkbox"/> East |
| <input type="checkbox"/> Central City | | | |
| <input type="checkbox"/> Internal City Government Services | | | |

FINANCIAL IMPACT

4) Revenue: Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If so, please identify the source.

This is not a legislative action.

5) Expense: What are the costs to the City related to this legislation? What is the source of

funding for the expense? *(Please include costs in the current fiscal year as well as costs in future years. If the action is related to a grant or contract please include the local contribution or match required. If there is a project estimate, please identify the level of confidence.)*

This is not a legislative action.

6) Staffing Requirements:

This is not a legislative action, and so there are no staffing "requirements".

City staff/responsibilities involved in processing the Land Use Review appeal are: The assigned Planner from BDS/Land Use Services (LUS) Division, Records Management staff from LUS, supervisory oversight, staff from PBOT, BES, BPS and potentially other city agencies who have been involved in this land use review.

- **Will any positions be created, eliminated or re-classified in the current year as a result of this legislation?** *(If new positions are created please include whether they will be part-time, full-time, limited term, or permanent positions. If the position is limited term please indicate the end of the term.)* No.
- **Will positions be created or eliminated in future years as a result of this legislation?** No.

(Complete the following section only if an amendment to the budget is proposed.) None.

7) Change in Appropriations *(If the accompanying ordinance amends the budget please reflect the dollar amount to be appropriated by this legislation. Include the appropriate cost elements that are to be loaded by accounting. Indicate "new" in Fund Center column if new center needs to be created. Use additional space if needed.)*

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

[Proceed to Public Involvement Section — REQUIRED as of July 1, 2011]

PUBLIC INVOLVEMENT

8) Was public involvement included in the development of this Council item (e.g. ordinance, resolution, or report)? Please check the appropriate box below:

- ☒ **YES:** Please proceed to Question #9.
☐ **NO:** Please, explain why below; and proceed to Question #10.

9) If "YES," please answer the following questions:

a) **What impacts are anticipated in the community from this proposed Council item?**
The impacts from this proposal are what the Land Use Review is considering. There is a difference in opinion on whether the applicable approval criteria are satisfied. Those approval criteria address services and environmental impacts, among other things. Please see the Hearings Officer's Decision for an assessment of the impacts (see link below).

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enm_hodec.pdf

b) Which community and business groups, under-represented groups, organizations, external government entities, and other interested parties were involved in this effort, and when and how were they involved? The Zoning Code requires for a Type III Land Use Review that public notice be mailed to property owners within 300 feet of the subject site and that the site be posted for a minimum of 30 days prior to the first hearing before the Hearings Officer. The notice also goes to the neighborhood association and any city-recognized business associations. Notices of hearings are also posted on the BDS website. There are no other public involvement efforts on the part of city staff.

c) How did public involvement shape the outcome of this Council item? All required notices were provided to property owners and organizations, as described above. Interested parties participated in the proceedings and were given the opportunity to comment.

d) Who designed and implemented the public involvement related to this Council item? City Council adopted the procedures outlined in the Zoning Code. The Bureau of Development Services implements these procedures.

e) Primary contact for more information on this public involvement process (name, title, phone, email): Rachel Whiteside, City Planner, is the assigned planner for this quasi-judicial land use review. She prepared the public notices used for mailing and posting. Her phone is 503-823-7605, her e-mail address is: Rachel.Whiteside@portlandoregon.gov. However, these procedural activities are not a public involvement process per se.

10) Is any future public involvement anticipated or necessary for this Council item? Please describe why or why not. No. Once City Council makes its decision, the project may proceed (if appeal is denied). If the appeal is denied, the neighbors/appellants could appeal to a higher level - the State Land Use Board of Appeals (LUBA). And, if appeal is upheld, the applicants may choose to appeal to a higher level (LUBA). Public involvement is not a component of the review done by the higher review bodies.



Paul L. Scarlett, Director, Bureau of Development Services

BUREAU DIRECTOR (Typed name and signature)