

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

(Deliver original to City Budget Office. Retain copy.)

1. Name of Initiator Tom Bizeau		2. Telephone No. 503-823-3008	3. Bureau/Office/Dept. Commissioner Amanda Fritz
4.		5.	6.
4a. To be filed (hearing date): October 3, 2013	4b. Calendar (Check One) <div style="display: flex; justify-content: space-around;"> Regular <input checked="" type="checkbox"/> Consent <input type="checkbox"/> 4/5ths <input type="checkbox"/> </div>		5. Date Submitted to Commissioner's office and CBO Budget Analyst: 2/28/13
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:

Approve and Adopt zoning confirmation letter responding to requests for zoning confirmation on Lot 7 Station Place, submitted by Right 2 Dream Too and Williams/Dame & Associates, Inc. (Resolution)

2) Purpose of the Proposed Legislation:

Provide public and city officials with a understanding of City land use code as it relates to the proposed use.

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)?

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

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.

No

5) **Expense:** What are the costs to the City as a result of this legislation? What is the source of funding for the expense?

Cost: None

6) **Staffing Requirements:**

- Will any positions be created, eliminated or re-classified in the current year as a result of this legislation?

None

- Will positions be created or eliminated in *future years* as a result of this legislation?

None

(Complete the following section only if an amendment to the budget is proposed.)

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 item provides information and a forum for anyone interested to review the Bureau of Development Services’ assessment of which regulations apply to the proposed use of the lot for the Right to Dream Too rest area. There have been multiple news articles about Right to Dream Too in the various forms of the media, through TV, Radio, Internet and Print. Many people want to debate the efforts by the City and the group to resolve legal difficulties and find another site for Right to Dream Too. This item provides the opportunity for anyone interested to testify directly to Council, on the proposed use and on the rules that apply on the site.

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?

Right to Dream Too, which serves low-income residents of Portland, and attorneys for Williams/Dame requested the Zoning Confirmation. The BDS response was prepared without public input, as it is a technical analysis of Code related matters. Jurisdictions and organizations that have been involved in exchanges on the underlying topic of Right to Dream Too’s existence include:

*Multnomah County,
Home Forward
Portland Development Commission
Pearl District Neighborhood Association
Pearl District Business Association
REACH Community Development
Station Place Tower residents*

c) How did public involvement shape the outcome of this Council item?

The Zoning Confirmation is based on Code related explanations and is objective in nature. Stakeholders cannot shape the Code, but may through the public hearing process shape the interpretation of the Confirmation of use in this location.

d) Who designed and implemented the public involvement related to this Council item?

Commissioner Fritz.

e) Primary contact for more information on this public involvement process (name, title, phone, email):

Commissioner Fritz, 503-823-3008, tom.bizeau@portlandoregon.gov

10) Is any future public involvement anticipated or necessary for this Council item? Please describe why or why not.

No further public involvement is anticipated on this item. Further public involvement is dependent on the outcome of this item. If the Council affirms the BDS analysis, application for a permits and development of a Use permit will continue. There will be community involvement in partnering to make the new location successful for all, including a Good Neighbor Agreement process. The Good Neighbor Agreement would be between parties negotiating it, and the Council would not act on it. If the Council does not affirm the BDS analysis, further discussions with Right to Dream Too and the owners of the current site at NW 4th/Burnside will be triggered under the terms of the Settlement Agreement on the NW 4th/Burnside site, with no public involvement in that process.

Commissioner Amanda Fritz;



APPROPRIATION UNIT HEAD (Typed name and signature)



City of Portland, Oregon
Bureau of Development Services
Office of the Director
FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7308
Fax: (503) 823-7250
TTY: (503) 823-6868
www.portlandoregon.gov/bds

Memo

Date: October 2, 2013
To: Karla Moore-Love, City Council Clerk
From: Rebecca Esau, Land Use Services Division Manager, BDS

RE: **Additional Information and Documents to Include in Record for Right 2 Dream Too**
(PR 13-206922 ZCL and PR 13-207594 ZCL)

Please include the following additional documents and information into the record for the Right 2 Dream Too Zoning Confirmation Letter, scheduled to be heard by City Council on October 3, 2013.

Additional documents include:

- Information from Shannon Buono at the Bureau of Planning and Sustainability about the legislative intent behind the 1991 change in the zoning code from listing specific uses, to instead use a system of "use categories".
- Excerpts from the Oregon Structural Specialty Code.

*K. Beaumont
note:*

Additional Information:

Although zoning code section 33.700.005 states "All new development, changes to existing development, and changes in the type or number of uses requires a building permit....", "building permit" is not a defined term in the zoning code. This zoning code section does not create an independent requirement for a building permit when the building code and the building official would not require a building permit. This zoning code section is viewed in context with the 2010 Oregon Structural Specialty Code. The 2010 Oregon Structural Specialty Code requires that the applicant make an application to the building official, and apply for the "required permit". It doesn't use the term "building permit".

Title 24 - Building Regulations (24.10.070.J) states that, "A separate permit, known as a development permit, shall be required for a site development, changes in use, or other work performed in compliance with Title 33, Chapter 33.700, Administration, which is not otherwise included with the permit described in Subsection A of this Section...."

BDS reviews, issues, and inspects a variety of different permit types, such as:

- Residential Building Permits
- Commercial Building Permits
- Electrical Permits
- Plumbing Permits
- Zoning Permits
- Development Review Permits

The purpose of these different permit types is to categorize different types of construction projects/proposals to ensure the appropriate review groups get assigned to review the proposal (i.e., the review groups with the appropriate expertise and certifications, who are responsible to administer the different codes that apply to a particular project) to ensure that all applicable regulations are applied.

*Amend
F.P.D.
of
ZCL
to
include
this
discussion
after
1st #
or p. 10)*

A development review permit is a permit type that is used for projects that don't require a building permit per the building code, but which requires review for compliance with the zoning code, and may include plumbing and/or electrical work that must comply with those codes.

The purpose of zoning code section 33.700.005 - Building Permits is to ensure that there is code authority to require a customer to seek a building permit if required under the Structural Specialty Code. But once the customer seeks that permit, in some cases, depending on the proposal, they will be told by the Building Official's delegates at BDS that a building permit is not required. (For example, a building permit would not be required for a one-story detached accessory structure to be used as a storage shed, with floor area not exceeding 120 square feet.) Depending on the proposal, a change in use might require no permit at all, or require just an electrical permit, a plumbing permit, a development review permit, or a building permit. The determination of which type of permit is required, if any, is dependent on the site, the existing use(s) and development, the proposed use(s), the change in occupancy type, the work proposed, etc.

Based on the information provided by Right 2 Dream Too with their application for a zoning confirmation letter, a development review permit is the appropriate permit type for this proposal.



City of Portland, Oregon
Bureau of Development Services
Office of the Director
FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
Paul L. Scarlett, Director
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AUDITOR 10/03/13 AM 11:11

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From: Buono, Shannon
Sent: Tuesday, October 01, 2013 4:12 PM
To: Esau, Rebecca
Cc: Wood, Sandra
Subject: 1991 Code Commentary

AUDITOR 10/03/13 AM 11:28

Zoning Code Rewrite Project, Recommended Draft, April 1990

Chapter II Background, Section D Underlying Framework for the Proposed Regulations (from page 8 in the Recommended Draft):

"There are several underlying concepts and approaches that we have used in formulating the recommended code. This framework provides internal consistency and logic throughout the code. It provides the basis for many decisions about what should be regulated, how detailed the regulations should be, and which alternatives to propose when there is more than one option.

1. Uses and development. Probably the most fundamental concept in the recommended code is the distinction between uses and development. The use is what the primary business or activity does. Development is the physical aspects of the site. Two examples illustrate the distinctions. First, on residential sites the primary use is living. This called Household Living in the recommended code. Houses and apartments are not the uses; they are types of structures and are regulated by the development standards. Second, drive-through windows are not a use; they are a physical aspect of the development. They can be associated with various uses, such as banking or food sales.

The distinction between uses and development allows the code regulations to be designed to fit similar situations and problems. If a situation or problem is shared among many uses, then use regulations can be designed to address it. More often, however, a situation or problem is common to a particular aspect of physical development, and the development regulations can be tailored to achieve the desired results. For example, in certain situations exterior display may not be appropriate, while in other situations it may be normal for the area. The development regulations for the various zones can specify whether exterior display is allowed, allowed in small quantities, or prohibited. The regulation will apply to all uses regardless of the goods that would be displayed.

The physical development aspects of an area have a great impact on the character of the area. In many cases, the height, bulk, amount of parking, placement of the parking, amount of landscaping, and amount of exterior storage have more influence on the character of an area than the specific uses. For example, a furniture store, delicatessen, and stereo store located in the middle of the SE Hawthorne business district would have a very different character than another furniture store, delicatessen, and stereo store located in a commercial shopping center on NE 122nd Avenue. For this reason, the use regulations of the recommended code are more general in application, whereas the development regulations are more prescriptive in comparison to the approach in the existing code.

Another reason the recommended code focuses on development regulations is that buildings and other development on a site tend to outlast specific uses. The uses come and go over the years, but the character of the development is more fixed.

Commentary related to 33.920 Descriptions of the Use Categories (from page 920-1 in Recommended Draft):

"General

This chapter refines the existing activity categories that were adopted as part of the industrial zones. Their names have been changed to use categories and they are now applied in all the zones. The use groups in the existing commercial zones will no longer apply. The use categories are listed in alphabetical order within each broad group of Residential,

Commercial, Industrial, Institutional, and Other.

The code will generally not refer to specific uses, such as a book store, or machine shop, but only to the broad use categories. This is a key element to having the code focus less on specific uses and more on development standards. At the same time, the development regulations more clearly prescribe characteristics of a use, such as size or exterior display of goods.”

Commentary related to 33.920.030 Classification of Uses (from page 920-1 in Recommended Draft):

“33.920.030 Classification of Uses

The proposed code provides more guidance about how uses are classified than the present code. Presently, at the end of the use list for each zone there is a clause saying... “and other uses found similar to the above.” This creates problems because some uses are similar to uses in more than one zone, but the present code provides no further guidance as to which aspects of similarity to focus on.

The new system provides the guidance to classify uses that the present code lacks. Each category contains a general description, common accessory uses, and examples. Any exceptions are also listed.”

Shannon Buono, Senior Planner

Bureau of Planning and Sustainability

1900 SW 4th Avenue, Suite 7100

Portland, Oregon 97201

(503) 823-7662

shannon.buono@portlandoregon.gov

SECTION 105 PERMITS

105.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, change the character or use of the occupancy, or change the occupancy of a building or structure which is regulated by this code, or to cause any such work to be done, shall first make application to the *building official* and obtain the required *permit*. [See ORS 455.020(2)].

Exceptions:

1. Construction subject to minor labels and master permits when authorized by the inspection authority under Oregon Administrative Rules Chapter 918, Division 100.
2. Temporary (180 days) structural supports, structural replacement or repairs performed in an emergency on an existing structure. The authority having jurisdiction shall be notified of this work within 72 hours and permit application for the temporary work shall be submitted within the next 10 business days.

For prohibitions against siting new essential facilities and new special occupancy structures in tsunami inundation zones, see Section 1802.

ORS 455.020 (2) is not a part of this code but is reprinted here for the reader's convenience:

455.020 (2) Purpose: scope of application; exceptions; scope of rules; fees by rule.

(2) The rules adopted pursuant to this chapter shall include structural standards; standards for the installation and use of mechanical, heating and ventilating devices and equipment; and standards for prefabricated structures; and shall, subject to ORS 455.210, prescribe reasonable fees for the issuance of building permits and similar documents, inspections and plan review services by the Department of Consumer and Business Services. The department may also establish, by rule, the amount of any fee pertaining to the state building code or any specialty code that is authorized by statute, but for which an amount is not specified by statute.

105.2 Work exempt from permit. Exemptions from *permit* requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. *Permits* shall not be required for the following:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11 m²).
2. Fences not over 6 feet (1829 mm) high.
3. Oil derricks.
4. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or IIIA liquids.
5. Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18 925 L).

and the ratio of height to diameter or width does not exceed 2:1.

6. Platforms, sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or *story* below and are not part of an *accessible route*.
7. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
8. Temporary motion picture, television and theater stage sets and scenery.
9. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 24 inches (610 mm) deep, do not exceed 5,000 gallons (18 925 L) and are installed entirely above ground.
10. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
11. Window *awnings* supported by an *exterior wall* that do not project more than 54 inches (1372 mm) from the *exterior wall* and do not require additional support of Groups R-3 and U occupancies.
12. Nonfixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1753 mm) in height.
13. Farm agricultural buildings exempted in ORS 455.315 (see also Appendix C).
14. Equine facilities exempted in ORS 455.315.

Note: Unless otherwise exempted, separate plumbing, electrical and mechanical permits may be required for the above-exempted items. Additionally, all new construction and substantial improvements (including the placement of prefabricated buildings and certain building work exempt from permit under Section 105.2) shall be designed and constructed with methods, practices and materials that minimize flood damage in accordance with this code, FEMA regulations and ASCE 24.

105.2.1 Repairs. Application or notice to the *building official* is not required for ordinary repairs to structures. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required *means of egress*, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include *addition* to, *alteration* of, replacement or relocation of any standpipe.

Note: Unless amended locally by a municipality under authority of ORS 455.020 the requirements of Sections 105.3 through 105.6 apply.

105.3 Application for permit. To obtain a *permit*, the applicant shall first file an application therefor in writing on a form furnished by the department of building safety for that purpose. Such application shall:

1. Identify and describe the work to be covered by the *permit* for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address or similar