

ITEM 960 – MOTION SEPTEMBER 17, 2014:

Motion to deny the appeal uphold the Hearings Officer's decision as modified and supplemented and approve the application of the Portland Japanese Garden Society for a conditional use and environmental review.

Moved by Fish

Seconded by Fritz

Roll: Y-3 FRITZ, FISH, HALE

ITEM 904

8-28-2014 Motion

Motion to tentatively deny the appeal, uphold the Hearings Officer's decision and add revised condition G. sidewalk segment design on west side of the park road/SW Kingston Ave at the park entrance to provide adequate unimpeded pedestrian access:

Moved by Fish and seconded by Fritz.

The Commissioners voted as follows:

Yeas: Saltzman, Novick, Fritz, Fish. Hales

Revised Condition G:

The Garden shall construct a ~~minimum 6-foot-wide~~ concrete sidewalk ~~from the existing curb with a minimum 4-foot-wide planting strip~~ along the north ~~[sic]~~ west side of the park road/SW Kingston Avenue between the Garden's new redeveloped parking lot and the existing public sidewalk at the Park entrance that will provide adequate unimpeded pedestrian access, roughly as shown in Exhibit H.21. The new sidewalk shall be constructed at the same time as the new parking lot. This proposed sidewalk design will require approval of Portland Parks & Recreation, Bureau of Transportation and the Bureau of Development Services Site Development Review Section.

8-28-2014 Disposition:

<p>904 TIME CERTAIN: 2:00 PM - Appeal of Arlington Neighborhood Association and Hilary Mackenzie against Hearings Officer's decision to approve a conditional use review and an environmental review for proposed development at the Portland Japanese Garden at 400 SW Kingston Avenue (Hearing introduced by Commissioner Fritz; LU 14-122172 CU EN) 3 hours requested</p> <p>Motion to tentatively deny the appeal, uphold the Hearings Officer's decision and add revised condition G. sidewalk segment design on west side of the park road/SW Kingston Ave at the park entrance to provide adequate unimpeded pedestrian access : Moved by Fish and seconded by Fritz. (Y-5)</p>	<p>TENTATIVELY DENY THE APPEAL AND UPHOLD HEARINGS OFFICER'S DECISION WITH MODIFICATION; PREPARE FINDINGS FOR SEPTEMBER 17, 2014 AT 10:15 AM TIME CERTAIN</p>
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KATHLEEN STOKES
DEVELOPMENT SERVICES
229/5000

SHAWN WOOD
ARLINGTON HEIGHTS NEIGHBORHOOD
ASSOCIATION
C/O NEIGHBORS WEST/NORTHWEST
2257 NE RALEIGH ST.
PORTLAND, OR 97210

CHRISTIE GALEN
AND MARSHAL GANNETT
2732 SW FAIRVIEW BLVD.
PORTLAND, OR 97205

RACHEL WHITESIDE
DEVELOPMENT SERVICES
229/5000

MARK SIEBER
NEIGHBORS WEST/NORTHWEST
2257 NW RALEIGH ST.
PORTLAND, OR 97210

STUART LEVY
2740 SW FAIRVIEW BLVD.
PORTLAND, OR 97205

DOUG MORGAN
DEVELOPMENT SERVICES
229/5000

SUSAN WINKLER
2370 SW PARK PLACE
PORTLAND, OR 97205

MELISSA BABSON
12045 SW BREYMAN AVE.
PORTLAND, OR 97219

KURT KRUEGER
PBOT
106/800

CAROL L. OTIS
0836 SW CURRY ST. #1400
PORTLAND, OR 97239

LOU PHEMISTER
URBAN FORESTRY
10910 N DENVER AVE.
PORTLAND, OR 97217

DAWN KRANTZ
PORTLAND FIRE BUREAU
472/100

ED McVICKER
10033 SW 53RD
PORTLAND, OR 97219

GAIL JUBITZ
6765 SW GABLE PKWY.
PORTLAND, OR 97225

WATER BUREAU PERMITS
106/601

MARGUERITTE H. DRAKE
5680 SW RIVERPOINT LN.
PORTLAND, OR 97239

KRISTEN DOZONO
REMAX
237 NE BROADWAY, SUITE 100
PORTLAND, OR 97232

OREGONIAN
PORTLAND TEAM
1320 SW BROADWAY
PORTLAND, OR 97201

WILLIAM A. HUGHES
W.A. HUGHES CONSTRUCTION INC.
10805 NW SKYLINE BLVD.
PORTLAND, OR 97231

SUSAN ALPERT-SIEGEL
AHNA
2257 NW RALEIGH ST.
PORTLAND, OR 97210

CITY OF PORTLAND
1120 SW 5TH AVE #609
PORTLAND, OR 97204-1912

GWYNETH GAMBLE BOOTH
2161 SW LAUREL
PORTLAND, OR 97201

SHANNON THOMAS
216 SW PARKSIDE DR.
PORTLAND, OR 97205

BEVERLY BOOKIN
THE BOOKIN GROUP LLC
813 SW ALDER ST. STE. 320
PORTLAND, OR 97205

FRANCES VON SCHLEGELL
935 SW DAVENPORT ST.
PORTLAND, OR 97201

MARI CONNOLLY
2635 SW PARK PLACE
PORTLAND, OR 97205

JONAH COHEN
THA ARCHITECTURE
733 SW OAK ST. STE 100
POTLAND, OR 97205

MICHAEL WALLACE
AND LISA CALEF
3213 SW UPPER CASCADE DR.
PORTLAND, OR 97205

STEPHEN BLOOM
JAPANESE GARDEN
611 SW KINGSTON AVE.
PORTLAND, OR 97205

DORIE VOLLUM
1000 NW SKYLINE BLVD.
PORTLAND, OR 97229

MATS AND ALYSSA LANNER
2764 SW FAIRVIEW BLVD.
PORTLAND, OR 97205

MICHAEL REED
GRI
9750 SW NIMBUS AVENUE
BEAVERTON, OR 97008-7172

JULIEANN AND ALAN BARKER
2797 SW RUTLAND TERRACE
PORTLAND, OR 97205

PHIL WORTH
KITTELSON & ASSOCIATES, INC.
610 SW ALDER ST., SUITE 700
PORTLAND, OR 97205

MORT BISHOP
126 SW PARKSIDE LANE
PORTLAND, OR 97205

SHO DOZONO
1534 SW CARDINELL DRIVE
PORTLAND, OR 97201

KELLY HOSSAINI
MILLER NASH
111 SW 5TH AVE., #3500
PORTLAND, OR 97204

MIKE TIMOTHY
2774 SW FAIRVIEW BLVD.
PORTLAND, OR 97205

DEAN ALTERMAN
805 SW BROADWAY, STE. 2750
PORTLAND, OR 97205

JOHN SPRIETSMA
DANA PLAUTZ
2753 SW RUTLAND TERRACE
PORTLAND, OR 97205

BDS
ATTN: YVONNE POELWIJK
1900 SW 4TH AVE, STE 5000
PORTLAND, OR 97201

STEVE JANIK
BAIL JANIK
101 SW MAIN ST., STE. 1100
PORTLAND, OR 97204

STEPHEN & KATHY KELLY
221 SW KINGSTON AVE.
PORTLAND, OR 97205

HILARY MACKENZIE
2722 SW RUTLAND TERRACE
PORTLAND, OR 97205

JOE ANGEL
1001 SE WATER AVE., STE. 1100
PORTLAND, OR 97214

KIA SELLEY
106/1302

MIKE DOWD
0753 SW MILES ST.
PORTLAND, OR 97219

JEFF BOLY
2879 SW CHAMPLAIN DR.
PORTLAND, OR 97205

JASON STONE
330 SW KINGSTON AVE.
PORTLAND, OR 97204

LU 14-122172 CU EN
DATE MAILED: 8/1/2014
56 LABELS

INGEBORG HOLLIDAY
257 SW MARCONI AVE.
PORTLAND, OR 97205

VIRGINIA HERNDON
211 SW KINGSTON AVE.
PORTLAND, OR 97205

HILARY MACKENZIE
2827 NE MLK JR. BLVD.
PORTLAND, OR 97212

DIEGO ARGUEA
KITTELSON & ASSOCIATES
610 SW ALDER ST., SUITE 700
PORTLAND, OR 97205

ALIZA BETHLAHMY
DAN BERNE
2752 SW FAIRVIEW BLVD.
PORTLAND, OR 97205

CATHY RUD
1719 LAKE FRONT RD.
LAKE OSWEGO, OR 97034

Portland, Oregon

FINANCIAL IMPACT and PUBLIC INVOLVEMENT STATEMENT For Council Action Items

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

1. Name of Initiator Kathleen Stokes/Rachel Whiteside		2. Telephone No. 503-823-7605	3. Bureau/Office/Dept. BDS Land Use Services
4a. To be filed (hearing date): August 28, 2014, 2:00 TC	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: August 13, 2014
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 14-122172 CU EN (Portland Japanese Garden).**

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 include a Conditional Use and Environmental Review.

The Hearings Officer's decision of approval with conditions has been appealed by the Arlington Heights Neighborhood Association and Hilary Mackenzie, private resident/neighbor. The appellants are challenging the Hearing's Officer's decision and argue applicable criteria of both reviews have not 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 affects an individual ownership within SE Portland.

- | | | | |
|---|------------------------------------|---|--------------------------------|
| <input 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 checked="" 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.

This is not a legislative action.

5) Expense: What are the costs to the City as a result of 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 year, including Operations & Maintenance (O&M) costs, if known, and estimates, if not known. 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, 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.)

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 applicable approval criteria for the Land Use Review consider the impacts of the development proposal. 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).

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. Prior to the land use review process, the applicant must contact the neighborhood association for the area and district neighborhood coalition. 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 prior to the staff recommendation, at the public hearing before the City Land Use Hearings Officer, and during the open record period that followed the public hearing.

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):

All public notices for this quasi-judicial land use review, with the exception of the decision by the land use hearings officer, were prepared by Kathleen Stokes and Rachel Whiteside, City Planners.

Phone: 503-823-7843, 503-823-7605

Email: Kathleen.Stokes@portlandoregon.gov, Rachel.Whiteside@portlandoregon.gov

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)