



**OFFICE OF CITY AUDITOR
CITY OF PORTLAND**

**LaVonne Griffin-Valade, City Auditor
Council/Contracts Division**

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March 20, 2012

NOTICE OF DECISION

RE CASE FILE: LU 11- 187799 CU

Appeal of King Neighborhood Association against Hearings Officer's decision to approve with conditions the application of Portland Playhouse for a conditional use for community service uses at 602 NE Prescott Street (Hearing; LU 11-187799 CU)

To Whom It May Concern:

Enclosed is a copy of the Order of Council on LU 11-187799 CU granting the appeal of the King Neighborhood Association. With this decision, the City Council overturns the portion of the Hearings Officer's Decision that classified the play performances as a prohibited Retail Sales and Service use. If you wish to obtain a copy of the City Council's findings and conclusions, please contact Karla Moore-Love, Council Clerk at (503) 823-4086 or by email at: Karla.Moore-Love@portlandoregon.gov

City Council's decision is the final review process available through the City. You may appeal this decision to the Oregon Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal with the Board within 21 days of the date of decision, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have appeared orally or in writing during the City's proceedings on this land review. The Board's address is: Public Utility Commission Building, 550 Capitol Street NE, Suite 235, Salem, OR 97310-2552. You may call the Land Use Board of Appeals at 1-503-373-1265 for further information on filing an appeal.

Yours sincerely,

LaVonne Griffin-Valade
Auditor of the City of Portland

By:

Karla Moore-Love, Council Clerk

Enc.



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March 20, 2012

Brian Weaver
4307 N Commercial Avenue
Portland, OR 97217-3061

RE CASE FILE: LU 11- 187799 CU

Appeal of King Neighborhood Association against Hearings Officer's decision to approve with conditions the application of Portland Playhouse for a conditional use for community service uses at 602 NE Prescott Street (Hearing; LU 11-187799 CU)

To Whom It May Concern:

Enclosed is a copy of the Order of Council on LU 11-187799 CU. This Order must be recorded with the Multnomah County Recorder within 10 days of receipt of this letter. **Please send a check for \$46.00 made payable to the Multnomah County Recorder, indicating the file number on your check and SEND TO: The City of Portland, Office of the City Auditor, 1221 SE 4th Ave. Room 140, Portland, OR 97204-1900**

City Council's decision is the final review process available through the City. You may appeal this decision to the Oregon Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal with the Board within 21 days of the date of decision, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have appeared orally or in writing during the City's proceedings on this land review. The Board's address is: Public Utility Commission Building, 550 Capitol Street NE, Suite 235, Salem, OR 97310-2552. You may call the Land Use Board of Appeals at 1-503-373-1265 for further information on filing an appeal.

Yours sincerely,

LaVonne Griffin-Valade
Auditor of the City of Portland

By:


Karla Moore-Love, Council Clerk

Enc.

cc: Will Rasmussen, Miller Nash LLP
David Morrison and Louanne Moldovan

**ORDER OF COUNCIL ON APPEAL OF
KING NEIGHBORHOOD ASSOCIATION AGAINST HEARINGS OFFICER'S DECISION TO
APPROVE WITH CONDITIONS THE APPLICATION OF PORTLAND PLAYHOUSE FOR A
CONDITIONAL USE FOR COMMUNITY SERVICE USES AT 602 NE PRESCOTT STREET
(HEARING; LU 11-187799 CU)**

Applicant: Brian Weaver
4307 N Commercial Avenue
Portland, OR 97217-3061

Appellant: Alan Silver, Chair
King Neighborhood Association
4815 NE 7th Avenue
Portland, OR 97211

**Applicant's
Representative:** Will Rasmussen
Miller Nash LLP
3400 US Bancorp Tower
111 SW Fifth Avenue
Portland, OR 97204

Property Owners: David Morrison and Louanne Moldovan
5546 SE Taylor Street
Portland, OR 97215-2713

Site Address: 602 NE Prescott Street

Legal Description: BLOCK 3 LOT 1&2, LINCOLN PK ANX

Neighborhood: King

Zoning: R5a (Single-Dwelling Residential 5,000 base zone with the 'a' or Alternative Design Density overlay zone)

Land Use Review: Type III, CU (Conditional Use Review)

Original Proposal: The applicant, the Portland Playhouse, proposes to use the old Highland Congregational/Mt. Sinai Baptist Church building at 602 NE Prescott Street as a community arts center, at which nonprofit classes, workshops, community discussion panels, art exhibits, mentorship programs, plays, and an art camp would take place. These activities have taken place at the site for the past several years. Because the site is located in a residential zone (R5), these uses are not allowed by-right. The site is currently under City enforcement for a zoning violation because the Zoning Code identifies theaters as an example of a commercial Retail Sales and Service Use, which is prohibited in the R5 zone. No exterior alterations or additions to the former church building are proposed to accommodate the proposed uses.

The applicant has requested conditional use approval for Community Service uses at the site, and that all activities at the site, including the plays, be considered Community Service uses, and not Retail Sales and Service uses. The specific activities proposed for the site are as follows:

Activity	Frequency	Participants per Day	Time of Activity
Outreach/Planning/Maintenance	Daily, Year-round	2 to 8	Mon. – Sat., 8 a.m. – 6 p.m.
Classes	Daily, Year-Round	10 to 15	Mon. - Sat., 1 p.m. – 6 p.m.
Workshops/Training	Daily, Year-round	10 to 25	Mon. – Sat., 1 p.m. – 6 p.m.
Community Discussion Panels	Monthly, Year-Round	20 to 90	Mon. – Sat., 7 p.m. – 9 p.m.
Art Exhibition	Continuous, Year-Round	0 to 50	Ongoing
Membership Activities	Intermittent	0 to 10	Mon. – Sat., 1 p.m. – 5 p.m.
Three of Four Plays per Year	12 to 24 performances per play	40 to 90	Thu. – Sat., 7:30 p.m. – 9:30 p.m. + Sat. & Sun, 2 p.m. – 4 p.m.
Community-Oriented Events	Four to six per year	50 to 90	Thu. – Sat., 7:30 p.m. – 9:30 p.m.
Summer Art Camp	15 to 25 days in the summer	12 to 24	Mon. – Fri., 10 a.m. – 2 p.m.

Following a public hearing and subsequent open record period, the Hearings Officer issued his decision approving all proposed activities except the play performances as a community service use. The Hearings Officer concluded the play performances associated with the Portland Playhouse’s activities at the site were an entertainment-oriented retail sales and service use and prohibited in the R5 zone, and denied this portion of the application. On February 2, 2012, the applicant appealed the Hearings Officer’s decision to the City Council on the primary ground that: “The entire proposal should have been approved as a community service use (33.920.420). The City miscategorized some of the proposal as Commercial Retail Sales and Services.”

The appeal hearing before the City Council was opened in the Council Chambers, 1221 SW 4th Avenue on March 1, 2012 at approximately 3:30 p.m. At the conclusion of the public hearing and after hearing public testimony, Council voted 5-0 to tentatively uphold the appeal of the King Neighborhood Association and overturn the portion of the Hearings Officer’s decision concerning the play performances and directed staff to prepare Findings for March 14, 2012 at 10:00 a.m. On March 14, 2012 at 10:00 a.m., Council voted 4-0 to adopt findings and a final decision upholding the appeal of the King Neighborhood Association, overturning the portion of the Hearings Officer’s decision concerning the play performances by the Portland Playhouse and approving the Conditional Use for all of the proposed uses, including the play performances.

DECISION

Based on evidence in the record and adoption of the Council’s Findings and Decision in **Case File LU 11-187799 CU** and by this reference made a part of this Order, **it is the decision of Council** to grant the appeal of the King Neighborhood Association as filed on behalf of the Portland Playhouse. With this decision, the City Council overturns the portion of the Hearings Officer’s Decision that classified the play performances as a prohibited Retail Sales and Service use. City Council hereby classifies the entire Portland Playhouse operation as a Neighborhood Arts Center, allowed through the Conditional Use process as a Community

Service use, based on the specific facts in this case. The City Council upholds the remaining portions of the Hearings Officer's Decision, which granted Conditional Use approval for the use with one condition. The effect of the Council's decision is:

Approval of a Conditional Use Review for Community Service uses at the site, including all of the individual activities and events as proposed, with times, frequencies, and attendees as identified in the proposal description at the beginning of this decision and on page 1 of the applicant's narrative (Exhibit A.1). This approval is subject to the following condition:

A. The applicant shall implement and maintain their proposed Transportation Demand Management Plan, included in Section/Tab 2 of the narrative (Exhibit A.1).

IT IS SO ORDERED:

MAR 20 2012

Date



Mayor Sam Adams
Presiding Officer at Hearing of
March 14, 2012
9:30 a.m. Session

EMAILED: MARK WALHOOD, KATHRYN
BEAUMONT JONNA Papaefthimiou, DOUG
MORGAN, KURT KRUEGER, DAWN
KRANTZ, ROBERT HALEY, HEARINGS
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~~PORTLAND, OR 97221~~

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LU 11-187799 CU
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ORDER OF COUNCIL MAILED: