

**Parsons, Susan**

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**From:** Rees, Linly  
**Sent:** Wednesday, February 22, 2012 10:21 AM  
**To:** Parsons, Susan; 'Rasmussen, William'  
**Cc:** Walhood, Mark; Moore-Love, Karla; Beaumont, Kathryn  
**Subject:** RE: Playhouse Appeal (LU 11-187799) - Applicant presentation time  
Sue and Will,

Based on my conversation with Will this morning, I understand that the Portland Playhouse and the King NA are on the same side in this appeal; they support the appeal with the goal of overturning the Hearings Officer's decision. To my knowledge, there is no principal opponent in this appeal. Generally, the principal appellant may use its time as it chooses. If the neighborhood association wishes to have Mr. Rasmussen speak on behalf of the applicant during the appellant's time period, I expect the Council would be fine with that and, if asked, I would advise the Council to allow it.

**Linly Rees**

Deputy City Attorney  
Portland City Attorney's Office  
(503) 823-4047  
[linly.rees@portlandoregon.gov](mailto:linly.rees@portlandoregon.gov)  
(Note: New e-mail address)

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**From:** Parsons, Susan  
**Sent:** Tuesday, February 21, 2012 2:04 PM  
**To:** 'Rasmussen, William'; Beaumont, Kathryn; Rees, Linly  
**Cc:** [brian@portlandplayhouse.org](mailto:brian@portlandplayhouse.org); Walhood, Mark; Alan Silver; Moore-Love, Karla  
**Subject:** RE: Playhouse Appeal (LU 11-187799) - Applicant presentation time

Will, we defer to the City Attorney's office on land use case questions.

Kathryn, Linly,  
Would you please respond to Will's question below?

Thank you.

**Sue Parsons**

Assistant Council Clerk  
City of Portland  
503.823.4085  
*please note new email address:*  
[Susan.Parsons@portlandoregon.gov](mailto:Susan.Parsons@portlandoregon.gov)

---

**From:** Rasmussen, William [<mailto:william.rasmussen@millernash.com>]  
**Sent:** Tuesday, February 21, 2012 1:05 PM  
**To:** Parsons, Susan  
**Cc:** [brian@portlandplayhouse.org](mailto:brian@portlandplayhouse.org); Walhood, Mark; Alan Silver; Moore-Love, Karla

2/23/2012

**Subject:** RE: Playhouse Appeal (LU 11-187799) - Applicant presentation time

Hi Sue,

I understand that Karla is out until next week so I just left you a voicemail about this. Can you confirm the City Auditor's direction that the Portland Playhouse can use the 15 minute time slot for principal opponent at the March 1 appeal hearing in front of Council?

The procedural posture of this case is somewhat unique because the local neighborhood association has appealed the hearings officer's partial denial of our CUP application. The Playhouse is the applicant in this matter and opposes the partial denial of the application. Also, I have never heard of (and question the sufficiency of) a local process that only affords the applicant 3 minutes on appeal.

Thank you for your guidance on this.

Will

**William L. Rasmussen**

**MILLER NASH LLP**

**From:** Walhood, Mark [mailto:Mark.Walhood@portlandoregon.gov]

**Sent:** Tuesday, February 21, 2012 10:24 AM

**To:** 'Alan Silver'

**Cc:** Rasmussen, William; brian@portlandplayhouse.org

**Subject:** RE: Playhouse Appeal - Applicant presentation time

I will defer to the City Auditor's office on this one. BDS staff generally does not over-ride advice given by the City Auditor on Council hearing procedure. On the bright side, if the Playhouse is the 'principal opponent', then they get 15 minutes, per the timeline in the notice. I will have to refer you to the Council Clerk for further questions, since it's beyond my authority. Council Clerks are Karla Moore-Love at 503.823.4086 or Sue Parsons at 503.823.4085.

**Mark Walhood, City Planner**

BDS: Title 33 and Design/Historic Teams

503.823.7806

mark.walhood@portlandoregon.gov

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**From:** Alan Silver [mailto:hedda.lee@gmail.com]

**Sent:** Tuesday, February 21, 2012 8:32 AM

**To:** Walhood, Mark

**Subject:** Re: Playhouse Appeal - Applicant presentation time

Good morning!

The staff at the city auditor's office told me last week that the Playhouse would serve as the principal opponent; and that the appellant could not give its time away to anyone else.

How can we clarify the rules governing the hearing?

Alan

On Tue, Feb 21, 2012 at 8:15 AM, Walhood, Mark <Mark.Walhood@portlandoregon.gov> wrote:

Hi Will,

It's all laid out, as described in the attachment to the mailed hearing notice (last page). The principal appellant gets 10 minutes, and other supporters of the appeal get 3 minutes. Alan or somebody from the King NA could get up there and start, but quickly 'cede' their remaining time on the ten minute clock to you. Then others could come up and speak for 3 minutes each, in support of the appeal. The Council Clerk usually runs a little time clock that you see on the table, and it starts blinking when folks go over time. Rebuttals at the end are limited to five minutes. It's best to be prepared to meet those time limits, because it's always hard to tell exactly when Council will cut folks off (they regularly do). Thanks,

**Mark Walhood, City Planner**

BDS: Title 33 and Design/Historic Teams

2/23/2012



**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](http://www.portlandonline.com/bds)

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

**CASE FILE:** LU 11-187799 CU (Portland Playhouse)  
**WHEN:** THURSDAY MARCH 1, 2012 @ 3:30 p.m.  
**WHERE:** COUNCIL CHAMBERS, 1221 SW FOURTH AVENUE

**Date:** February 8, 2012  
**To:** Interested Person  
**From:** Mark Walhood, City Planner, 503-823-7806

A public hearing will be held to consider an appeal of the Hearings Officer's decision regarding a Community Service Use proposal (the Portland Playhouse) at 602 NE Prescott Street. The Hearings Officer decision of approval with conditions has been appealed by the King 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 Number:** LU 11-187799 CU (HO 4110034)

**Appellant:** King Neighborhood Association  
Alan Silver, Chair (503) 888-6848  
4815 NE 7<sup>th</sup> Ave.  
Portland, OR 97211

**Applicant:** Brian Weaver (206) 419-9190  
4307 N Commercial Ave.  
Portland, OR 97217-3061

**Applicant's  
Representative:** Will Rasmussen (503) 224-5858  
Miller Nash LLP  
3400 US Bancorp Tower  
111 SW Fifth Ave  
Portland, OR 97204

**Hearings Officer:** Kenneth D. Helm

**Bureau of Development Services (BDS) Staff Representative:** Mark Walhood

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

**Site Address:** 602 NE PRESCOTT ST

**Legal Description:** BLOCK 3 LOT 1&2, LINCOLN PK ANX  
**Tax Account No.:** R497300340  
**State ID No.:** 1N1E23CB 03400  
**Quarter Section:** 2631

**Neighborhood:** King Neighborhood Association  
**Business District:** North-Northeast Business Association  
**District Coalition:** Northeast Coalition of Neighborhoods

**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)

**Public Hearing:** The hearing was opened at 9:02 a.m. on December 21, 2011, in the 3<sup>rd</sup> floor hearing room, 1900 SW 4<sup>th</sup> Avenue, Portland, Oregon, and was closed at 10:41 a.m. The record was held open until 4:30 p.m. on December 30, 2011, for new evidence; until 4:30 p.m. on January 6, 2012, for responsive comments, no new evidence; and until 4:30 p.m. on January 13, 2012, for applicant's final rebuttal. On January 10, 2012, the applicant's representative submitted a request to close the record. The Hearings Officer granted that request. The record was closed on January 10, 2012.

**Testified at the Hearing:**

Mark Walhood, BDS Staff Representative  
Will Rasmussen, Miller Nash, 111 SW 5<sup>th</sup> Avenue, Suite 3400, Portland, OR 97204  
Angela Freeman, 531 NE Prescott Street, Portland, OR 97211  
Brian Weaver, 4307 N Commercial Avenue, Portland, OR 97217  
Josh Weinstein, 5133 NE Killingsworth Street, Portland, OR 97218  
Gabrielle Foulkes, 617 NE Prescott, Portland, OR 97211  
Harold Goldstein, 11744 SW Summerville Avenue, Portland, OR 97219  
Christie Miles, 722 NE Stafford, Portland, OR 97211  
Nikki Weaver, 4307 N Commercial, Portland, OR 97217

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

**Relevant Approval Criteria:**

- **33.815.105.A-E, Conditional Use Approval Criteria for Institutional and Other Uses in R zones;** and
- **33.920, Descriptions of the Use Categories.**

**REVIEW BODY DECISION**

*“The play performances are an entertainment-oriented Retail Sales and Service use, and are prohibited in the R5 zone.*

**Approval of a Conditional Use Review** for Community Service uses at the site, including all the individual activities and events at the site, excluding the play performances, 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).”*

**Decision rendered by:**

Kenneth D. Helm, Hearings Officer  
(original with signature on file/available for review)

**Date rendered:**

**January 26, 2012**

**Application Determined Complete:**

November 10, 2011

**Staff Report to Hearings Officer:**

December 9, 2011

**Decision Mailed:**

January 27, 2012

**120-day Review Period Expires:**

March 9, 2012

**APPEAL**

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

*"The entire proposal should have been approved as a community service use (PCC 33.920.420). The City miscategorized some of the proposal as Commercial Retail Sales and Services. The hearings officer erred by finding that the neighborhood association did not submit written comment. The KNA submitted written comment regarding the application on December 19, 2011."*

**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 4<sup>th</sup> 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.

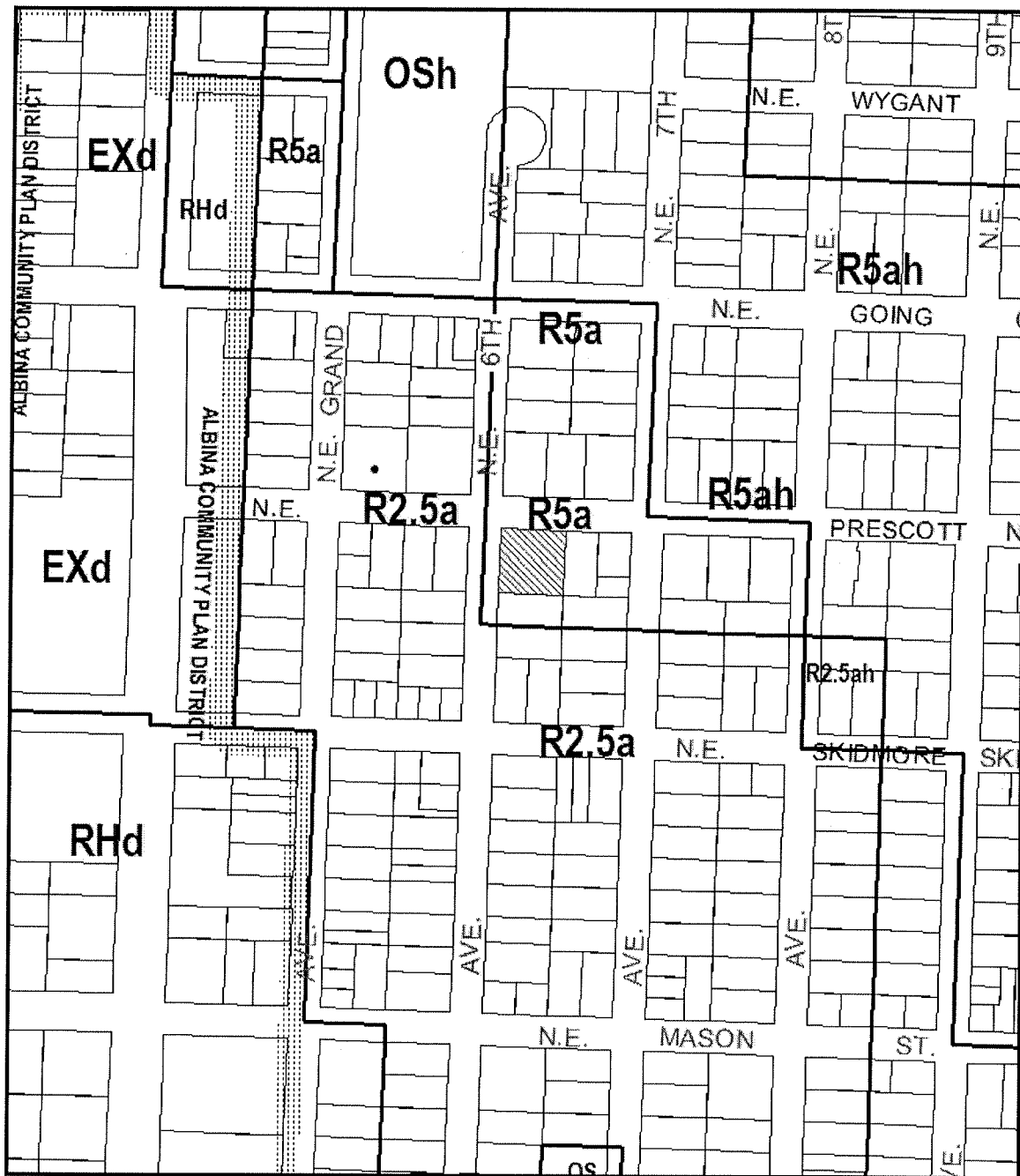
If you choose to provide testimony by electronic mail, please direct it to the Council Clerk [karla.Moore-Love@portlandoregon.gov]. Due to legal and practical reasons, City Council members cannot accept electronic mail on cases under consideration by the Council. Any electronic mail on this matter must 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. Appeal Statement
3. City Council Appeal Process



# ZONING



Site



Historic Landmark



NORTH

File No.	LU 11-187799 CU
1/4 Section	2631
Scale	1 inch = 200 feet
State_Id	1N1E23CB 3400
Exhibit	B (Oct 24, 2011)



# 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 11-187799 CU

### FOR INTAKE, STAFF USE ONLY

Date/Time Received 2/2/12 @ 2:30 PM

Received By MARK WALKER

Appeal Deadline Date 2/10/12 @ 4:30 PM

☒ Entered in Appeal Log 2/3/12

☒ Notice to Auditor 2/3/12

☒ Notice to Dev. Review 2/3/12

☒ Action Attached

Fee Amount \$ 5,000

☒ [N] Fee Waived

Bill #

[Y] ☒ 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 602 N.E. Prescott Street

Date January 30, 2012

Land Use Number LU 11-187799 CU

Appellant's Name King Neighborhood Association

Street Address 4815 N.E. 7th Avenue

City Portland

State OR

Zip Code 97211

Day Phone 503-880-6848

FAX

email hedda.lee@gmail.com

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 entire proposal should have been approved as a community service use (PCC 33.920.420). The City miscategorized some of the proposal as Commercial Retail Sales and Services. The hearings officer erred by finding that the neighborhood association did not submit written comment. The KNA submitted written comment regarding the application on Dec. 19, 2011.

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. LU11-187799 CU  
 EXHIBIT I-1



**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**

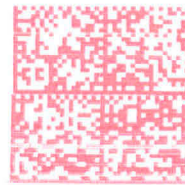
- a. Prior to the hearing, the case file and the Hearings Officer's decision are available for review, by appointment, at the Bureau of Development Services, 1900 SW 4<sup>th</sup> Avenue, #5000, Portland, OR 97201. Call 503-823-7617 to make an appoint to review the file.

**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.**



CITY OF  
PORTLAND, OREGON  
OFFICE OF THE CITY AUDITOR

1221 SW 4<sup>th</sup> Ave, Room 140  
Portland, Oregon 97204-1987



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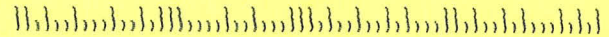
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6443 SW BEAV HLSDL HWY  
STE 432  
PORTLAND, OR 97221

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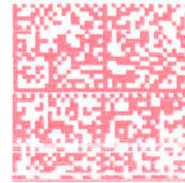


11-187799



CITY OF  
PORTLAND, OREGON  
OFFICE OF THE CITY AUDITOR

1221 SW 4<sup>th</sup> Ave, Room 140  
Portland, Oregon 97204-1987



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Address Service  
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6443 SW BEAVERTON HILLSDALE HWY  
SUITE 432  
PORTLAND, OR 97221

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9722187799



131/340/MAYOR/AMY RUIZ

YVONNE POELWIJK  
1900 SW 4<sup>TH</sup> AVE, STE 5000  
PORTLAND, OR 97204

MARK WALHOOD  
DEVELOPMENT SERVICES  
299/5000

DOUG MORGAN  
DEVELOPMENT SERVICES  
299/5000

BES/DEV. SERVICES  
106/1100

KURT KRUEGER  
PBOT  
106/1100

DAWN KRANTZ  
PORTLAND FIRE BUREAU  
472/100

WATER BUREAU PERMITS  
106/601

OREGONIAN  
PORTLAND TEAM  
1320 SW BROADWAY  
PORTLAND, OR 97201

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4307 N COMMERCIAL AVE  
PORTLAND, OR 97217-3061

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MILLER NASH LLP  
3400 US BANCORP TOWER  
111 SW 5<sup>TH</sup> AVE  
PORTLAND, OR 97204

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LOUANNE MOLDOVAN  
5546 SE TAYLOR ST  
PORTLAND, OR 97215-2713

TRACE SALMON  
KING NEIGHBORHOOD ASSOC  
C/O 4815 NE 7<sup>TH</sup> AVE  
PORTLAND, OR 97211

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PO BOX 11565  
PORTLAND, OR 97211

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4815 NE 7<sup>TH</sup> AVE  
PORTLAND, OR 97211

ETTA M. BAKER  
703 NE PRESCOTT ST  
PORTLAND, OR 97211

ANGELA FREEMAN  
531 NE PRESCOTT ST  
PORTLAND, OR 97211

JOSH WEINSTEIN  
5133 NE KILLINGSWORTH ST  
PORTLAND, OR 97218

GABRIELLE FOULKES  
617 NE PRESCOTT  
PORTLAND, OR 97211

HAROLD GOLDSTEIN  
11744 SW SUMMERVILLE AVE  
PORTLAND, OR 97219

CHRISTIE MILES  
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PORTLAND, OR 97211

NIKKI WEAVER  
4307 N COMMERCIAL  
PORTLAND, OR 97217

CHARLES BOARDMAN  
4226 NE GRAND AVE  
PORTLAND, OR 97211

ROBERT HALEY  
B106/800

ELOISE DAMROSCH  
RACC  
411 NW PARK AVE  
SUITE 101  
PORTLAND, OR 97209-3356

KIMBERLY HOWARD  
OREGON CULTURAL TRUST  
775 SUMMER ST NE  
SALEM, OR 97301-1280

PAUL ANTHONY  
6443 SW BEAV HLSDL HWY  
STE 432  
PORTLAND, OR 97221

MARSHA JOHNSON  
SHINING STAR  
602 NE PRESCOTT ST  
PORTLAND, OR 97211

KING NEIGHBORHOOD ASSOC  
ALAN SILVER  
4815 NE 7<sup>TH</sup> AVE  
PORTLAND, OR 97211

LU 11-187799 CU  
DATE MAILED: 2-8-12  
29 MAILING LABELS



# City of Portland

Hearings Office 1900 S.W. 4th Avenue Room 3100

Portland, Oregon 97201

(503) 823-7307 Fax (503) 823-4347

## Mailing List

**Case # 4110034**

**Bureau # 11-187799 CU**

**Date Prepared: 01/26/12**

**Time Prepared: 9:10 AM**

**Mark Walhood**

Government Representative

Address 1

Development Services  
Bldg. 299, Room 5000

**Yvonne Poelwijk**

Other Party

Address 1

BDS admin. Take file, exhibits & orig. NOD after mailing

**Toni Anderson**

Other Party

Address 1

Auditor's Office  
Bldg. 131, Room 140

**Doug Morgan**

Other Party

Address 1

Development Services  
Bldg. 299, Room 5000

**BES / Dev. Services**

Other Party

Address 1

Bldg. 106, Room 1100

**Kurt Krueger**

Other Party

Address 1

PBOT  
Bldg. 106, Room 800

**Dawn Krantz**

Other Party

Address 1

Portland Fire Bureau  
472/100



# City of Portland

Hearings Office 1900 S.W. 4th Avenue Room 3100  
Portland, Oregon 97201  
(503) 823-7307 Fax (503) 823-4347

## Mailing List

**Case # 4110034**

**Bureau # 11-187799 CU**      **Date Prepared: 01/26/12**      **Time Prepared: 9:10 AM**

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### Water Bureau Permits

Other Party

Address 1      Bldg. 106, Room 601

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### Oregonian

Other Party

Address 1      Portland Team  
1320 SW Broadway  
Portland, OR 97201

---

### Brian Weaver

Applicant

Address 1      4307 N Commercial Ave.  
Portland, OR 97217-3061

---

### Will Rasmussen

Applicant's Representative

Address 1      Miller Nash LLP  
3400 US Bancorp Tower  
111 SW 5th Avenue  
Portland, OR 97204

---

### David Morrison

Property Owner

Address 1      Louanne Moldovan  
5546 SE Taylor St.  
Portland, OR 97215-2713

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### Trace Salmon

Neighborhood Assn. Representative

Address 1      King Neighborhood Association  
c/o 4815 NE 7th Ave.  
Portland, OR 97211

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# City of Portland

Hearings Office 1900 S.W. 4th Avenue Room 3100  
Portland, Oregon 97201  
(503) 823-7307 Fax (503) 823-4347

## Mailing List

**Case # 4110034**

**Bureau # 11-187799 CU**

**Date Prepared: 01/26/12 Time Prepared: 9:10 AM**

**Joice Taylor**

Work Phone 503-445-1321

Business Assn. Representative

Address 4

PO Box 11565  
Portland, OR 97211

**Shoshana Cohen**

District Coalition Representative

Address 2

4815 NE 7th Ave.  
Portland, OR 97211

**Etta M. Baker**

Other Party

Address 1

703 NE Prescott St.  
Portland, OR 97211

**Angela Freeman**

Other Party

Address 1

531 NE Prescott Street  
Portland, OR 97211

**Josh Weinstein**

Other Party

Address 1

5133 NE Killingsworth Street  
Portland, OR 97218

**Gabrielle Foulkes**

Other Party

Address 1

617 NE Prescott  
Portland, OR 97211

**Harold Goldstein**

Other Party

Address 1

11744 SW Summerville Avenue  
Portland, OR 97219



# City of Portland

Hearings Office 1900 S.W. 4th Avenue Room 3100

Portland, Oregon 97201

(503) 823-7307 Fax (503) 823-4347

## Mailing List

**Case # 4110034**

**Bureau # 11-187799 CU**

**Date Prepared: 01/26/12**

**Time Prepared: 9:10 AM**

**Christie Miles**

Other Party

Address 1 722 NE Stafford  
Portland, OR 97211

**Nikki Weaver**

Other Party

Address 1 4307 N. Commercial  
Portland, OR 97217

**Charles Boardman**

Other Party

Address 1 4226 NE Grand Avenue  
Portland, OR 97211

**Robert Haley**

Other Party

Address 1 B106/800

**Alan Silver**

Other Party

Address 1 NO ADDRESS GIVEN

**Eloise Damrosch**

Other Party

Address 1 Regional Arts & Culture Council  
411 NW Park Ave., Suite 101  
Portland, OR 97209-3356

**Midge Purcell**

Other Party

Address 1 Urban League of Portland  
NO ADDRESS GIVEN



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## Mailing List

**Case # 4110034**

**Bureau # 11-187799 CU**

**Date Prepared: 01/26/12**

**Time Prepared: 9:10 AM**

**Kimberly Howard**

Other Party

Address 1 Oregon Cultural Trust  
775 Summer Street NE  
Salem, OR 97301-1280

**Paul Anthony**

Other Party

Work Phone 503-453-4700

Address 2 6443 SW Beav Hlsl Hw, Ste 432  
Portland, OR 97221

**Austin Peterson**

Other Party

Address 1 Sabin Community Association  
NO ADDRESS GIVEN

**Jessica Jarratt Miller**

Other Party

Address 1 Creative Advocacy Network  
NO ADDRESS GIVEN

**Marsha Johnson**

Other Party

Address 1 Shining Star  
602 NE Prescott St.  
Portland, OR 97211

**Michael Weaver**

Other Party

Address 1 Portland Playhouse  
NO ADDRESS GIVEN





# 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 11-187799 CU

### FOR INTAKE, STAFF USE ONLY

Date/Time Received 2/2/12 2:30pm

Received By MARK WALHOD

Appeal Deadline Date 2/10/12 4:30pm

☒ Entered in Appeal Log 2/3/12

☒ Notice to Auditor 2/3/12

☒ Notice to Dev. Review 2/3/12

☒ Action Attached

Fee Amount \$5,000

☒ [N] Fee Waived

Bill #

☒ 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 602 N.E. Prescott Street

Date January 30, 2012

Land Use Number LU 11-187799 CU

Appellant's Name King Neighborhood Association

Street Address 4815 N.E. 7th Avenue

City Portland

State OR

Zip Code 97211

Day Phone 503-880-6848

FAX

email hedda.lee@gmail.com

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 entire proposal should have been approved as a community service use (PCC 33.920.420). The City miscategorized some of the proposal as Commercial Retail Sales and Services. The hearings officer erred by finding that the neighborhood association did not submit written comment. The KNA submitted written comment regarding the application on Dec. 19, 2011.

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.

LU 11-187799 CU

EXHIBIT

I-1

**Walhood, Mark**

**From:** Alan Silver [hedda.lee@gmail.com]  
**Sent:** Tuesday, December 20, 2011 11:07 AM  
**To:** Walhood, Mark  
**Cc:** Nora Diver  
**Subject:** Playhouse Land Use Application comment  
**Attachments:** December 19.doc

December 19, 2011

To the Hearings Officer, regarding Case File LU 11-187799 CU:

The King Neighborhood Association is party to the King Neighborhood Plan, a component of the Albina Community Plan, crafted with the Portland Development Commission in the early 1990's. The plan calls for the establishment of an arts & cultural center in the King Neighborhood. The Portland Playhouse is an example of the sort of institution that would enrich our neighborhood, commensurate with this plan.

City code 33.815.105 outlines the requirements for addressing the public impacts of events held in the city. We seek a resolution to the permitting process that would require the Portland Playhouse to adhere to the code in mitigating the effects of parking demand on the neighborhood during events at the Playhouse. In regard to the Playhouse's application for a conditional use permit to use the building at 602 NE Prescott, the King Neighborhood Association would not approve the application, unless the following stipulations were made:

- The Playhouse's proposed Transportation Demand Management Plan must be mandatory to their continued use of 602 NE Prescott, in alignment with the goals for addressing parking impacts as required in code 33.815.105 section D2;
- The Playhouse must disseminate information about transportation options to patrons or potential patrons who electronically communicate with the Playhouse, whenever possible; as well as disseminate information about the Transportation Demand Management Plan to all patrons to coordinate parking and discourage patrons from taking up resident parking along 6<sup>th</sup> Avenue;
- The Playhouse must communicate with the King Neighborhood Association quarterly for the first year of use of the building after the application is approved, to discuss how parking in the neighborhood is affecting nearby neighbors;
- The Playhouse must, if it leases the parking lot at the King Neighborhood Facility at the King Elementary School site for patrons to use, have already checked in with neighbors about how frequent use of the lot at night might affect them, and must check in periodically with the Neighborhood Association for feedback on any complaint that neighbors might have about use of the lot (pursuant to noise and livability concerns in

CITY OF PORTLAND  
 HEARINGS OFFICE  
 Exhibit # H-5  
 Case # 4110034  
 Bureau Case # 11-187799 CU

code 33.815.105 section C).

While the neighbors have not been negatively impacted by the noise levels of performances inside the building, they have reported noise disturbances to the KNA regarding patrons spilling out onto the streets afterwards. This needs to be taken into consideration as well in determining a strategy that allows the theater to operate and yet maintains the livability of the immediate neighborhood.

Were these conditions added to the Playhouse's permit for using 602 NE Prescott, the King Neighborhood Association would feel satisfied with the entirety of the Playhouse's application.

Sincerely,

Alan Silver, Chair

King Neighborhood Association