



MULTNOMAH COUNTY
LAND USE AND TRANSPORTATION PROGRAM
1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
<http://www.co.multnomah.or.us/landuse>

NOTICE OF PUBLIC HEARING

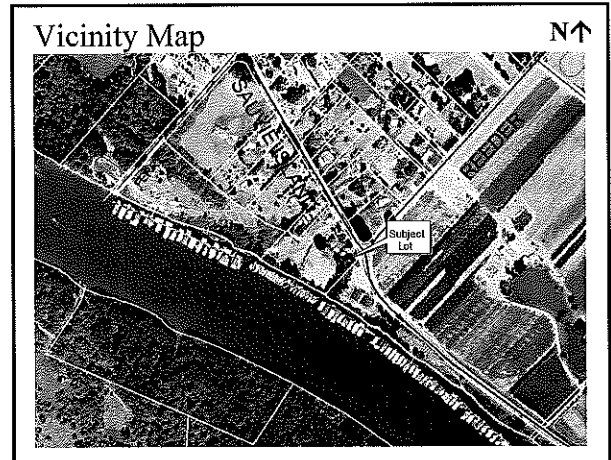
This notice concerns a public hearing scheduled to consider the land use case(s) cited and described below.

Case File: T2-09-043

Scheduled Before one of the following County Hearings Officer's:

Joan Chambers
Liz Fancher
Chris Cook
Bruce White

The hearing is to be held on **Friday, January 15, 2010**, at **2:00 PM** in Room 100 of the Multnomah County Building located at 501 SE Hawthorne Blvd. in Portland, Oregon.



Subject: The applicant is appealing the Planning Director's Decision that the existing concrete path, pergolas, and proposed gazebo on the property do not meet the Willamette River Greenway standards pursuant to the Multnomah County Code (MCC).

Location: 18015 NW Sauvie Island Road
Tax Lot 3100, Section 17D,
Township 2 North, Range 1 West, W.M
R971170100

Applicant: Mike Hashem
PO Box 1587
Clackamas, OR 97015

Owners: June Parker LLC;
Big Island Marina LLC;
Mike Hashem

Public Participation and Hearing Process: A copy of the application and all evidence submitted in support of the application is available for inspection, at no cost, at the Land Use Planning Division office during normal business hours. A staff report will be available for inspection 7 days prior to the hearing, also at no cost. Copies of all documents may be purchased at the rate of 30-cents per page. For further information on this case, contact Kevin Cook, Staff Planner at 503-988-3043, ext. 26782.

All interested parties may appear and testify or submit written comment on the proposal at or prior to the hearing. Comments should be directed toward approval criteria applicable to the request. The hearing procedure will follow the Hearing Officer's *Rules of Procedure* and will be explained at the hearing.

The Hearings Officer may announce a decision at the close of the hearing or on a later date, or the hearing may be continued to a time certain. Notice of the decision will be mailed to the applicant, parties within 750 feet of the subject property, and any other persons who submitted written comment or provided oral testimony at the hearing. A decision by the Hearings Officer may be appealed to the Land Use Board of Appeals (or the Columbia River Gorge Commission) by the applicant, the County, or other participants at the hearing. An explanation of the requirements for filing an appeal will be included in the notice of decision.

Failure to raise an issue before the close of the public record in sufficient detail to afford the County and all parties an opportunity to respond may preclude appeal on that issue to the Land Use Board of Appeals.

Applicable Approval Criteria: Multnomah County Code (MCC): 34.5810 (Uses – Greenway Permit Required); 34.5825 (Greenway Permit Application); 34.5830 (WRG Permit – Required Findings); 34.5835 (Decision by Planning Director); 34.5855 (Greenway Design Plan); 34.2855 (Dimensional Requirements – MUA-20 zone) 34.2825(K) (structures or uses customarily accessory or incidental to any use permitted or approved in the MUA-20 district); MCC Chapter 37 (Administration and Procedures).

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.co.multnomah.or.us/landuse>

Notice to Mortgagee, Lien Holder, Vendor, or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.



MULTNOMAH COUNTY
LAND USE & TRANSPORTATION PROGRAM
 1600 SE 190TH Ave., Suite 116, Portland, OR 97233
 Phone: 503-988-3043 Fax: 503-988-3389
 www.co.multnomah.or.us/landuse

12/14/2009 11:55AM 000001 #7211

0012 NANCY
 PERMITS-TYPE 2 \$250.00
 ***TOTAL \$250.00
 CHECK \$250.00
 CHANGE \$0.00

NOTICE OF APPEAL

EVERY NOTICE OF APPEAL SHALL INCLUDE:

1. The county's case file number and date the decision to be appealed was rendered.
2. The name, mailing address, and daytime telephone number for each appellant.
3. A statement of how each appellant has an interest in the matter and standing to appeal.
4. A statement describing the specific reason for the appeal which includes the criteria or standard the appeal is addressing.
5. The appropriate appeal fee.

It is the responsibility of the Appellant to complete a Notice of Appeal as set forth in the Multnomah County Code. Failure to complete all of the above may render an appeal invalid. Any additional comments should be included on this form.

APPELLANT INFORMATION (Person or group making appeal)

1. Appellant:

If several individuals are appealing together, list the additional names and addresses on a separate sheet and identify a representative in #2 below. If an organization is appealing, indicate group's name and mailing address here and identify a representative in #2 below.

Name: ~~Mike~~ Hashem, Mike _____
Last First Middle

Address: P O Box 1587, Clackamas, OR, 97015
Street or P.O. Box City State Zip Code

Telephone: (503) 593 - 9870 (Day) OR (503) 631 - 3671

Fax: 503-631-3672 Email Address: MKHL200@oh.com

2. Authorized Representative:

Name of representative if different from the appellant indicated above. Groups and organizations must designate one person as their representative/contact person.

Name: Harold, Hickok _____
Last First Middle

Address: _____
Street or P.O. Box City State Zip Code

Telephone: (503) 530 - 5562 (Day) OR () -

Fax: _____ Email Address: Harold.Hickok@yahoo.com

(over)

DECISION BEING APPEALED

1. Case Information

Decision being appealed (e.g., denial of a NSA Site Review, approval of a SEC permit, etc.):

Denial of a Greenway Permit

Case Number: T2-09-043

Date of Issuance of Decision: Dec. 1-2009

APPEAL INFORMATION

Answer each question as completely and specifically as you can. (Attach separate sheets if needed)

1. What is your interest in this decision? (State your interest in the matter and your standing to appeal)

I am the applicant

2. What are your objections to the decision? (State the specific grounds for the appeal, i.e. criteria or standard)

See attached.

Standing to appeal: those who are entitled to appeal a decision include those who are entitled to notice under Multnomah County Code and include: owners of record of property within 750 feet of the subject tract, neighborhood associates, and persons who have identified themselves in writing as interested parties or as to be potentially aggrieved or impacted by the decision.

SIGNATURE: [Signature]

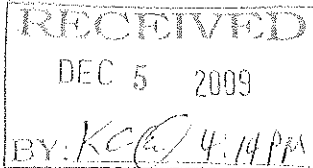
DATE: 12-11-09

CHECK ONE: APPELLANT AUTHORIZED REPRESENTATIVE

Appeals and fees must be received prior to the close of the appeal deadline.

Deliver or mail appeal and appeal fee to:
MULTNOMAH COUNTY
Land Use Planning and Transportation Program
1600 SE 190th Ave., Suite 116, Portland, OR 97233
Phone: (503)988-3043

FOR STAFF USE ONLY
Fee- Notice of Appeal for Planning Director's Decision: \$250.00
Received by: [Signature] Date: 12/14/09



BASES FOR APPEAL OF DENIAL OF
WILLAMETTE RIVER GREENWAY PERMIT
(File T2-09-043)

Mike Hashem, the applicant in File T2-09-043, hereby gives the following legal bases for his appeal of the denial of the Willamette River Greenway Permit.

1. In making his decision denying this Greenway Application permit, the Director applied an improper standard for evaluating the application, considering factors appropriate only to the evaluation of conditional use (Type III) permit applications in what was explicitly a review use (Type II) permit.
2. In making his decision, the Director denied the applicant due process of law in that he failed to adhere to defined legal standards set forth in the Multnomah County Code, but instead used ad hoc standards which internally contradictory, inconsistent, and not properly legally established.
3. In making his decision, the Director was repeatedly asked to advise the applicant of all of the controlling criteria and was repeatedly assured that the applicant would provide any additional materials needed for the permit, but interjected new criteria, allowing the applicant no opportunity to evaluate or respond to these criteria, and then relying on these criteria as the basis for his decision.

4. In making his decision, the Director repeatedly ignored items of uncontradicted evidence, which, if accepted as true, would have compelled a different decision.

5. In making his decision, the Director ruled in a manner contrary to the great preponderance of the evidence presented to the Director.

6. In making his decision, the Director relied on supposed facts which were never made part of the record, denying the applicant any right to respond to these allegations.

7. In making his decision, the Director use criteria to support his decision which were never properly brought to the attention of the applicant.

8. In making his decision, the Director made statements which served as predicates to or part of the decision, which statements are not true, to the detriment of the applicant.

9. In making his decision, the Director considered facts dealing with the applicant's activities on other, unrelated properties which have the effect of creating an arbitrary and subjective standard.

10. In making his decision, the Director violated the doctrine of laches, which serves as an equitable bar to this decision.

11. In making his decision, the Director caused the applicant to rely on various assurances and statements made by the Director and his subordinates, to his detriment.

12. In making his decision, the Director has ruled that the applicant removed trees in violation of the law when in fact the applicant fully complied with all requirements for the removal of trees.

13. In making his decision, the Director found that the applicant removed riparian plants, when in fact the plants which the applicant removed were overwhelmingly invasive noxious weeds which the Director's staff had specifically stated that these could be removed without permit.

14. In making his decision, the Director interjected issues from a pending Floodplain Permit, which the applicant had addressed in his Floodplain Permit application, while failing to consider the evidence with which the applicant had fully and completely responded to these issues in the context of the Floodplain Permit application.

15. In making his decision, the Director repeatedly changed his classification of the applicant's property in ways that made the applicant responsible for meeting consistent and contradictory criteria for obtaining the Greenway permit, while denying the applicant the privileges and benefits of any such classification.

16. In making his decision, the Director acted in an arbitrary and capricious manner.

17. In making his decision, the Director denied the applicant due process of laws.

Respectfully submitted,

Harold Hickok, OSB # 872537
Attorney for the Applicant Mike Hashem