



March 23, 2015

VIA CERTIFIED MAIL WITH RETURN RECEIPT

Land Use Board of Appeals
DSL Building
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

**Re: Northwest Trail Alliance v. City of Portland
Notice of Intent to Appeal**

Dear Land Use Board of Appeals:

Please find enclosed Petitioner's Notice of Intent to Appeal in the *Northwest Trail Alliance v. City of Portland* matter, along with two copies, and its associated filing fee. We have also included a copy marked "File Copy." We would appreciate if you would mark this copy with the date and file number and return in the provided self-addressed stamped envelope.

If you have any questions, do not hesitate to contact me. Thank you for your professional courtesies.

Very truly yours,

HARRIS BERNE CHRISTENSEN LLP

Aaron T. Berne

ATB:svt

Enclosure

cc: Northwest Trail Alliance
City of Portland
Tracy Reeve
All persons listed on Exhibit B

**BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON**

NORTHWEST TRAIL ALLIANCE,

Petitioner,

vs.

CITY OF PORTLAND,

Respondent.

LUBA No. 2015-_____

NOTICE OF INTENT TO APPEAL

I.

NOTICE IS HEREBY GIVEN that Petitioner, Northwest Trail Alliance (“Petitioner”), intends to appeal that land use decision of Respondent City of Portland (“Respondent”) described by the City in a letter from Commissioners Amanda Fritz, Commissioner of Portland Parks and Recreation and Nick Fish, Commissioner, Bureau of Environmental Services, stating that “Mountain biking will no longer be an allowed use at River View Natural Area (“RVNA”) as of March 16th, 2015,” which letter was sent to River View Natural Area Stakeholders on March 2, 2015. The said letter and/or land use decision is attached as Exhibit “A”.

II.

Petitioner appeared before the City in the land use proceedings below and are currently represented by:

Aaron T. Berne, OSB #142780
Harris Berne Christensen LLP
5000 SW Meadows Rd., Suite 400
Lake Oswego, Oregon 97035
Telephone: (503) 968-1475
Email: aaron@hbclawyers.com

III.

Respondent has as its mailing address and telephone number:

City of Portland
1120 SW 5th Ave., Suite 1302
Portland, OR 97204
Telephone: (503) 823-7529

and has as its legal counsel:

Tracy Reeve, City Attorney
City of Portland, Legal Department
1221 SW 4th Ave., Suite 430
Portland, OR 97204
Telephone (503) 823-4047

IV.

OAR 661-010-0015(3)(f)(D) requires Petitioner to serve and provide the name and address of “Any other person to whom written notice of the land use decision or limited land use decision was mailed as shown on the governing body’s records.” (Emphasis added). Petitioner reviewed the governing body’s records for information as to whom Respondent mailed and/or emailed the March 2, 2015 land use decision letter. The records contain no such information. Petitioner conferred


with Respondent, and Respondent stated that it does not have a list or other information to confirm the identity of any party to whom it sent the decision letter. Notwithstanding Respondent's deficient record, the attached Exhibit "B" includes the list of persons that Petitioner was able to identify as recipients of Respondent's decision letter.

NOTICE:

Anyone designated in Paragraph IV of this Notice who desires to participate as a party in this case before the Land Use Board of Appeals ("LUBA") must file with LUBA a Motion to Intervene in this proceeding as required by OAR 661-010-0050.

DATED this 23rd day of March, 2015.

HARRIS BERNE CHRISTENSEN LLP

By: 

Aaron T. Berne, OSB# 142780
Of Attorneys for Petitioner

CERTIFICATE OF FILING

I hereby certify that I filed the original of the **NOTICE OF INTENT TO APPEAL**, together with two (2) copies thereof and the associated filing fee, with the Land Use Board of Appeals, DSL Building, 775 Summer Street NE, Suite 330, Salem, OR 97301-1283, on March 23 2015, by certified mail, return receipt, to the Board at the above address.



Aaron T. Berne, OSB# 142780
Of Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2015, I served a true and correct copy of this **NOTICE OF INTENT TO APPEAL** on all persons listed in Paragraph III of this Notice by certified, return receipt mail and paragraph IV of this Notice, pursuant to OAR 661-010-0015(2), by first class mail and/or email.



Aaron T. Berne, OSB# 142780
Of Attorneys for Petitioner



**PORTLAND
PARKS & RECREATION**
Healthy Parks, Healthy Portland



**ENVIRONMENTAL SERVICES
CITY OF PORTLAND**
working for clean rivers

March 2, 2015

Dear River View Natural Area Stakeholder:

We are writing to update you on recreational policy changes at River View Natural Area (RVNA) as well as the accompanying RVNA Management Planning process.

RVNA is a 146-acre natural area in southwest Portland, located between SW Macadam Avenue and SW Terwilliger Boulevard. The River View forest provides a link in the upland wildlife corridor from Forest Park in the north to Tryon Creek State Natural Area in the south. The property contains special status habitats (rare or locally significant), including wetlands, interior forest, and riparian areas.

The City's Natural Resource Inventory designates River View as a high value resource for sensitive and threatened wildlife and habitats. Seven undeveloped streams flow through the property to the Willamette River. These tributaries and their forested buffers support critical habitat for coastal steelhead, coho, and Chinook salmon in the lower Willamette, all designated as threatened under the federal Endangered Species Act (ESA). Acquisition of RVNA in 2011 fulfilled one of the City's highest natural area conservation objectives. The property is also one of the priorities identified through Metro's 2006 Natural Areas bond measure.

In 2013, PP&R began a Natural Area Management Plan process to identify significant ecosystem assets, direct future management priorities, establish research and interpretation activities, and design a trail system compatible with the protection of natural resources. During this time period, many recreational uses occurring on site prior to the City's acquisitions were permissible.

Exercising an abundance of caution and to protect the City's investment in the River View Natural Area, PP&R and BES will be limiting activities at RVNA from now on to passive nature-based recreational uses - hiking, wildlife viewing, stewardship, education, research etc. Planning for these uses will proceed with the goal of completing the Management Plan in the fall of 2015.

Mountain biking will no longer be an allowed use at RVNA as of March 16th, 2015. The two bureaus will continue to work together with the community to develop a plan for RVNA that meets our common goals of protecting water quality

and watershed health, restoring aquatic and terrestrial habitat, and providing recreation access that is compatible with the protection of natural resources.

The City recognizes the existing and growing need for additional nature-based mountain biking experiences within our City park system. While some natural areas may be able to accommodate mountain biking, other factors must also be considered when evaluating this type of nature based recreational use. We, as Commissioners of PP&R and BES, believe completion of a Citywide Off-Road Cycling Plan is the best course of action for meeting this demand. A comprehensive biking plan will identify the most appropriate biking opportunities within our City park system, while protecting the conservation values of our natural areas and the enjoyment and safety of all park users. Towards this end, funding for a Citywide Off-Road Cycling Plan is included in the requested PP&R Fiscal Year 2015-2016 budget. Since the cost is \$350,000, community advocacy will be necessary to encourage the Mayor and Council to fund this request.

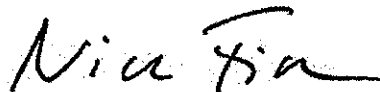
We welcome your continued participation in the Management Plan process. Updates on plan progress can be found on RVNA's website (www.portlandoregon.gov/parks/riverview).

If you have questions about this new policy, please contact Commissioner Fritz at 503-823-3008.

Sincerely,



Amanda Fritz, Commissioner
Portland Parks and Recreation



Nick Fish, Commissioner
Bureau of Environmental Services

EXHIBIT B

The following persons and parties received notice of Respondent's land use decision letter by *mail*:

PP & R Rangers
Davie Barrios
1120 SW 5th Ave, Suite 1302
Portland, OR 97204

River View Cemetery
Attn: Dave Noble
0300 Taylors Ferry Road
Portland, OR 97219

Riverdale High School
Attn: Paula Robinson, Principal
9727 SW Terwilliger Blvd.
Portland, OR 97219

Tryon Creek State National Area
Attn: John Mullen
11321 SW Terwilliger Blvd.
Portland, OR 97219

Dunthorpe Neighborhood Assn.
c/o James Alderman
1220 NW Lovejoy, Suite 130
Portland, OR 97209

Urban Greenspaces Institute
Attn: Mike Houck
2433 NW Quimby Street
Portland, OR 97210

West Multnomah Soil &
Conservation District
2701 NW Vaughn St., Suite 450
Portland, OR 97210

Portland Parks & Recreation
City of Portland
1120 SW 5th, Suite 1302
Portland, OR 97204

The following persons and parties received notice of Respondent's land use decision letter by *email*:

Travel Oregon
Attn: Harry Dalgaard, III
Harry@traveloregon.com

PP&R Disability Advisory Committee
c/o Georgena Moran
info@MindonAccessibility.net



NORTHWEST TRAIL ALLIANCE, INC.
 PO BOX 1846
 PORTLAND, OR 97207-1846
 503-539-1777

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24-7038/3230 OR
 20699

3/20/15

Date

Pay To The
 Order Of

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Dollars

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For FILING FEE



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Harland Clarke

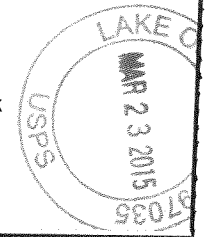
U.S. Postal Service
Certified Mail Receipt

ARTICLE NUMBER
9407 1118 9956 2567 3679 61

ARTICLE ADDRESS TO:
City of Portland
1120 SW 5th Ave., Suite 1302
Portland OR 97204-1912

FEES
Postage per piece \$0.69
Certified Fee 3.30
Return Receipt Fee 2.70
Total Postage & Fees: \$6.69

Postmark
Here



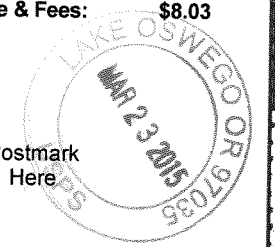
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Certified Mail Receipt

ARTICLE NUMBER
9407 1118 9956 2567 3446 65

ARTICLE ADDRESS TO:
Land Use Board of Appeals
775 Summer St NE Ste 330
Salem OR 97301-1283

FEES
Postage per piece \$2.03
Certified Fee 3.30
Return Receipt Fee 2.70
Total Postage & Fees: \$8.03

Postmark
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U.S. Postal Service
Certified Mail Receipt

ARTICLE NUMBER
9407 1118 9956 2567 3046 52

ARTICLE ADDRESS TO:
Tracy Reeve, City Attorney
City of Portland, Legal Department
1221 SW 4th Ave., Suite 430
Portland OR 97204-1900

FEES
Postage per piece \$0.69
Certified Fee 3.30
Return Receipt Fee 2.70
Total Postage & Fees: \$6.69

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