

188891



Portland City Auditor
Office of the Ombudsman



OFFICE of EQUITY
and HUMAN RIGHTS
CITY OF PORTLAND

To: Mayor Ted Wheeler
Commissioner Chloe Eudaly
Commissioner Nick Fish
Commissioner Amanda Fritz
Commissioner Dan Saltzman

CC: Director Leah Treat
Chiefs of Staff

From: Ombudsman Margie Sollinger and Interim Director Koffi Dessou

Re: **Local Transportation Infrastructure Charge — Concerns Addressed**

Date: March 15, 2018

The Office of the Ombudsman and the Office of Equity and Human Rights appreciate the Council's attentiveness to the concerns we raised in prior letters about the inequitable impacts of the Local Transportation Infrastructure Charge (LTIC).

The Bureau's current proposal is responsive to our concerns. It creates a low-income owner-occupant exemption, mandates the offering of financing and provides for appeals of exemption denials to the City's Hearings Office. These changes adequately mitigate the inequitable impacts we previously identified.

We urge City Council to adopt the amendments to the LTIC program without further delay.

NEIGHBORHOOD STREETS PROGRAM

LOCAL TRANSPORTATION INFRASTRUCTURE CHARGE (LTIC)

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

NAME (PRINT)

ADDRESS AND ZIP CODE (Optional)

Email (Optional)

NAME (PRINT)	ADDRESS AND ZIP CODE (Optional)	Email (Optional)
✓ ROBERT EVENSON	1530 SW SKYLINE BLVD 97221	BEVENSON@OPUSNET.COM
✓ MARIANNE FITZGERALD	10537 SW 64 DR 97219	Fitzgerald.marianne@gmail.com
✓ JON COHEN	4106 SW 44 th AVE 97221	jon@joncohen.net

From: jkeroes@gmail.com on behalf of Joshua Keroes <joshua@keroes.com>
Sent: Thursday, February 01, 2018 11:25 AM
To: Council Clerk – Testimony
Subject: Testimony re: LTIC amendment agenda item #109 on 2018-02-01

Name: Joshua Keroes & Jennifer L. Wright
Address: 4521 SW Plum St., Portland, OR 97219
Phone: 503-805-7770
Description: Testimony re: LTIC amendment agenda item #109 on 2018-02-01

Dear Portland City Council,

As a resident of SW Portland who lives on an under-improved street and is currently going through the Pre-LID process, I was shocked to see that the council is considering capping the LTIC charge. While \$6000 per linear foot might cover the costs of improving a street in many parts of Portland, this amount does not even come close to actual costs in my neighborhood. Here, the topography makes road construction complicated and the lack of stormwater infrastructure has led to extremely unsafe conditions for residents whose houses were built on or adjacent to landslides before safer land-use restrictions were put in place.

According to the Pre-LID estimate for my neighborhood (and I'm guessing many more neighborhoods like it) the cost should be closer to \$15,000 per linear foot. When we purchased our homes, we had no idea at the time that we'd be on the hook for charges we simply can't afford now! As I know you are aware, the LTIC is a good first step to correcting this terrible oversight but it doesn't even come close to solving our city's lack (especially in SW) of safe neighborhood infrastructure. **Instead of capping the fee for new development, the council should be raising the LTIC to more accurately reflect the true costs of necessary improvements to roads and stormwater management at the time of development.** It is unfair—some might even say sneaky—to force the outstanding costs of these much-needed improvements on current and future unsuspecting homeowners. **That's exactly what this proposal amendment does by capping the LTIC fee and letting developers pay below the true-market cost.**

Thank you for your thoughtful consideration,
Joshua Keroes and Jennifer L. Wright

Moore-Love, Karla

From: Wes Risher <wrisher@easystreet.net>
Sent: Wednesday, January 31, 2018 9:45 PM
To: Council Clerk – Testimony; Wheeler, Mayor; Commissioner Saltzman; Commissioner Fish; Commissioner Fritz; Commissioner Eudaly
Cc: Treat, Leah; Jordan, Michael; Leon, Christine; Hill, Anne; Krueger, Kurt; Uchiyama, Dawn; 'David Martin'; Chisek, Kyle; Grumm, Matt; Lofgren, Todd; Crail, Tim; Runkel, Marshall; Glenn Bridger
Subject: City Council Agenda 109, Local Transportation Infrastructure Charge
Attachments: Letter to Commissioner Saltzman re SW 7th Ave LID.pdf

Honorable Mayor Wheeler and Portland City Commissioners,

Please accept the attached personal testimony for the City Council's February 1, 2018 discussion regarding Agenda Item 109, Local Transportation Infrastructure Charge (LTIC).

The attached letter, dated January 12, 2018, which was sent to Commissioner Saltzman and PBOT Director Treat is in fact germane to the Local Transportation Infrastructure Charge discussion, Waivers of Remonstrance and IF NOT NOW, WHEN are we going to begin to make local street infrastructure improvements within Portland? The current LTIC proposal is simply a giveaway to developers and once again sadly postpones the needed “present day” frontage local street infrastructure investment desperately needed in southwest Portland. These investments are needed more today than when I moved to Portland in 1989. The Portland City Council needs to stop kicking the “proverbial” can (the issue of local street frontage infrastructure requirements) down the unimproved road and establish a 2018 beachhead on local street improvements and get these improvements made as required and cash in on the equity homeowners are achieving in the current Portland real-estate market and require them to make the needed local street frontage improvements required by city code. Again, IF NOT NOW, WHEN?

Thank you for considering these comments in advance of City Council deliberation.

Sincerely,

Wesley Risher

- Quote -

"We buy fire insurance when there's less than a one percent chance our house is going to burn down. We have a military, and although I may not like everything we do with it, I don't know anybody who says you should get rid of it because you have security precautions against only very low probability-but potentially dangerous-threats. Well, the climate change threat is not one percent. It's better than 50 percent for really significant trouble, and maybe 10 percent for absolutely catastrophic trouble. What kind of crazy person would take that chance when you can fix it relatively easily?"

*Dr. Stephen H. Schneider
 Seed Magazine, April 25, 2006
 - Nobel Peace Prize, laureate, 2007
 - deceased July 19, 2010*

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January 12, 2018

Commissioner Dan Saltzman
1221 SW 4th Avenue
Suite 230
Portland, OR 97204

Re: Formation of an LID needed for right-of-way improvement to SW 7th Avenue between SW Terwilliger Boulevard and SW Chestnut Street.

Dear Commissioner Saltzman,

I am writing to request that PBOT as a property owner along SW 7th Avenue between SW Terwilliger Boulevard and SW Chestnut Street take the lead in forming a Local Improvement District (LID) for the street improvement of this segment of SW 7th Avenue.

The City of Portland PBOT owns the property at 7100 SW 7th Avenue; see Figure 1 below. As a property owner within an LID defined improvement area PBOT should take the lead in the formation of an LID for the improvement of this street segment. With the recent construction of a new infill home at 6932 SW 7th Avenue and the subsequent waiver of remonstrance to the formation of an LID by the builder, now more than 50% of the frontage property along this segment of SW 7th Avenue are waived LID properties with PBOT's positive participation in the LID improvements; see Figures 1 and 2 below.

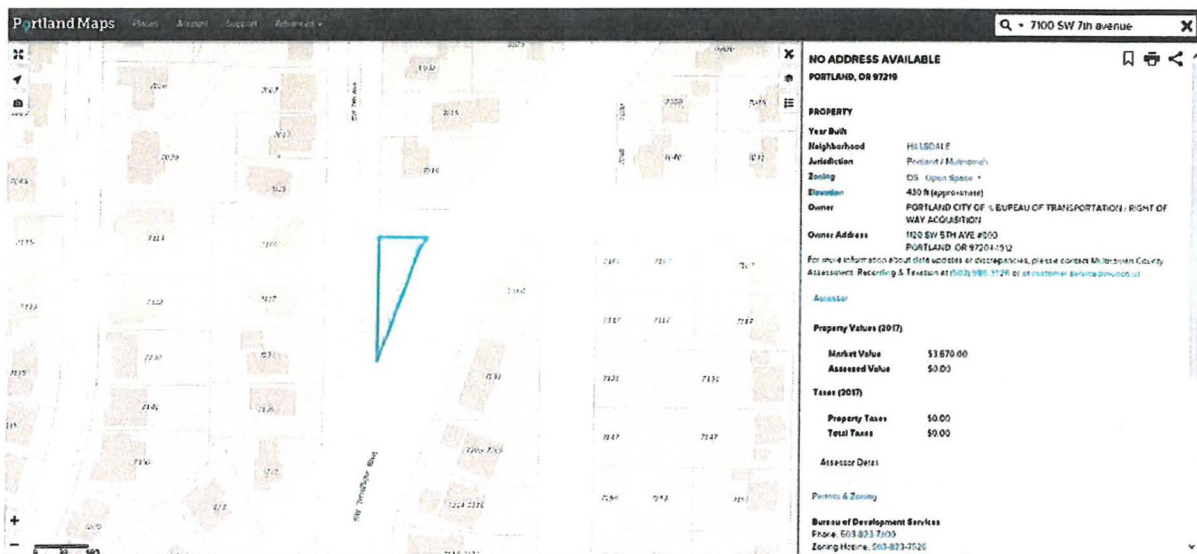
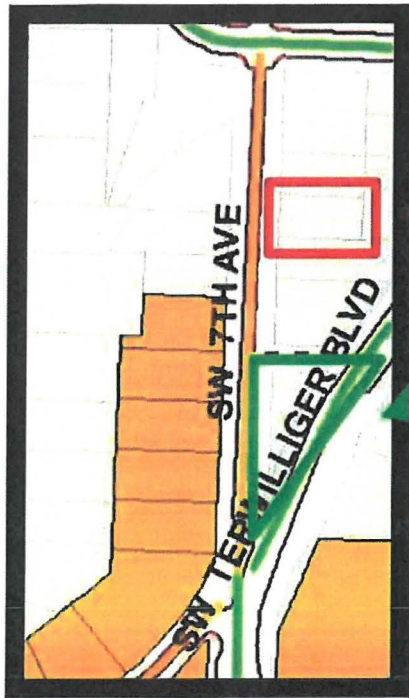


Figure 1: Portland Maps property information for 7100 SW 7th Avenue

The Figure 2 graphic image shows the waived LID properties in orange and was received from Andrew Abi with the City of Portland LID program. The property outlined in green is the 7100 SW 7th Avenue PBOT owned property. The property outlined in red is the new infill home at 6932 SW 7th Avenue.



Recently constructed infill home at 6932 SW 7th Avenue by Everett Custom Homes Inc. Property will be have LID waiver applied per conversation with BDS.

7100 SW 7th Avenue owned by PBOT. As a property owner within the a proposed LID for SW 7th Avenue, request that PBOT take the lead in the formation of the LID.

Figure 2: LID waived properties and PBOT property along SW 7th Avenue between SW Terwilliger Blvd. and SW Chestnut St.

SW 7th Avenue between SW Terwilliger Blvd. and SW Chestnut Street desperately needs to brought up to City street standards due to the high traffic volume that SW 7th Avenue experiences. As a right-of-way frontage property owner along this local street, I am requesting that PBOT take the lead in the formation of an LID for the improvement of SW 7th Avenue between SW Terwilliger Blvd. and SW Chestnut Street.

Attached is a spreadsheet I created from the PBOT traffic volume data available on Portlandmaps.com where you can readily see that the volume on SW 7th Avenue is significantly higher than the volumes on SW Chestnut Drive between SW Bertha Blvd. and SW Vermont St., the only other nearby neighborhood street that is relatively equivalent. Below is a portion of the same data just showing SW 7th Avenue volumes between SW Chestnut Street and SW Terwilliger Blvd.

OBJECTID	LocationDesc	Bound	StartDate	StartDay	EndDate	EndDay	ADTVolume	AMVolume	AMPkHrVol	PMVolume	PMPkHrVol	ExceptType
5967	SW 7TH AVE S of CHESTNUT ST	N	12-Oct-14	MON	15-Oct-14	THU	859	261	96	598	114	Normal Weekday
5968	SW 7TH AVE S of CHESTNUT ST	S	12-Oct-14	MON	15-Oct-14	THU	775	350	139	425	79	Normal Weekday

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As a local street this segment of SW 7th Avenue carries an undue burden of traffic and is in desperate need of improvement. This segment of SW 7th Avenue is a walking route for many Wilson High School students. Also as most of the properties along this segment of SW 7th Avenue between SW Terwilliger Blvd. and SW Chestnut Street have waivers of remonstrance against the formation of an LID on their properties and the fact that PBOT is an owner of a good portion of this street frontage, it is time that these SW 7th Avenue property owners have their waivers exercised and SW 7th Avenue is improved to City of Portland Street Standards with sidewalks, planting strips, curbs, storm water management and proper pavement along with the speed bumps.

I walk this segment of SW 7th Avenue daily and fear for my safety due to the extremely poor condition of this local street, the high volume and speed of the traffic and the fact this sub-standard street does not provide much protection for the pedestrian.

Please contact me regarding this formal request to improve SW 7th Avenue between SW Chestnut Street and SW Terwilliger Boulevard.

If PBOT is not willing to form an LID as a participating property owner along with the majority of the frontage LID waived properties, then what is the purpose of requiring properties to waive their rights to remonstrate against the formation of an LID in the hopes of someday achieving a majority of properties necessary to form an LID to fund local street improvements? IF NOT NOW, WHEN will SW 7th Avenue between SW Chestnut Street and SW Terwilliger Boulevard get improved.

Sincerely,

A handwritten signature in blue ink that reads "Wesley C. Risher". The signature is written in a cursive style.

Wesley Risher

cc: PBOT Director, Leah Treat
Hillsdale Neighborhood Association
SWNI Transportation Committee

From: Jennifer Frownfelter <jfrownie@gmail.com>
Sent: Monday, January 29, 2018 10:05 PM
To: Council Clerk – Testimony
Cc: Krueger, Kurt; Hill, Anne
Subject: Feb 1, 2018 Testimony - LTIC

February 1, 2018

To: Mayor Ted Wheeler
Commissioner Chloe Eudaly
Commissioner Nick Fish
Commissioner Amanda Fritz
Commissioner Dan Saltzman

Re: Local Transportation Infrastructure Charge (LTIC) Testimony

We appreciate your consideration of our comments regarding the Local Transportation Infrastructure Charge (LTIC). We presently own property in Southwest Portland, on SW Maplecrest Drive, where the LTIC would be applied should we proceed with building a home. With respect to the cap on LTIC proposed by Portland Bureau of Transportation (PBOT), we do not believe the cap does enough to make building a home in Portland feasible or affordable. Based on input from the public, as outlined in PBOT’s presentation by Anne Hill on December 6, “a majority of Portland residents favor that the City be responsible for sidewalk and street improvements...” Understanding that sentiment, clearly the City needs funding mechanisms for such improvements—mechanisms that can effectively address the issues over time. Given the backlog in needed improvements, and revenue generated to date, completing necessary improvements would take hundreds of years – much longer than the useful life of the infrastructure in place and/or constructed. Recognizing this may be one of many ultimate sources of funding, we believe the cost incurred by individual property owners is too high. Within the December 6 presentation, PBOT estimated that street and sidewalk improvements would cost about \$30,000 per residence should “improvement districts” be formed to address local issues. Though it may not be feasible to expect every residence to bear a \$30,000 burden to make improvements, asking more than that amount from any one property owner attempting to build a home in Portland seems unfair and inequitable. The burden of the LTIC is disproportionate to the corresponding impact on a neighborhood from development of a single-family residence, which would not necessarily increase simply because it’s street frontage is longer than its neighbors. We respectfully request that you consider caps to the LTIC that are based on the number of residences proposed per lot – and that the cost does not exceed \$30,000 per residence, which is approximately the amount PBOT acknowledged each residence would be responsible for should an improvement district approach be used.

Sincerely,
Jennifer and Brian Frownfelter
6355 SW Dolph Drive, Portland, OR 97219
jfrownie@gmail.com

From: Ken Paulsen <kparchitect@comcast.net>
Sent: Wednesday, January 31, 2018 2:11 PM
To: Council Clerk – Testimony
Subject: LTIC City Council Meeting

Dear Mayor Wheeler and City Council Members,

Since attending a previous City Council meeting regarding LTIC, my family and I have decided to expand our development plans. We attended a Pre-Application Conference on January 18 and are now vested in a comprehensive development of our property. Although this was not our intent, and not our preference, we are doing this because the LTIC fee is not applicable to subdivisions as described in the Administrative Rules:

"The LTIC is a charge paid by an applicant for a new, single-family, residential, building permit for a project of one or two units or for approval to create a final partition plat to create three or fewer lots."

The language of the recent revisions submitted for your review is somewhat ambiguous, and I'm writing to emphasize the importance of my understanding and your agreement that subdivisions involving more than three lots are exempt.

I continue to believe the LTIC is an overwhelming burden to a select minority group of people. Apparently the solution for mistakes involving non-remonstrance agreements is to be shouldered by a handful of innocent bystanders. And as catastrophic as that is, more than doubling all building permit costs, equally disturbing, is the ineffectiveness of collecting \$2 million annually to solve 250 miles of road problems estimated by the City to cost over \$1.5 BILLION. At \$2 million per year, it will take over 750 years to pay that bill.

I note too, that the word "fair" has now been deleted from the description of the LTIC. I had commended the author for recognizing the importance of fairness, and had anticipated that importance would triumph in some revisions, but rather, am now seeing that "fairness" has been discarded.

I continue to request that you abolish the unfair imposition of the LTIC fee on unsuspecting and unprepared lot owners.

Thank you for your attention to my concerns.

Ken Paulsen and Family,

503-245-6540

Moore-Love, Karla

From: Rick Bartko <rickb@divisionmidway.org>
Sent: Wednesday, January 31, 2018 1:30 AM
To: Moore-Love, Karla
Subject: Item 109 February 1, 2018
Attachments: 20180201 Item 109 public testimony.docx

Greetings Karla,

I would like to submit the attached letter for the record on the above Agenda item.

Thank you for your kind consideration.

Best regards,

--

Rick Bartko
Division Midway Alliance
Board Member/Treasurer
Trimet Division Transit Project
Community Advisory Committee - Co-Chair
Budget & Policy Committee CAC representative

rickb@divisionmidway.org
cell: (951) 264-2222

RICK BARTKO

11130 SE Yamhill Street Portland, OR 97216 | (951) 264-2222 | rickb@divisionmidway.org

188891

January 30, 2018

Portland City Council
1221 SW 4th Ave.
Portland, OR 97204

Re: Item 109 (Thursday, February 1, 2018, 2:00pm) Adopt the allocation methodology for the Local Transportation Infrastructure Charge

Honorable Mayor Wheeler and Commissioners Eudaly, Fish, Fritz, Saltzman:

As resident of the Mill Park Neighborhood, I am interested in the methodology that will be used to select the unimproved local service street segments for the Neighborhood Streets Project. Over 2 years ago PBOT staff developed the Division-Midway Neighborhood Street Plan. In it, a series of unimproved segments were prioritized for inclusion in a ranked list of projects. Refer to the adopted Plan for the list of improvements.

In this February 1, iteration of the proposed revised Ordinance no reference is made to specific project areas. On page 17 and 18 of the amended **TRN-1.26 Local Transportation Infrastructure Charge** Administrative Rule, section 3.4 lays out the criteria for selection. The first sentence declares **“The LTIC allocation methodology includes three fundamental criteria, all of which must be met to the City’s satisfaction”**. It would seem that the community stakeholders that participated in the development in the various approved Neighborhood Street Plans should be referenced in the above cited declaration as well.

It is also clear that based on the 3 ranked criteria for selection, East Portland should be given priority in the project selection process.

Furthermore, any capital projects undertaken under the aegis of the Neighborhood Streets Project must take into consideration other impending projects underway along the Division-Midway corridor; namely, the Outer Division Multi Modal Safety Project (ODMMSP) and the Trimet Division High Capacity Transit Project. It is essential that PBOT project managers leverage the monetary resources prudently when planning, designing and implementing multiple projects of this magnitude.

As a private citizen **and** a Division Midway Alliance Board member I am compelled to advocate for a coherent and transparent process of community development. The residents and businesses of East Portland have been neglected for far too long. It is time for the City Council to direct Bureau staff to further the goal of equity in a concrete and transformative way. We are all in this together.

I would be happy to discuss the role that Division Midway Alliance can play in future City of Portland community development initiatives.

Respectfully,

Rick Bartko
Division Midway Alliance Board Treasurer
Trimet Division High Capacity Transit Project
Citizens Advisory Committee Co-Chair
Budget and Policy Committee CAC Representative

“The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have little.”
Franklin D. Roosevelt

LOCAL TRANSPORTATION INFRASTRUCTURE CHARGE
NEIGHBORHOOD STREETS PROGRAM

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

NAME (PRINT)

ADDRESS AND ZIP CODE (Optional)

Email (Optional)

✓ David Martin	4020 SW 43rd Ave Portland 97221	
✓ Claire Carde	6156 SW Nevada Ct. Pdx 97219	
✓ RICH HANNAT	10560 NW 10E ST PORTLAND OR 97229	
✓ Chelsea Powers	7213 SE 60th Ave 97206	
✓ Willie Dean	4233 NE Ainsworth	
✓ KEN PAULSEN	5638 SW HAINES ST 97219	
✓ Fred Buller		
✓ Garrett Stephenson	1211 SW 5th Avenue Portland 97227	
✓ DAVID FARRIS	3795 SW CHEHALEM, PORTLAND 97239	
✓ Tim Lamers	6012 SW Garden Home rd Portland OR	
12/6/17 ✓ Angela Paulsen	11545 SW 61st Ave 97219	

LOCAL TRANSPORTATION INFRASTRUCTURE CHARGE
NEIGHBORHOOD STREETS PROGRAM

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

NAME (PRINT)

ADDRESS AND ZIP CODE (Optional)

Email (Optional)

✓ Sk Sharples		
✓ Paul Grove	15555 SW Bannock	
✓ Rick Bartko	11130 SE Yamhill St	bartkonick747@gmail.com
✓ Laura Young	6624 NE Going St 97218	laurayoung911@gmail.com

Moore-Love, Karla

From: Jennifer Frownfelter <jfrownie@gmail.com>
Sent: Monday, January 29, 2018 10:05 PM
To: Council Clerk – Testimony
Cc: Krueger, Kurt; Hill, Anne
Subject: Feb 1, 2018 Testimony - LTIC

February 1, 2018

To: Mayor Ted Wheeler
Commissioner Chloe Eudaly
Commissioner Nick Fish
Commissioner Amanda Fritz
Commissioner Dan Saltzman

Re: Local Transportation Infrastructure Charge (LTIC) Testimony

We appreciate your consideration of our comments regarding the Local Transportation Infrastructure Charge (LTIC). We presently own property in Southwest Portland, on SW Maplecrest Drive, where the LTIC would be applied should we proceed with building a home. With respect to the cap on LTIC proposed by Portland Bureau of Transportation (PBOT), we do not believe the cap does enough to make building a home in Portland feasible or affordable. Based on input from the public, as outlined in PBOT's presentation by Anne Hill on December 6, "a majority of Portland residents favor that the City be responsible for sidewalk and street improvements..." Understanding that sentiment, clearly the City needs funding mechanisms for such improvements—mechanisms that can effectively address the issues over time. Given the backlog in needed improvements, and revenue generated to date, completing necessary improvements would take hundreds of years – much longer than the useful life of the infrastructure in place and/or constructed. Recognizing this may be one of many ultimate sources of funding, we believe the cost incurred by individual property owners is too high. Within the December 6 presentation, PBOT estimated that street and sidewalk improvements would cost about \$30,000 per residence should "improvement districts" be formed to address local issues. Though it may not be feasible to expect every residence to bear a \$30,000 burden to make improvements, asking more than that amount from any one property owner attempting to build a home in Portland seems unfair and unequitable. The burden of the LTIC is disproportionate to the corresponding impact on a neighborhood from development of a single-family residence, which would not necessarily increase simply because it's street frontage is longer than its neighbors. We respectfully request that you consider caps to the LTIC that are based on the number of residences proposed per lot – and that the cost does not exceed \$30,000 per residence, which is approximately the amount PBOT acknowledged each residence would be responsible for should an improvement district approach be used.

Sincerely,
Jennifer and Brian Frownfelter
6355 SW Dolph Drive, Portland, OR 97219
jfrownie@gmail.com

Moore-Love, Karla

From: Marianne Fitzgerald <fitzgerald.marianne@gmail.com>
Sent: Monday, January 29, 2018 2:03 PM
To: Council Clerk – Testimony; Wheeler, Mayor; Commissioner Saltzman; Commissioner Fish; Commissioner Fritz; Commissioner Eudaly
Cc: Treat, Leah; Jordan, Michael; Leon, Christine; Hill, Anne; Krueger, Kurt; Uchiyama, Dawn; Bogert, Sylvia; David Martin; Chisek, Kyle; Grumm, Matt; Lofgren, Todd; Crail, Tim; Runkel, Marshall; Marianne Fitzgerald
Subject: City Council Agenda 109, Local Transportation Infrastructure Charge
Attachments: 2018 02 01 LTIC MF testimony.pdf

Please accept the attached personal testimony for the City Council's February 1, 2018 discussion regarding Agenda Item 109, Local Transportation Infrastructure Charge. The testimony discusses a number of issues raised (and not resolved) by the proposal.

Thank you for considering these comments in advance of City Council deliberation.

Sincerely,

Marianne Fitzgerald

188891

January 29, 2018

Marianne Fitzgerald
10537 SW 64th Drive
Portland OR 97219

Mayor Ted Wheeler and Members of the Portland City Council
City of Portland City Council
1121 SW Fourth Avenue
Portland, OR 97204

Re: City Council Agenda Item 109, Local Transportation Infrastructure Charge

Dear Mayor Ted Wheeler and Commissioners Eudaly, Fish, Fritz, and Saltzman:

I have reviewed the latest proposal for the Local Transportation Charge (City Council Agenda Item 109, February 1, 2018 City Council Agenda) and am resubmitting the testimony I submitted on December 4, 2018 as it is still relevant to the discussion.

Here is a summary of the comments in the attached December 4, 2017 letter:

1. **Please direct PBOT staff to delete Page 3 of Exhibit C that lists members of the Stakeholder Working Group.** The SWG has not met since December 2015 and was not involved in developing the language in Exhibit C. It is not appropriate to include "Acknowledgements" in administrative rule and this section of the rule must be deleted. I am especially concerned because my name is listed as a SWG member and I have continually expressed a number of concerns about the LTIC that were not addressed in 2016 nor in this proposal.
2. **Please do not adopt the LTIC maximum Fee in Exhibit B.** The 2016 fee is artificially low because it does not reflect the cost of necessary stormwater improvements and does not reflect the true cost of infill development. The LTIC allows for two fee zones (Exhibit C page 15) but only one is proposed. The proposed maximum will encourage more development without infrastructure and will bring in less revenue for future improvements and exacerbate street and stormwater issues in our neighborhoods.
3. **The Bureau of Environmental Services needs to be more actively engaged to address the lack of stormwater systems in MS4 areas** and not just on projects with "citywide benefit", whatever that means (Exhibit C page 18).
4. **Please require public participation in decisions related to LTIC.** The proposed allocation methodology is in administrative rule which does not require any public notice before changes are made. The proposed allocation methodology does not include a process for public input into which streets are proposed to be improved. The LTIC may be appealed to a PBOT

Administrative Rule Committee which also does not require any public notice. All of this is done behind closed doors.

5. **The proposed allocation methodology should allocate funds to the areas of the city in which they were raised.** The current proposal does not consider the impact of infill without infrastructure allowed under LTIC and as noted above, there is no public input into where improvements would be made.
6. **The proposal does not address coordination with Local Improvement Districts as directed in the 2016 ordinances.**
7. **The impact statement only discusses fiscal impacts on persons who wish to develop properties and does not consider fiscal impacts on current and future owners and taxpayers/ratepayers who are expected to pay for future street improvements.**

As stated earlier, I believe there are serious issues with Agenda Item 109 and PBOT has not considered public input into the LTIC proposal, nor will there be public input into future administration of the LTIC. The City of Portland is encouraging more infill development with less infrastructure that is needed to accommodate growth.

I plan to attend the February 1, 2018 City Council meeting. Please accept this written testimony prior to the City Council meeting.

Sincerely,

/s/ Marianne Fitzgerald
10537 SW 64th Drive
Portland, OR 97219
(503) 246-1847

Cc: Leah Treat, PBOT Director
Mike Jordan, BES Director
Christine Leon, Anne Hill and Kurt Kruger, PBOT
Dawn Uchiyama, BES
Sylvia Bogert and David Martin, Southwest Neighborhoods, Inc.

December 4, 2017

Marianne Fitzgerald
10537 SW 64th Drive
Portland OR 97219

Mayor Ted Wheeler and Members of the Portland City Council
City of Portland City Council
1121 SW Fourth Avenue
Portland, OR 97204

Re: City Council Agenda Item 1282, Local Transportation Infrastructure Charge

Dear Mayor Ted Wheeler and Commissioners Eudaly, Fish, Fritz, and Saltzman:

I am unable to attend the December 6, 2017 City Council hearing so please consider my testimony in advance of the hearing and please let me know if you have any questions.

I have been involved in many neighborhood and transportation issues in Portland for many years. I served as President of Southwest Neighborhoods, Inc. (SWNI) and as SWNI Transportation Committee Chair; served on the Portland Bureau of Transportation (PBOT)'s Local Transportation Infrastructure Charge (LTIC) Stakeholder Working Group in 2015; and have been involved in many efforts over the past 25 years to deal with unimproved and under-improved streets in the City of Portland.

The primary issues I have with Agenda Item 1282, Local Transportation Infrastructure Charge, are summarized below and will be explained in more detail later in this written testimony.

1. I oppose the LTIC maximum fee and recommend increasing the LTIC fee to reflect true costs of infill development.
2. I am concerned that the proposed allocation methodology is in an administrative rule; it should be in city code.
3. The lack of a stormwater management system is a major issue for livability in many areas of the city with unimproved and under-improved streets and is hardly addressed in the proposal.
4. The proposed allocation methodology is focused solely on residential streets and not "adjacent or related facilities" as allowed under 17.88.010(a)(l) (i.e. unimproved or under-improved collector streets).

5. The proposed allocation methodology does not consider needed improvements related to growth as envisioned in the Comprehensive Plan (i.e. there are many unimproved and under-improved streets within Centers and Corridors).
6. The proposed allocation methodology should allocate funds to the areas of the city in which they were raised.
7. Public involvement on the allocation methodology was limited to up-front surveys and general discussions and PBOT did not give the public sufficient time to review the actual proposal.
8. The proposal does not include public input into streets that will be improved using LTIC funds until the list of improvements to be built with bond proceeds goes before City Council.
9. PBOT did not convene a stakeholder advisory group to develop the proposed revised rules as implied in the agenda packet.
10. The proposal does not address coordination with Local Improvement Districts (LID) as directed in the 2016 ordinance.
11. The impact statement only discusses fiscal impacts on persons who wish to develop properties and does not consider fiscal impacts on current and future owners of properties who are expected to pay for future street improvements through formation of Local Improvement Districts.

The Problem

PBOT and BES have been allowing property developers to develop infill properties without required street and stormwater improvements for many years. In 2012 (Ordinance 185759) PBOT said they had issued 12,700 Waivers of Remonstrance citywide in which the city allowed infill without street and stormwater improvements. In 2016 (ordinance 187681) PBOT said they had issued 12,500 waivers of remonstrance. I don't know what the real number is today but I'm sure it is much more than 12,700. Below is a recent map of the vicinity of a 1-mile segment of SW Capitol Highway in which you can see how much infill has been constructed within one square mile in the last 20 years without required street and stormwater improvements, and this is just one small section of the City of Portland.

The Local Transportation Infrastructure Charge proposal before you will not solve Portland's problems related to unimproved and under-improved streets. It will make it worse. By setting a "maximum" LTIC which may be lower than the current LTIC and encouraging more residential infill without infrastructure, the street and stormwater conditions will continue to deteriorate throughout the city.

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Waiver of Remonstrance

Property is automatically counted in a petition for a Local Improvement District



PORTLANDOREGON.GOV/TRANSPORTATIO



In 2016 PBOT stated the purpose of the proposed LTIC ordinance (187681 #8) was to establish a fee because some developers are required to build half street improvements while others pass the costs onto future homeowners via waivers, wasting an opportunity to start accumulating money to make future improvements. In 2017 PBOT does not state the purpose of the proposal but PBOT seems eager to develop an allocation methodology so it can begin spending LTIC funds and make further changes to city code and rules. Section #13 acknowledges the LTIC revenue will only be sufficient to address a very small fraction of the city's unimproved and under-improved streets. Section #16 states this program would not require property owner contributions.

It does not appear that this proposal will make a dent in the problem anytime soon while the City of Portland continues to allow more residential infill without infrastructure.

Detailed Concerns about the Proposal

1. I oppose the LTIC maximum fee. I recommend increasing the LTIC fee to reflect true costs of infill development. The February 2, 2016 documentation establishing the initial LTIC used a citywide average cost of \$600/linear foot and did not include the cost of stormwater improvements (2/2/2016 documentation page 2). Rule 2.2.1, Geographic Zones, acknowledges that it is more expensive to construct local street improvements in Zone 1 (see map of Zone 1, MS4 areas) because of the current lack of a formal stormwater conveyance and management system in Zone 1, impermeable soils and topography, but the proposal does not include a higher fee for Zone 1. The fee should be much higher than the current fee to reflect the true cost of infill development. Setting a "maximum fee" citywide will collect less revenue and make street and stormwater conditions worse, particularly in Zone 1.

2. I am concerned that the proposed allocation methodology is in an administrative rule; it should be in city code. The draft proposed rules are not labeled as Exhibit C to connect them with the ordinance. The PBOT director has the authority to make changes to the administrative rules without public notice or City Council involvement.
3. The lack of a stormwater management system is a major issue for livability in many areas of the city with unimproved and under-improved streets and is hardly addressed in the proposal. Section #2 states that unimproved streets cause localized drainage issues and #17 acknowledges the importance of partnering with the Bureau of Environmental Services (BES) on solutions in this proposal. The 2012 ordinance encouraged the Bureau of Environmental Services to apply context based solutions to streets and apply the “performance method” per the BES Stormwater Management Manual where appropriate. Unfortunately, the draft proposed Rule 3.4 is about the weakest language I’ve ever seen and only commits BES to fund projects with citywide benefit. What projects are of citywide benefit under this methodology???? Will any stormwater improvements be funded by BES? Will any stormwater improvements be constructed in Zone 1? Unfortunately, there are also a number of examples of residential infill on busy arterial streets where the needed street and stormwater improvements were not constructed. PBOT and BES have signed a coordination agreement and are working as a team on the SW Capitol Highway project, for which I thank you profusely. There should be a stronger partnership commitment in this proposal to resolve both the unimproved and under-improved street and the stormwater problems that negatively affect livability in Portland.
4. The proposed methodology is focused solely on residential streets and not “adjacent or related facilities” as allowed under 17.88.010(a)(I) (i.e. unimproved or under-improved collector streets). PBOT’s 6/30/2017 street surfaces data shows that that many “busy” streets are unimproved and under-improved with the largest percentage in SW Portland. Only 54.3% of all streets within the Southwest Neighborhoods, Inc. (SWNI) coalition area are paved with curbs and only 33.9% of arterials (busy streets) have sidewalk coverage. The map on the PBOT Neighborhood Streets Program website shows the majority of the unimproved and under-improved neighborhood collectors are in SW Portland. PBOT’s informal proposal on its LTIC website to improve unknown neighborhood streets within the Tryon-Stephens Creek Neighborhood Street Plan boundary will not do much to encourage people to walk to destinations in SW Portland without sidewalks on busy streets.
5. The proposed allocation methodology does not consider improvements needed to support growth as envisioned in the Portland Comprehensive Plan. There are many unimproved or under-improved streets within Centers and along Corridors. While PBOT believes it has selected “the highest priority unimproved local residential street projects to be funded with LTIC” (Section #12), there has been no public input into the selection of these streets and no

consideration of where there may be the greatest need to improve walking and stormwater conditions in Portland. PBOT claims that there was sufficient input into the Neighborhood Street Plans but the Tryon-Stephens Creek Neighborhood Street Plan listed collectors as priorities (TSCNSP page 49). Recent PedPDX survey results on its website states that citywide, the barrier to walking that received the highest ranking was “sidewalks/walking paths missing on busy streets.”

6. The proposed allocation methodology should allocate LTIC funds to the areas of the city in which they were raised. While not in this agenda item, PBOT’s LTIC website states that 43% of the funds collected were within SWNI and 36% of the funds collected were within Southeast Uplift. The proposed allocation methodology does not consider the area where the funds were collected in determining where the funds are spent. I disagree. The addition of a number of residential infill developments (which is illustrated on the Waiver map) exacerbates street and stormwater conditions in these infilled areas. The areas that are experiencing the most residential infill without street and stormwater infrastructure should be high priority for considering where the LTIC funds are spent.
7. Public involvement was limited to up-front surveys and general discussions and PBOT did not give the public sufficient time to review the actual proposal in Agenda Item 1282. The proposal that was presented to SWNI in October 2017 is the presentation on the LTIC website which was not posted until November 21, 2017. This did not give neighborhood associations, coalitions and other community groups sufficient time to discuss the details. Staff posted a number of new materials to the LTIC website between November 21 and December 1, 2017. This Agenda Item 1282 with proposed revisions to the code and rules was not available to the public until the Agenda Item was posted to the City Council website the evening of December 1. As a side note, PBOT has proposed similar Public Involvement Plans for PedPDX and Southwest In Motion and I have similar concerns regarding these Public Involvement Plans.
8. The proposal does not include public input into streets that will be improved using LTIC funds until the list of improvements to be built with bond proceeds goes before City Council. Draft Rule 3.4 describes a process in which PBOT makes decisions behind closed doors without public participation or property owner input on which actual streets will be improved.
9. PBOT did not convene any stakeholder advisory group to develop the proposed revised rules as implied in Agenda Item 1282. The last LTIC Stakeholder Working Group meeting was on December 14, 2015, almost two years ago. The SWG and the public did not have input into the rules other than the City Council discussions in March and April 2016. These rules were not on the PBOT website until last week. The “acknowledgements” language should be deleted from the administrative rule.

10. The proposal does not address coordination with Local Improvement Districts as directed in the 2016 ordinance. Section 14 says the project team explored the potential for coordination but does not say what the project team did. The study of home sales in Section 15 is not relevant to this proposal. Recent LID formations would be more relevant. Section #16 states this program would not require property owner contributions. The Agenda Item packet does not say whether the project team researched recent LID formations or why this was not considered in the current proposal.

11. The fiscal impact statement only discusses fiscal impacts of the LTIC on persons who wish to develop properties and does not discuss fiscal impacts on future owners of the additional properties on LTIC-eligible streets who are expected to pay for future street improvements through formation of Local Improvement Districts. In SW Portland most LID estimates have been approximately \$60,000-\$72,000 per property so the property owners do not pursue LID formation (except in cases where there is significant institutional contribution to the project cost such the LID near Spring Garden Park). I know of many homeowners who have contacted PBOT to consider whether to deal with unmanaged stormwater and unsafe street conditions through LID formation and have declined because it was too expensive. Many residents throughout the city endure significant livability issues because they can't afford to fix them.

I believe there are serious issues with Agenda Item 1282 and request that City Council postpone action on this item until we (the public) have had a chance to more thoroughly review and comment and discuss changes. I have had several conversations with PBOT staff since October, before seeing Agenda Item 1282, and as you can see from this testimony, my concerns were not addressed in the proposal.

Thank you for considering this request and testimony. Please let me know if you have questions.

Sincerely,

/s/ Marianne Fitzgerald
10537 SW 64th Drive
Portland OR 97219
(503) 246-1847
Fitzgerald.marianne@gmail.com

cc: Leah Treat, PBOT Director
Mike Jordan, BES Director
Christine Leon, Anne Hill, and Kurt Kruger, PBOT
Dawn Uchiyama, BES
Sylvia Bogert and David Martin, SWNI

188891

December 5, 2017

From: Laura Young
6624 NE Going Street
Portland, OR 97218
Cully Neighborhood

To: Mayor Wheeler and City Commissioners
1221 SW Fourth Avenue
Portland, OR 97204

RE: Letter of support for PBOT's "LTIC & Neighborhood Streets Framework" proposal.

Dear Mayor Wheeler and Members of Council,

Many of you may know me as the Cully Association of Neighbors Chair, and also as a long-time pedestrian safety and transportation equity advocate for historically underserved communities in Portland. I am offering this letter to voice my strong individual support for the "LTIC & Neighborhood Streets Framework", LTIC maximum, allocation methodology and the ongoing maintenance of gravel streets.

Members of the Council are likely well aware, the issue of gravel street maintenance has long been a critical safety and livability concern for Cully residents, and an ongoing point of contention with regard to the City's historical perspective on street maintenance and related policies which have resulted in disproportionate burdens being shouldered by our neighborhood. In point of fact, Cully's neighborhood streets have never been maintained by the City of Portland even though we were annexed into the City of Portland in 1985. This situation has left our gravel streets in terrible disrepair with many being virtually impassible during certain months of the year. Even so, in the thirty-two years since annexation Cully residents have paid the same taxes as everyone else in the City to maintain paved roads elsewhere in the City without receiving or having any share of those resources retained for the sole benefit of our neighborhood.

With fifteen miles of under-improved local streets in Cully, nearly 35% of all Cully streets being identified as LTIC eligible through this proposal, and nearly half of all streets in East Cully being dirt or gravel without street lights or any other environmental safety features, the preeminence of need in our community is undeniable. Just as undeniable is the need for an equitable plan to begin closing the privilege gap on the future distribution of resources needing to be utilized to benefit historically underserved neighborhoods. PBOT's current plan presents an opportunity to finally begin the implementation of an equity-driven neighborhood streets program that will be intentionally implemented with an eye toward achieving parity with other areas of the city for the underserved neighborhoods identified as being highest priority for funding through this proposal.

In conclusion, I would like to commend PBOT's efforts to provide an equitable voice to the residents and neighborhoods most affected by unimproved local residential streets and other infrastructure deficits through the extensive community engagement process utilized in developing this proposal and multitude of outreach tools and mediums utilized.

Sincerely,

Laura Young

6624 NE Going Street
Portland Oregon 97218
503-819-6302
laurayoung411@gmail.com

December 6, 2017

Testimony of:
Claire Carder
62156 Sw. Nevada Ct.
Portland, OR 97219

Testimony for Item 1282 – LTIC Allocation Methodology and Neighborhood Streets Program

I am here to testify about the draft Ordinance before you that proposes a methodology to allocate fees collected from the Local Transportation Improvement Charge – and to further develop a new program for improving neighborhood streets.

I sit on the Development Review Advisory Committee. I also am a member of the SWM stakeholders group, and have been following the PedPDX group as an observer.

I have submitted a letter of testimony that explains my perspective about the LTIC funds.

When the initial proposal for LTIC fees was presented to the DRAC in 2016, the DRAC was in support of the program since paying the fees was quicker and easier than requesting a waiver, and had an assured outcome.

When the ordinance came out, I testified in support, not realizing the ordinance included references to a program that would use the fees for full street improvements.

The last presentation to DRAC from PBOT about the program was at the November 16 meeting.

At the November meeting, after the presentation, DRAC did not provide direction on either support or opposition to the proposed allocation methodology for the LTIC funds, nor concerns about the Neighborhood Street Program since that portion of the proposal is outside the interests of DRAC. I raised the issue that I think its poor public policy to take funds intended for sidewalks and roll them into proposed full street - auto-oriented improvements. Two members of DRAC agreed but the group did not discuss taking any action to address this issue since it is generally outside the scope of DRAC's interest.

My letter and my testimony is to oppose the use of LTIC funds in the Neighborhood Street Program. I support the use of the LTIC funds for pedestrian safety improvements. The amount collected from the funds are negligible in paying for the cost of full street improvements and are best used for pedestrian safety and other improvements, which align most closely with 20 years of city planning to make Portland a walkable city.

In addition, the allocation methodology is flawed, due to biases in the survey distribution, in the interpretation in how the strategy meets the three allocation goals of equity, effectiveness and connectivity, and project readiness.

I totally oppose the use of LTIC funds in the Neighborhood Streets Program and would recommend that the City Council allocate these precious funds collected for pedestrian improvements to pedestrian improvements, and that the allocation methodology be delayed and re-considered after the work of the PedPDX Portland Pedestrian Plan update and the several "In Motion" planning efforts throughout the city are completed.

November 30, 2017

Garrett H. Stephenson

Admitted in Oregon

T: 503-796-2893

C: 503-320-3715

gstephenson@schwabe.com

Via e-mail

Hon. Ted Wheeler

Mayor

City of Portland

1221 SW Fourth Avenue, Suite 340

Portland, OR 97204

RE: Proposed LTIC Fee Cap

Dear Mayor Wheeler and Commissioners:

This office represents Dr. David Farris, owner of a lot that is substantially impacted by the City's Local Transportation Infrastructure Charge (LTIC). We understand that the Council has before it a recommendation from PBOT staff regarding a cap on the LTIC, which will be heard on December 6, 2017. We respectfully offer this letter and the enclosed letter from Dr. Farris requesting that the Council impose a reasonable cap on the LTIC.

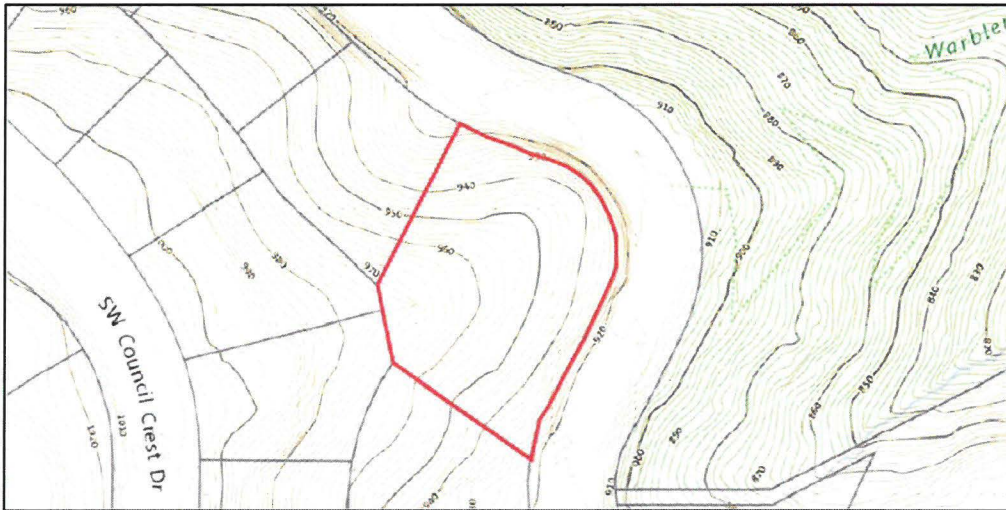
The LTIC was established in May 2016 and is intended to upgrade local streets that lack adequate curbs. The LTIC is paid by permittees constructing single-family homes. It is not a tax – only homes adjacent to streets determined to be “unimproved” are subject to the LTIC. The LTIC must be paid upon building permit issuance and the current LTIC rate is \$600 per lineal foot. For a typical 50 ft. by 100 ft. lot, the LTIC fee would be \$30,000 in addition to permit fees and SDCs that must be paid. The cap proposed by PBOT staff for a lot in an R5 zone is \$30,000, while the cap for less dense zones (such as R10, R20, and RF) ranges up to \$120,000. As we explain below, \$30,000 should be the absolute cap for any new single-family unit.

Dr. Farris owns an undeveloped lot on SW Fairmount Boulevard (the “Property”). He acquired the lot in 2004 for \$125,000. This lot is approximately 10,450 sq. ft. and has approximately 304 feet of frontage on Fairmount. The R-10 zoning of the lot would allow only one single-family home; thus, there is no way to split the LTIC fee between multiple units. At the current rate of \$600 per lineal foot, **the current LTIC fee for development of one new home on the lot would be \$182,400**, in addition to all other building permit fees and SDCs. The LTIC alone would be \$57,400 *more* than Dr. Farris paid for the lot in 2004. Assuming that a new house on the Property would be similar in size and amenities to those in the area, the total governmental fees due would likely be in excess of \$227,400.¹

¹ Based on the BDS online permit fee calculator, an estimate of the sum of building permit fees and SDCs for a home with a \$500,000 construction value is approximately \$45,000, excluding the LTIC.

When manifested in this way, the LTIC is unfair for a number of reasons. First, the sheer amount of the fee is far out of scope with the usual costs associated with sidewalk construction. At \$600 per lineal foot, the LTIC is orders of magnitude higher than the lineal foot cost of curb and sidewalk constructed by a private developer, which typically ranges between \$100 and \$250. We understand that the \$600 per-lineal foot fee is calibrated for the amount it would cost the City to construct sidewalks. However, as explained below, the fee must be roughly proportional to the impact of a single-family home on the street infrastructure. That impact should not be assessed using a substantially-higher public sector construction cost.

Second, there is no link between the LTIC and actual sidewalk improvements. The fee is simply collected for projects along every unimproved street and there are no specific plans for upgrading streets subject to the LTIC. In this case, even if the fee is paid, the City is unlikely to construct sidewalks along the Property and the City has no publicly-available plans to do so. Fairmount Boulevard is literally cut into the side of a hill, making sidewalk construction difficult or impossible in many areas. Dr. Farris's property is composed entirely of slopes in excess of 25 percent, meaning that a substantial hillside cut and retaining wall would probably be needed to construct sidewalks on its frontage, as the following images demonstrate:



The fact that the neighborhood abutting Fairmount is already developed further reduces the prospect that other owners on Fairmount will pay the LTIC or construct new sidewalks. Simply stated, even if Dr. Farris pays this fee, he or a future owner of the Property will almost certainly never see a sidewalk along the Property's frontage.

Finally, the LTIC as applied to the Property effectively destroys its value. The slope of the Property requires relatively expensive engineering measures to construct a single-family home, substantially reducing the economic margins for doing so. Adding to this a nearly \$200,000 fee for a sidewalk that will be built elsewhere (if at all) means that the Property cannot be economically developed, rendering it valueless.

Like other development fees, the LTIC is subject to a takings analysis under the Fifth Amendment of the U.S. Constitution. First, the City has the burden of demonstrating that there is an "essential nexus" between the fee the City's interest the fee purports to serve. *Nollan v. California Coastal Com.*, 483 U.S. 825, 836-37 (1987). Second, the fee must be supported by an individualized finding that it is "roughly proportional" to the impacts expected to be caused by the proposed development. *Dolan v. City of Tigard*, 512 U.S. 374, 391-395 (1994). Like a required dedication of property, the "rough proportionality" analysis applies to the LTIC because it requires the payment of money as a condition of building permit issuance. *Koontz v. St. Johns River Water Management District*, 133 S. Ct. 2586, 2603, 570 U.S. ____ (2013). Finally, a regulation that would deprive the owner of "all economically beneficial or productive use of land" constitutes a taking of private property without just compensation. *Lucas v. S.C. Coastal Council*, 505 US 1003 (1992).

There is no nexus between the LTIC applied to the Property and a home that might occupy it because sidewalks built with that money, if any, will almost certainly be built elsewhere. Thus, to demonstrate the required nexus, the City must not charge the fee unless it has a plan in place to construct or improve sidewalks along the frontage of the property subject to the charge. The fee is also not roughly proportional to the impact on Fairmount Boulevard of one single-family home, which will generate less than ten vehicle trips per day on average. The lack of proportionality is all the more evident given the fact that a transportation SDC must also be paid for a new home on the Property. Finally, the sheer amount of this fee has made the property undevelopable, thereby depriving Dr. Farris of all economically beneficial or productive use of the Property.

Note that Dr. Farris cannot simply avoid this fee by constructing the sidewalk. The same slope issues that make it highly unlikely that the City will construct a sidewalk on Fairmount Boulevard also make private construction of sidewalks on the Property's frontage virtually impossible and certainly impractical.

A cap on the LTIC fees assessed per unit would go a long way towards curing the problems with the LTIC. Ultimately, the cap must reflect in some way the impacts associated with a new dwelling on the transportation system, as explained above. Zoning makes little or no difference in the typical number of users or trips a new dwelling adds to the transportation system. Thus, the LTIC cap should be no greater than \$30,000 per unit, which is closer to (but

Hon. Ted Wheeler
November 30, 2017
Page 4

188891

likely still more than) the private cost of a sidewalk constructed on a typical R-10 lot with a 100-foot frontage. And, using zoning as a distinction in the amount of fee to be paid does not satisfy the City's constitutional obligation to make an individualized determination of the essential nexus and rough proportionality of the LTIC.

We support adoption of an LTIC cap and sincerely hope that you will keep this letter in mind when considering such changes.

Best regards,



Garrett H. Stephenson

GST:gv
Enclosure

cc: Dr. David Farris
Mr. Kurt Krueger
Mr. Mark Manulik

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188891

Dr. R. David Farris
3795 SW Chehalem Avenue
Portland, OR 97239

November 28, 2017

Honorable Ted Wheeler
Mayor
City of Portland
1221 SW 4th Avenue, Room 340
Portland, OR 97204

Re: Proposed LTIC Fee Cap

Dear Mayor Wheeler and Commissioners,

My name is Dr. David Farris. My wife Kendra and I respectfully offer this letter to request a cap on the City's Local Transportation Infrastructure Charge (LTIC). As I explain in detail below, the LTIC is far too high. It is so high in fact that it has effectively destroyed the value of our property.

We own a single undeveloped lot off of SW Fairmount Boulevard, not far from our home. We have lived in the neighborhood since 1988 and acquired the lot in 2004. This lot is approximately ¼ acre and has approximately 304 feet of frontage on Fairmount. The R-10 zoning of the lot calls for single-family homes, and the size of the lot would allow us to construct one home. However, at the current rate of \$600 per lineal foot, the LTIC fee for development of a new home on my lot would be \$182,400. Please also note that the LTIC fee alone would be \$57,400 more than we paid for the lot in 2004.

This fee is far out of proportion to construction of one single-family home and effectively makes my lot unmarketable for its intended purpose. No potential owner, builder, or developer has been willing to purchase the property given the amount of LTIC that would have to be paid. And who could blame them? Such an extreme exaction makes this lot impossible to develop economically.

The LTIC was intended to collect public money for discontinuous sidewalk improvements on under-improved streets. As explained in its enacting ordinance, "the funds collected will be used to construct improvements on the City's network of unimproved or under-improved local streets and adjacent or related transportation facilities." Ord. 187681. As Fairmount Boulevard is on the City's list of LTIC eligible streets, one would reasonably expect that the City would have a plan or at least a tacit intention to construct a sidewalk on my property frontage.

However, no plans to construct sidewalks on Fairmount exist. In fact, it is highly unlikely that the City will ever construct sidewalks on Fairmount because, as the enclosed

photographs demonstrate, this would require cutting into very steep slopes above the street and filling onto very steep slopes below the street. The surrounding neighborhood is already fully developed, meaning that is very unlikely that a significant amount of LTIC fees will be collected from development along Fairmount.

The LTIC fee was born of good intentions but has significant flaws. The first and most obvious problem is that the \$600 linear-foot rate is not even within the realm of the reasonable. Private construction estimates for curb and sidewalks are closer to \$50 per linear foot. In fact, the LTIC rate can—as my case demonstrates—make property effectively worthless. This scheme is completely incongruous with the City's stated policies encouraging densification and increased housing supply, and may constitute an illegal taking of property without compensation.

Second, if we or a future owner pay this fee, it will be with the certainty that those dollars will not contribute to new sidewalks on Fairmount Boulevard. This fee is not a legislative tax and does not apply City-wide. It only applies to properties along certain streets. Thus, there is no argument that this is simply a fee that everyone who wants to build a house must pay. LTIC money can only be spent where it is reasonably feasible to construct a sidewalk improvement. To require the owner of a lot to contribute nearly \$200,000 to this fund simply to develop one home along a street that is unlikely to ever see a sidewalk is fundamentally unfair, especially when transportation SDCs also must be paid.

We have two recommendations for the City. First, and most importantly, we support the idea of an LTIC cap in terms of a maximum amount per unit. This amount should be no more than \$30,000 per single-family dwelling. Second, the City should not charge the fee unless it has some kind of plan in place to construct or improve sidewalks along the frontage of the property subject to the charge.

Thank you for your attention in this matter. I hope that you will seriously consider this letter when making a decision on a cap to the LTIC fee.

Yours truly,

//s//

R. David Farris, MD

Moore-Love, Karla

188891

From: Melissa Long <MLong@rsd7.net>
Sent: Wednesday, December 06, 2017 2:15 PM
To: Council Clerk – Testimony
Subject: Item 1282-Wed. Dec. 6 - Comment Letter Attached
Attachments: Cooper Endorsement Letter 12-4-2017.pdf

To whom it may concern,

Attached you will find a letter from the Brentwood-Darlington Neighborhood Association supporting the pilot project on SE Cooper Street being proposed by PBoT.

Thank you,
Meesa Long
503-327-3218
Brentwood-Darlington Advocate
BBAC member- PBoT



brentwood-darlington
neighborhood association

188891

Post Mail Box 547
4326 South East Woodstock Boulevard
Portland, Oregon 97206

December 4th, 2017

Dear Sir or Madam:

The Brentwood-Darlington Neighborhood Association enthusiastically supports improvement of SE Cooper Street, a gravel street characterized by unusually deep potholes and an extraordinary length of un-usability.

The improvements would follow the guidelines of the Capstone Project designed by students in PSU's Department of Engineering:

"Grade and gravel ten blocks of SE Cooper with traffic calming and pedestrian facility improvements to and incorporate in the outcomes proposed grade and gravel maintenance program being developed."

When Brentwood-Darlington was annexed into the city several decades ago, it brought with it an extensive absence of street infrastructure. The neighborhood is home to an underserved, low-income population that would benefit from – and deserves -- streets brought up to modern standards.

We are grateful that PBOT will be creating continuous sidewalks along SE Duke and Flavel streets, and will create a greenway along Knapp and Ogden streets east of SE 52nd Avenue, thanks to the recently awarded RFF grant. A Cooper Street made useful along its present ten blocks of potholes would be a much appreciated, and much used, addition to our basic street infrastructure.

Thank you for your consideration.

Sincerely,

Stephenie Frederick

Transportation Chair
Brentwood-Darlington Neighborhood Association

188891

Moore-Love, Karla

From: Tim Lamers <hokulanidevelopment@outlook.com>
Sent: Tuesday, December 05, 2017 9:06 PM
To: Council Clerk – Testimony
Cc: Moore-Love, Karla; Stephenson, Garrett H.
Subject: Letter of Testimony, LTIC
Attachments: LTIC Levy Letter.pdf

Please find attached our letter of testimony, copies of which will be made available for distribution tomorrow

Regards,
Tim Lamers

Hokulani Development LLC
5285 Meadows Rd., Suite 330
Lake Oswego, OR 97035

Tim Lamers and Carrie Menikoff
6825 SW 63rd Avenue
Portland, OR 97219
(503) 793-4520



December 3, 2017

Hon. Ted Wheeler
Mayor
City of Portland
1221 SW 4th Ave., Room 340
Portland, OR 97204

Re: *LTIC Levy*

Dear Hon. Ted Wheeler:

My wife and I are writing in support of rule changes to LTIC levy that affects our property and prevents its development. In August 2017 we purchased a 120-year old farmhouse in Southwest Portland that sits on a corner lot on SW Garden Home Road and 61st Avenue. The home and horse barn, well and gardens, sits at the back half of the .44 acre lot, which is zoned R7.

We have begun restoring and renovating the farmhouse. Because the house is in need of significant structural repair and mechanical improvements, a subdivision of the lot is an important part of covering the cost of the project.

LTIC represents a serious barrier, \$600 per lineal foot would result in a \$118,800 Levy, rendering the subdivided parcel almost valueless. Because the LTIC fee must be paid before the property can be divided, we must come up with the funds many months prior to a sale.

Put simply, the LTIC fee effectively prohibits us from subdividing the lot to make it available for development of a separate single-family residence.



188891

The LTIC levy prompts other issues related to development. It favors flag lot and row housing over lots with street frontage. It discourages individual homeowners from development of their property, impacting available inventory and funding of the intended transport infrastructure. It drives owners to choose development options that might offset the mounting development charges. We made a decision not to scrape and build, but rather preserve an original farmhouse and protect the character of the neighborhood. While we look for no special treatment, I believe we should not be penalized for doing so.

For these reasons, we respectfully ask that the City review the LTIC rules to allow for caps, exemptions, or other appeal process that may allow property owners to work with the city towards their mutual objectives.

Thank you in advance for your consideration of this important matter.

Sincerely yours,

/s/ Tim Lamers

Tim Lamers



From: Rich Hannah <rich.hannah@gmail.com>
Sent: Tuesday, December 05, 2017 9:35 PM
To: Council Clerk – Testimony
Subject: LTIC Testimony

Dear Council,

I've been encouraged to attend and testify at this meeting because, as it is described to me, only with Council input and approval can my unique circumstance be remedied. Below is my testimony in the event I'm unable to speak tomorrow.

Introduction:

- My name is Rich Hannah. I've been a Portland resident since 1991.
- I've worked at adidas & Intel for a combined 20 years
- In 2001 I began pursuing my interest in real estate and purchased a fixer, fixed it and rented the single-family residence. Since 2001, I've continued to buy, fix and rent houses/condos as feasible. In my 16+ years as a landlord, I have never once evicted a tenant (for cause or for 'no-cause') and have only adjusted rental rates after a tenant has voluntarily moved out of my property. In 2017 I paid more than \$40k in property taxes in Multnomah and Washington Counties.
- About 2 years ago I left Intel to attend to family & my real estate interest.
- Today I consider myself to be a thoughtful, small residential developer with simple priorities... do what is right for the neighborhood, the house and the future resident while trying to make a little money.
- All of my work is permitted and performed by a local GC.
- I'm currently working on 3 projects including one that is subject to LTIC fees that could require that I single-handedly pay an amount equal to ~10% of the total LTIC fees collected to date

Property Address: **6251 SW Hamilton Way.**

In **February of 2016** I began a ~2 month diligence period on a 2-lot parcel of not-fully-developed R-10 land in the Southwest hills. The property has about 300 feet of frontage and requires a road that starts at the end SW Hamilton Way and connects to a not-fully-improved gravel road that services two addresses at the intersection of SW Seymour Court and SW Hamilton Way.

On **April 13 2016**, the LTIC ordinance was established by City Council.

On **April 26, 2016** I attended an Early Assistance meeting (EA 16-139638) to discuss PBOT requirements for the right-of-way and learned that PBOT would be supportive of *not* including a sidewalk corridor along the frontages of the lots subject to the submittal/approval of a Public Works Alternative Review. LTIC was not mentioned or discussed.

On **May 25, 2016** the City of Portland published notes to the EA meeting. LTIC was not noted anywhere in the published notes.

On **May 26, 2016** I completed my diligence and acquired the property after adjusting the sale price to account for the difficulties described in the EA meeting associated with the Environmental Overlay in and around this parcel.

From **June of 2016 until May of 2017**, considerable and expensive work (topographical survey, water percolation, road engineering, storm water management plan, arborist report, architecture, etc.) was funded and completed in preparation for the PBOT Concept Development milestone.

On **June 2, 2017** I attended, with John Middleton (Engineering) and Ryan Walsh (Architecture), the Concept Development meeting. Again at this meeting the City indicated that there was no need for sidewalks and noted the requirement to submit for the Public Works Alternative Review. Engineering plans were discussed, but prior to approval, PBOT wanted 'locates' to be performed to identify exactly where City utilities existed in the R.O.W.

Between **June 2, 2017 and September 2017**, all of the work required by the City was performed and plans modified accordingly in prep for the resubmittal of material and Concept Development Approval.

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In late **September of 2017** the Public Works Alternative Review was submitted.

On **October 20 of 2017**, the Alternative Review was approved and, for the first time, I was made aware that this development was subject to LTIC. Due to the amount of frontage, LTIC fees approach \$180,000 under the old rule and \$120,000 based on the newly proposed R-10 maximum cap rule.

In summary, LTIC went into effect in April of 2016, but it was not mentioned in any of the meetings or in any written correspondences regarding the Hamilton Way property in the subsequent **18 months** of discussions with the City.

Due to the timing of these events, I'm requesting that these parcels be exempted in full from the LTIC requirements.

While I support the need for LTIC, it's vital that such fees, and when/where they will be applied, be *fully* communicated and documented in the material published by the City. Especially when there are substantial, non-refundable costs incurred to initiate the EA & Concept Development meetings.

I initiated and paid for the EA meeting as part of my pre-purchase diligence and it did uncover some risk that caused me to renegotiate the purchase price. In conclusion, I can say unequivocally that had I known this property to be subject to \$180,000 in LTIC fees, I would not have purchased this property at the agreed upon price.

Thank you for your time today.

Sincerely,
Rich Hannah

From: Tony Hansen <atonehansen@gmail.com>
Sent: Tuesday, December 05, 2017 10:01 PM
To: Wheeler, Mayor; Commissioner Fritz; Commissioner Fish; Commissioner Eudaly; Commissioner Saltzman; City Auditor, Mary Hull Caballero; Council Clerk – Testimony; Treat, Leah; Hill, Anne
Cc: jfitzgerald.marianne@gmail.com; johnprouty@q.com
Subject: City Council Agenda 1282, Local Transportation Infrastructure Charge; Crestwood NA
Attachments: CNA LTIC NSP Comments 2017-2.docx

Please accept the attached testimony from the Crestwood Neighborhood Association for the City Council's December 6, 2017 public hearing regarding Agenda Item 1282, Local Transportation Infrastructure Charge. I am unable to attend the hearing in person and hope this will be distributed to Mayor Wheeler and members of the City Council. I request that City Council postpone action on this item until the public has a chance to more thoroughly review and comment and discuss changes.

Thank you for considering this request.

Sincerely,

Tony Hansen

VP, Crestwood NA



188891
CRESTWOOD
Neighborhood Association

December 1, 2017

Mayor Ted Wheeler and Members of the Portland City Council
1221 SW Fourth Avenue
Portland, OR 97204

Re: December 6, 2017 Agenda Item 1282, Local Transportation Infrastructure Charge

At its November 8, 2017 meeting, the Crestwood Neighborhood Association discussed the Portland Bureau of Transportation's proposal for a Local Transportation Infrastructure Charge and Neighborhood Streets Program.

Crestwood is opposed to the proposed "cap" on the Local Transportation Infrastructure Charge (LTIC). Many streets in our neighborhood are unimproved or under-improved and residents suffer from unmanaged stormwater impacts as well as conditions unsafe for everyone trying to walk, bike or drive to destinations. The current rate is not sufficient to both improve streets to current city standards and address the serious erosion and stormwater issues that are an integral part of these improvements. The 2/2/2016 rate analysis shows that the rate does not include stormwater costs and should be higher in SW Portland. The proposed LTIC maximum will result in less funding to address the stormwater and deteriorating street conditions created by the City of Portland when it allows infill to be built without required infrastructure. Make LTIC higher, not lower, than the current rate.

Crestwood supports keeping LTIC funds in the neighborhood where it is collected. Almost half of the LTIC funds collected are due to infill in Southwest Portland. Recent PBOT data shows that SW Portland has the worst street surfaces in the city, and Crestwood data (based on the former Crestwood boundary) shows almost 10% of our streets are unpaved. PBOT must make a commitment to allocate LTIC and bureau funds to address growth in the areas where the funds were collected. Infill without infrastructure exacerbates existing stormwater and poor street conditions in our neighborhood.

Sincerely,

Tony Hansen

John Prouty, President
Tony Hansen, Vice-President
Crestwood Neighborhood Association

Cc: Leah Treat, Director, Bureau of Transportation
Michael Jordan, Director, Bureau of Environmental Services
Anne Hill, PBOT staff

Moore-Love, Karla

From: Cian Montgomery <cian@cianmontgomery.com>
Sent: Wednesday, December 06, 2017 7:37 AM
To: Council Clerk – Testimony
Cc: Mindy Montgomery
Subject: Testimony for City Council Meeting Dec 6, 2018 agenda item 1282 (LTIC)

My name is Cian Montgomery, I have the misfortune of owning a property at 12443 NW Mountain View road. My wife Mindy and I bought this property 10 years ago with the intention of building a house on that property. Our first attempt was brought to an end buy the bursting of the mortgage bubble. We restarted the construction process again in 2015 only to find that BES and PBOT were in a cruel competition to see which could make building on the lot unfeasible.

LTIC charges on our R10 lot are \$60K, which equates about 15% of the cost of building a house on the lot. With our initial appraisal done prior to our learning of LTIC makes this build economically unfeasible.

Let me tell you about Mountain View road, Mountain View is a local street consisting of about one quarter-mile of degraded pavement with the remainder being gravel. The closest curb to mountain view is at the bus stop at HWY 30. Two sides of our lot are literally on the City Boundary, we are an outpost of the City of Portland. The only service provided by the City of Portland is water via a contract with Burlington.

As property owners looking to improve our lot we are faced with the choice of Building improvements that will impede the flow of traffic on the street, as the Residential Street standard that is required by LTIC requires 60' of public right of way and Mountain View only 50'.

We were told by by Kurt Krueger (*Supervising Engineer*), while Mountain View could be designated as a shared street, that the entire street would have to be upgraded to that standard. Of the eight existing houses on Mountain View, only two are within the city limits. Upgrading Mountain View would require Multnomah county and the City to coordinate the improvements. The LTIC standard discussed today excludes improvement of gravel roads, which most of Mountain View is.

The \$60K fee assessed for my R10 lot, is more than double the \$30K average referenced in this ordinance discussed today. If we improved the frontage to our lot, we would see only a \$4K increase in my home's value, likely less since this would be the ONLY improved street frontage in the area. Take note, this improvement would be impeded by the lack of city sewer and stormwater facilities.

This is tantamount to extortion. The City of Portland has no intention of ever improving Mountain View road, based on the criteria laid forth in the Neighborhood Street Program. Mountain View scored the lowest in every category!

LTIC is bad public policy, it provides no appeal or variance policy based on the neighborhood needs and conditions. Furthermore it has been misrepresented to the public as to who the affected parties will be. The initial fliers clearly states it will only affect developers doing infill development would be subject to LTIC charges, not property owners trying to build their dream home on unimproved streets.

Moore-Love, Karla

From: Sylvia Bogert <sylvia@swni.org>
Sent: Tuesday, December 05, 2017 3:08 PM
To: Council Clerk – Testimony; Wheeler, Mayor; Commissioner Saltzman; Commissioner Fritz; Commissioner Eudaly; Commissioner Fish; Treat, Leah; Leon, Christine; Hill, Anne; Krueger, Kurt; Uchiyama, Dawn; Chisek, Kyle
Cc: Crail, Tim; Runkel, Marshall; Grumm, Matt; Lofgren, Todd; Gibbon, John; David Martin; Fitzgerald, Marianne
Subject: City Council Agenda 1282, Local Transportation Infrastructure Charge
Attachments: SWNI LTIC-NSP Letters 12-5-2017.pdf

To: Mayor Ted Wheeler and Members of the Portland City Council

Please accept the attached testimony from Southwest Neighborhoods, Inc. Board of Directors for the City Council's December 6, 2017, public hearing regarding Agenda item 1282, Local Transportation Infrastructure Charge.

Thank you for considering our comments and recommendations.

John Gibbon
President
Southwest Neighborhoods, Inc.

Sylvia Bogert
Executive Director
Southwest Neighborhoods, Inc.
7688 SW Capitol Hwy., Room 5
Portland, OR 97219
503-823-4592
sylvia@swni.org



188891

Southwest Neighborhoods, Inc.

7688 SW Capitol Highway, Portland, OR 97219 (503) 823-4592

www.swni.org

December 5th, 2017

Mayor Ted Wheeler and Members of the Portland City Council
City of Portland City Council
1221 SW 4th Avenue
Portland, OR 97204

Re: City Council Agenda Item 1282, Local Transportation Infrastructure Charge

Dear Mayor Ted Wheeler and Members of the Portland City Council

I am writing to you today as SWNI President at the direction of the organization's Board of Directors, to transmit materials that the organization, as a collective body, previously submitted to you regarding the LTIC. Please see SWNI's attached letter dated June 19, 2017, which details our recommendations for specific changes that still need to be addressed. This is being done because the City's ultimate scheduling of the consideration of the allocation formula has been done in a manner that, for calendaring reasons, simply made it impossible to provide new comments on the subject if SWNI followed its organizational process of having proposals evaluated by our standing and special committees and then acted upon by the board following that vetting.

In this case the SWNI Board's reiteration of its earlier position should not in anyway be taken as derogating the work done by PBOT and Commissioner Saltzman's office on this issue or any way an indication that SWNI has anything but a massive organizational concern regarding this issue. It is merely our effort to do as much as the SWNI Board practically can in commenting on an issue we recognize as absolutely vital to resident property owners in southwest and to the livability of vital parts of most of our neighborhoods. Please understand that if this was not a matter that we recognize requires prompt action by the City to survive potential legal challenges we would be demanding a much more deliberate and through public process vetting of this decision. However, in the event SWNI as an organization is only able to restate its prior position on this matter and, based on the performance of the LTIC formula to date, we particularly call your serious attention to the fundamental fairness of using the funds produced by this program in that general area of the City from where they have been paid. In addition, the lack of a stormwater management system is a major issue for livability in many areas of the city with unimproved and under-improved streets and is barely addressed in the proposal.

Thank you for your attention to these comments, and your continued efforts to preserve and improve the LTIC program.

Sincerely,

John Gibbon
President
Southwest Neighborhoods, Inc.

Cc: Leah Treat, PBOT
Cristine Leon, PBOT
Kurt Krueger, PBOT
Anne Hill, PBOT
David Martin, SWNI Transportation Chair



Southwest Neighborhoods, Inc.

7688 SW Capitol Highway, Portland, OR 97219 (503) 823-4592

www.swni.org

June 19, 2017

Commissioner Dan Saltzman
City of Portland
1221 SW 4th Avenue
Portland, OR 97204

Re: Local Transportation Infrastructure Charge and Neighborhood Streets Project

Dear Commissioner Saltzman:

Southwest Neighborhoods, Inc. (SWNI) submitted testimony on the Local Transportation Infrastructure Charge on March 29, 2016 that recommended specific changes to the language in the ordinance and city code Chapter 17.88. We are resubmitting this letter because some of the points made need to be restated in the current Phase 3.

SWNI has learned that some developers are pushing for a "cap" on the LTIC. SWNI is opposed to a cap on the LTIC, and urges PBOT to increase the LTIC to more accurately reflect costs to fund improvements in SW Portland, which may be higher than the current charge of \$600/linear foot because the LTIC does not include the cost of constructing stormwater improvements (as noted in the Kittleson & Associates, Inc. Engineering Review of Historical LID construction costs in 2016). SWNI believes LTIC needs to be increased to more accurately reflect the higher costs to build both street and stormwater infrastructure required in SW.

SWNI supports Ordinance Finding #17 that allows funds to be used on "adjacent or related transportation facilities" and not just on local streets. Unfortunately, PBOT's "factsheets" ignore this and focus on a "residential street program." In SW Portland, only 33% of our busy streets have sidewalks along with many unimproved and under-improved streets. These LTIC funds might more effectively achieve City goals for walkable neighborhoods if the funds are used to improve busy streets where they are most needed, such as in centers and corridors. While the Neighborhood Street Program "factsheet" states that busy streets have other funding sources, very few of these funds have been allocated to busy streets in SW Portland over the last five years.

SWNI believes the LTIC funds must be spent within the district coalition areas in which they have been collected in order to improve infrastructure in areas that the builders opted to pay the LTIC. SW Portland's infrastructure compared to the rest of Portland

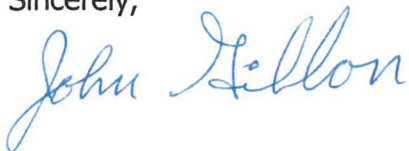
Commissioner Dan Saltzman
Local Transportation Infrastructure Charge
June 19, 2017
Page 2

188891

includes the lowest percentage of streets paved with curbs (20%+ margin), highest percentage of streets paved without curbs (12%+ margin), highest percentage of unpaved streets, and the lowest percentage of sidewalk coverage (33%+ margin). Allowing LTIC funds collected within SW Portland to be spent outside the neighborhood coalition further exacerbates the lack of much needed infrastructure that fails to meet city goals of supporting the safety of pedestrian and cyclists in the development of walkable neighborhoods.

If you have any questions, please contact Marianne Fitzgerald, SWNI Volunteer, at (503) 246-1847, or fitzgerald.marianne@gmail.com.

Sincerely,



John Gibbon
President
Southwest Neighborhoods, Inc.

Cc: Leah Treat, PBOT
Christine Leon, PBOT
Kurt Krueger, PBOT
Anne Hill, PBOT
David Martin, SWNI Transportation Chair



188891

emailed
3-29-16

Southwest Neighborhoods, Inc.

7688 SW Capitol Highway, Portland, OR 97219 (503) 823-4592

www.swni.org

March 29, 2016

Mayor Charlie Hales and members of the Portland City Council
City of Portland
1221 SW 4th Avenue
Portland, OR 97204

Re: Council Agenda Items 293 and 294
Local Transportation Infrastructure Charge

Southwest Neighborhoods, Inc. (SWNI) conditionally supports the proposed Local Transportation Infrastructure Charge (LTIC).

Southwest Portland within the SWNI boundaries has the least improved street network within the City of Portland. Only one-third of the busy streets within the SWNI boundaries have a sidewalk and 71% of the sidewalk network is missing on all streets. The LTIC Technical Memo #1 notes that although the west side makes up 28% of the city's land area, it contains 45% of all mileage for problem streets.

SWNI was one of three neighborhood stakeholders in the small LTIC stakeholder group. SWNI raised a number of concerns about the proposal. It is expensive to build local street improvements in SW Portland because these improvements also trigger the city's Stormwater Manual requirements, adding costs that may not be required in other parts of the city (as noted in Ordinance Finding #12 but ignored when setting the fee). Too often, the City issues waivers of remonstrance (in essence, requiring a "yes" vote on a future Local Improvement District to improve the infrastructure at some point in the future), leaving SW without sidewalks, bike lanes and paved roads that would help people walk, bike or take transit to meet their daily needs.

Over the years, the current waiver system has led to a huge influx of residents in our neighborhoods without the infrastructure needed to support alternative transportation and the stormwater management system. The City's current practice of issuing "waivers of remonstrance" has transferred responsibility for infrastructure development from the property developer to future homeowners and/or taxpayers.

Because of the failure of the current system to build needed infrastructure, we conditionally support the LTIC. We believe the program will not work unless the following changes are made:

1. Amend draft City Code Chapter 17.88, section 020B, last sentence, to read, "The payment of a Local Transportation Infrastructure Charge and issuance of a Waiver of Remonstrance will satisfy the requirements of this subsection." The intent is that future property owners will be obliged to support a Local Improvement District. The next

Mayor Charlie Hales and members of the Portland City Council
Local Transportation Infrastructure Charge proposal
March 29, 2016
Page 2

- phase could discuss whether the cost of the LTIC would be subtracted from future LID assessments.
2. Amend draft City Code Chapter 17.88, section 0090A, after the word "zone" to insert "or are issued a Waiver of Remonstrance for required street improvements." The intent is that developers along collectors or arterials that are issued a Waiver, like the recent waivers issued for infill homes on SW Capitol Highway, also pay the LTIC. Ordinance Finding #13 implies that these developers will build the required street improvements but reality tells us this may not happen.
 3. LTIC funds must be spent within the district coalition areas in which they have been collected. The intent is that the areas that are not getting the required local street improvements must benefit from the fees that are collected in their area, and the local residents have a say in where and how the fees are spent.
 4. PBOT must reach out to local residents, neighborhood associations and community organizations and consider local transportation priorities before determining how funds will be spent in the district coalition area. The proposed scope of work with ECONorthwest describes a process for determining how the LTIC funds are spent, but local decisions need local decision making.
 5. SWNI supports Ordinance Finding #17 that allows funds to be used on "adjacent or related transportation facilities" and not just on local streets. In SW Portland, only 33% of our busy streets have sidewalks. These LTIC funds might more effectively achieve City goals for walkable neighborhoods if there is flexibility in targeting street improvements on busy streets where they are most needed.
 6. Because the proposed initial LTIC fee does not include the cost of stormwater improvements (as noted in the Kittelson & Associates, Inc. Engineering Review of Historical LID construction costs), within the MS4 areas, the Bureau of Environmental Services must fund the stormwater management components of street improvements that also require stormwater improvements.

SWNI agrees that it would be beneficial to begin collecting fees from property developers that are not building required street improvements. SWNI has raised several concerns that are not addressed in this proposal, and recommends revisions to Code 17.88 and other changes that would result in more fair improvements citywide.

Sincerely,



Sam Pearson
President
Southwest Neighborhoods, Inc.

Cc: Christine Leon, PBOT Development Committee and Transit Group Manager
Bill Hoffman, PBOT Project Manager
Roger Averbeck, SWNI Transportation Chair
Marianne Fitzgerald, SWNI Transportation Vice Chair

Moore-Love, Karla

From: Laura Young <laurayoung411@gmail.com>
Sent: Tuesday, December 05, 2017 2:57 PM
To: Council Clerk – Testimony
Cc: Wheeler, Mayor; Commissioner Fish; Commissioner Fritz; Commissioner Eudaly; Commissioner Saltzman; Hill, Anne
Subject: City Council Agenda 1282, Local Transportation Infrastructure Charge
Attachments: LTIC Letter to Council 12052017.pdf

December 5, 2017

From: Laura Young

6624 NE Going Street

Portland, OR 97218

Cully Neighborhood

To: Mayor Wheeler and City Commissioners

1221 SW Fourth Avenue

Portland, OR 97204

RE: Letter of support for PBOT's "LTIC & Neighborhood Streets Framework" proposal.

Dear Mayor Wheeler and Members of Council,

Many of you may know me as the Cully Association of Neighbors Chair, and also as a long-time pedestrian safety and transportation equity advocate for historically underserved communities in Portland. I am offering this letter to voice my strong individual support for the "LTIC & Neighborhood Streets Framework", LTIC maximum, allocation methodology and the ongoing maintenance of gravel streets.

Members of the Council are likely well aware, the issue of gravel street maintenance has long been a critical safety and livability concern for Cully residents, and an ongoing point of contention with regard to the City's historical perspective on street maintenance and related policies which have resulted in disproportionate burdens being shouldered by our neighborhood. In point of fact, Cully's neighborhood streets have never been maintained by the City of Portland even though we were annexed into the City of Portland in 1985. This situation has left our gravel streets in terrible disrepair with many being virtually impassible during certain months of the year. Even so, in the thirty-two years since annexation

Cully residents have paid the same taxes as everyone else in the City to maintain paved roads elsewhere in the City without receiving or having any share of those resources retained for the sole benefit of our neighborhood.

With fifteen miles of under-improved local streets in Cully, nearly 35% of all Cully streets being identified as LTIC eligible through this proposal, and nearly half of all streets in East Cully being dirt or gravel without street lights or any other environmental safety features, the preeminence of need in our community is undeniable. Just as undeniable is the need for an equitable plan to begin closing the privilege gap on the future distribution of resources needing to be utilized to benefit historically underserved neighborhoods. PBOT's current plan presents an opportunity to finally begin the implementation of an equity-driven neighborhood streets program that will be intentionally implemented with an eye toward achieving parity with other areas of the city for the underserved neighborhoods identified as being highest priority for funding through this proposal.

In conclusion, I would like to commend PBOT's efforts to provide an equitable voice to the residents and neighborhoods most affected by unimproved local residential streets and other infrastructure deficits through the extensive community engagement process utilized in developing this proposal and multitude of outreach tools and mediums utilized.

Sincerely,

Laura Young

6624 NE Going Street

Portland Oregon 97218

503-819-6302

laurayoung411@gmail.com

--

188891

December 5, 2017

From: Laura Young
6624 NE Going Street
Portland, OR 97218
Cully Neighborhood

To: Mayor Wheeler and City Commissioners
1221 SW Fourth Avenue
Portland, OR 97204

RE: Letter of support for PBOT's "LTIC & Neighborhood Streets Framework" proposal.

Dear Mayor Wheeler and Members of Council,

Many of you may know me as the Cully Association of Neighbors Chair, and also as a long-time pedestrian safety and transportation equity advocate for historically underserved communities in Portland. I am offering this letter to voice my strong individual support for the "LTIC & Neighborhood Streets Framework", LTIC maximum, allocation methodology and the ongoing maintenance of gravel streets.

Members of the Council are likely well aware, the issue of gravel street maintenance has long been a critical safety and livability concern for Cully residents, and an ongoing point of contention with regard to the City's historical perspective on street maintenance and related policies which have resulted in disproportionate burdens being shouldered by our neighborhood. In point of fact, Cully's neighborhood streets have never been maintained by the City of Portland even though we were annexed into the City of Portland in 1985. This situation has left our gravel streets in terrible disrepair with many being virtually impassible during certain months of the year. Even so, in the thirty-two years since annexation Cully residents have paid the same taxes as everyone else in the City to maintain paved roads elsewhere in the City without receiving or having any share of those resources retained for the sole benefit of our neighborhood.

With fifteen miles of under-improved local streets in Cully, nearly 35% of all Cully streets being identified as LTIC eligible through this proposal, and nearly half of all streets in East Cully being dirt or gravel without street lights or any other environmental safety features, the preeminence of need in our community is undeniable. Just as undeniable is the need for an equitable plan to begin closing the privilege gap on the future distribution of resources needing to be utilized to benefit historically underserved neighborhoods. PBOT's current plan presents an opportunity to finally begin the implementation of an equity-driven neighborhood streets program that will be intentionally implemented with an eye toward achieving parity with other areas of the city for the underserved neighborhoods identified as being highest priority for funding through this proposal.

In conclusion, I would like to commend PBOT's efforts to provide an equitable voice to the residents and neighborhoods most affected by unimproved local residential streets and other infrastructure deficits through the extensive community engagement process utilized in developing this proposal and multitude of outreach tools and mediums utilized.

Sincerely,

Laura Young

6624 NE Going Street
Portland Oregon 97218
503-819-6302
laurayoung411@gmail.com

Moore-Love, Karla

From: Bonny McKnight <bonnymcknight@gmail.com>
Sent: Tuesday, December 05, 2017 12:57 PM
To: Moore-Love, Karla
Subject: Please add this testimony to the 12/5/17 Item 1282 public record
Attachments: 12517 LTIC Letter to City Council.pdf

and provide it to each Council member for tomorrow's City Council Meeting.

Thanks, Karla. I hope all is well with you as you continue to help all of us participate.

Please send me a confirming email just so I can close my own record - for now.

Thanks, again.

Bonny McKnight
Coordinating Volunteer
Citywide Land Use Group

bonnymcknight@gmail.com

December 5, 2017

RE: Local Transportation Improvement Charge Administrative Allocation Rule

Mayor Wheeler
Commissioner Amanda Fritz
Commissioner Chloe Eudaly
Commissioner Dan Saltzman
Commissioner Nick Fish

I believe it is premature to adopt this administrative rule to allocate the scarce funds to be raised through the Local Transportation Improvement Charge.

The public discussion process for this rule has been inadequate. The Council has recently adopted a much needed set of guidelines for advisory committees. Those rules, expectations, and requirements are no less important when using money that will be gathered in single family neighborhoods that have inadequate streets and pedestrian ways.

There is no mention of the impact this allocation rule would have on housing affordability and currently planned changes generated by the Residential Infill effort still in development. Additionally, the LTIC appears to raise money using the building permit process in those areas of the city least able to afford that extra charge.

The concern of equity is clearly not met since the funds gathered by the LTIC charge are not guided back to improvements of any type in the single family neighborhood from which they are collected.

Finally, the core question is why the priority of pedestrian safety investment is not served when the allocation rule seems to simply add the LTIC funds into a much costlier pot of money for street rebuilding. The funds that appear likely to be collected through the LTIC would be much more reasonable as a dedicated base for pedestrian safety improvements. The funds could then trigger partnership approaches to actually impact an area's pedestrian safety problems, including use as incentive funds to encourage the development of Local Improvement Districts designed to invest in pedestrian safety projects for the area actually paying the LTIC.

I hope you will accept the comments of Claire Carder, DRAC member, and Marianne Fitzgerald of Southwest Neighborhoods Inc. They have questions and concerns that should be addressed before this very special funding becomes invisible as just another drop in the bucket of a single costly street improvement far removed from the single family neighborhood where LTIC funds are collected.

Please direct PBOT to more adequately respond to the still unanswered questions before these all-too-rare funds are spent.

Bonny McKnight
Coordinating Volunteer
Citywide Land Use Group

188891

bonnymcknight@gmail.com

Moore-Love, Karla

From: Katherine Christensen <kbc.chris@gmail.com>
Sent: Tuesday, December 05, 2017 9:39 AM
To: Council Clerk – Testimony
Subject: LTIC/NSP City Council testimony
Attachments: LTIC & NSP City Council 12-6-17.docx

Please see attached file

Portland City Council
Council Clerk
cctestimony@portlandoregon.gov
1221 SW Fourth Avenue, Room 130
Portland, Oregon 97204

188891

Re: LTIC assessment and Neighborhood Streets Program (NSP) Allocation

I do not agree with the LTIC Cap, fee structure and the NSP selection of roads to Improve.

LTIC fee assessment is a huge burden to develop some properties. My property is a good case for #20, although I have no interest in developing it. The LTIC charges to subdivide my approximately 22,500 SF corner lot with 150' on each street would be \$180,000. Cap or no cap this fee would be about similar given 4 lots 2 R7 and 2 R7/2 on the corner. My neighbor's 1 ½ ac with 75' frontage on Dolph Ct. would be \$45,000 for 10 or so lots. This doesn't seem equitable and discourages infill on some properties.

#13 \$600/ft doesn't take into account the cost of storm water treatment and it is very expensive. The city needs to pay for this to be done properly. LTIC fees are a drop in the bucket. This proposal is going to exacerbate the problem with more infill without infrastructure.

Case in point, some neighbors along Capitol Highway looked into forming a LID to improve their cross streets during the Capitol Highway Improvement Project. These are middle class homes on gravel roads. These neighbors got a pre-LID estimate of \$72,000 per property to improve their muddy/potholed local street and they are choosing not to move forward because they can't afford it. Their roads will continue to spew muddy water and gravel onto Capitol Highway road, sidewalks and bike lanes in the future...

Just a few streets are rated highest priority in SW Portland where we have the most infill development going on in the city and the worst streets. Based on Equity, Effectiveness and Readiness, the selection criteria selected to prioritize streets, the section of town that contributes the most LTIC funds has the least priority for funds allocation. Somehow the Tryon Stephens Project was selected as the only part of SW Portland that qualifies based on Readiness. There was no consideration for so many other factors. Where do people walk/bike/drive and what is the state of these roads? Where do accidents occur due to poor infrastructure? Where is infill development destroying downstream homes due to storm water rushing through their property? No community input was requested to prioritize and select the specific projects most in need. This needs to happen before the NSP is accepted and streets in obscure neighborhoods are selected over streets that would benefit our communities so much more.

The community impact claims Anne Hill's October 2017 SWNI Transportation Committee presentation as sufficient outreach about the final proposal, which wasn't even posted until December 1st 2017. Many of us haven't had a chance to cover what we heard at the meeting with our neighborhoods.

Please add these to the record.

Thank you,

Katherine Christensen

3441 SW Dolph CT Portland OR 97219

Moore-Love, Karla

From: Marianne Fitzgerald <fitzgerald.marianne@gmail.com>
Sent: Monday, December 04, 2017 10:12 PM
To: Council Clerk – Testimony; Wheeler, Mayor; Commissioner Saltzman; Commissioner Fritz; Commissioner Eudaly; Commissioner Fish
Cc: Treat, Leah; Jordan, Michael; Leon, Christine; Hill, Anne; Krueger, Kurt; Uchiyama, Dawn; Bogert, Sylvia; David Martin; Chisek, Kyle; Grumm, Matt; Lofgren, Todd; Crail, Tim; Runkel, Marshall; Marianne Fitzgerald
Subject: City Council Agenda 1282, Local Transportation Infrastructure Charge
Attachments: 2017 12 06 LTIC MF testimony.pdf

Please accept the attached testimony for the City Council's December 6, 2017 public hearing regarding Agenda Item 1282, Local Transportation Infrastructure Charge. I am unable to attend the hearing in person and hope this will be distributed to Mayor Wheeler and members of the City Council prior to December 6. I request that City Council postpone action on this item until the public has a chance to more thoroughly review and comment and discuss changes.

Thank you for considering this request.

Sincerely,

Marianne Fitzgerald

188891

December 4, 2017

Marianne Fitzgerald
10537 SW 64th Drive
Portland OR 97219

Mayor Ted Wheeler and Members of the Portland City Council
City of Portland City Council
1121 SW Fourth Avenue
Portland, OR 97204

Re: City Council Agenda Item 1282, Local Transportation Infrastructure Charge

Dear Mayor Ted Wheeler and Commissioners Eudaly, Fish, Fritz, and Saltzman:

I am unable to attend the December 6, 2017 City Council hearing so please consider my testimony in advance of the hearing and please let me know if you have any questions.

I have been involved in many neighborhood and transportation issues in Portland for many years. I served as President of Southwest Neighborhoods, Inc. (SWNI) and as SWNI Transportation Committee Chair; served on the Portland Bureau of Transportation (PBOT)'s Local Transportation Infrastructure Charge (LTIC) Stakeholder Working Group in 2015; and have been involved in many efforts over the past 25 years to deal with unimproved and under-improved streets in the City of Portland.

The primary issues I have with Agenda Item 1282, Local Transportation Infrastructure Charge, are summarized below and will be explained in more detail later in this written testimony.

1. I oppose the LTIC maximum fee and recommend increasing the LTIC fee to reflect true costs of infill development.
2. I am concerned that the proposed allocation methodology is in an administrative rule; it should be in city code.
3. The lack of a stormwater management system is a major issue for livability in many areas of the city with unimproved and under-improved streets and is hardly addressed in the proposal.
4. The proposed allocation methodology is focused solely on residential streets and not "adjacent or related facilities" as allowed under 17.88.010(a)(l) (i.e. unimproved or under-improved collector streets).
5. The proposed allocation methodology does not consider needed improvements related to growth as envisioned in the Comprehensive Plan (i.e. there are many unimproved and under-improved streets within Centers and Corridors).

6. The proposed allocation methodology should allocate funds to the areas of the city in which they were raised.
7. Public involvement on the allocation methodology was limited to up-front surveys and general discussions and PBOT did not give the public sufficient time to review the actual proposal.
8. The proposal does not include public input into streets that will be improved using LTIC funds until the list of improvements to be built with bond proceeds goes before City Council.
9. PBOT did not convene a stakeholder advisory group to develop the proposed revised rules as implied in the agenda packet.
10. The proposal does not address coordination with Local Improvement Districts (LID) as directed in the 2016 ordinance.
11. The impact statement only discusses fiscal impacts on persons who wish to develop properties and does not consider fiscal impacts on current and future owners of properties who are expected to pay for future street improvements through formation of Local Improvement Districts.

The Problem

PBOT and BES have been allowing property developers to develop infill properties without required street and stormwater improvements for many years. In 2012 (Ordinance 185759) PBOT said they had issued 12,700 Waivers of Remonstrance citywide in which the city allowed infill without street and stormwater improvements. In 2016 (ordinance 187681) PBOT said they had issued 12,500 waivers of remonstrance. I don't know what the real number is today but I'm sure it is much more than 12,700. Below is a recent map of the vicinity of a 1-mile segment of SW Capitol Highway in which you can see how much infill has been constructed within one square mile in the last 20 years without required street and stormwater improvements, and this is just one small section of the City of Portland.

The Local Transportation Infrastructure Charge proposal before you will not solve Portland's problems related to unimproved and under-improved streets. It will make it worse. By setting a "maximum" LTIC which may be lower than the current LTIC and encouraging more residential infill without infrastructure, the street and stormwater conditions will continue to deteriorate throughout the city.

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Waiver of Remonstrance

Property is automatically counted in a petition for a Local Improvement District



PORTLANDOREGON.GOV/TRANSPORTATION



In 2016 PBOT stated the purpose of the proposed LTIC ordinance (187681 #8) was to establish a fee because some developers are required to build half street improvements while others pass the costs onto future homeowners via waivers, wasting an opportunity to start accumulating money to make future improvements. In 2017 PBOT does not state the purpose of the proposal but PBOT seems eager to develop an allocation methodology so it can begin spending LTIC funds and make further changes to city code and rules. Section #13 acknowledges the LTIC revenue will only be sufficient to address a very small fraction of the city's unimproved and under-improved streets. Section #16 states this program would not require property owner contributions.

It does not appear that this proposal will make a dent in the problem anytime soon while the City of Portland continues to allow more residential infill without infrastructure.

Detailed Concerns about the Proposal

1. I oppose the LTIC maximum fee. I recommend increasing the LTIC fee to reflect true costs of infill development. The February 2, 2016 documentation establishing the initial LTIC used a citywide average cost of \$600/linear foot and did not include the cost of stormwater improvements (2/2/2016 documentation page 2). Rule 2.2.1, Geographic Zones, acknowledges that it is more expensive to construct local street improvements in Zone 1 (see map of Zone 1, MS4 areas) because of the current lack of a formal stormwater conveyance and management system in Zone 1, impermeable soils and topography, but the proposal does not include a higher fee for Zone 1. The fee should be much higher than the current fee to reflect the true cost of infill development. Setting a "maximum fee" citywide will collect less revenue and make street and stormwater conditions worse, particularly in Zone 1.

2. I am concerned that the proposed allocation methodology is in an administrative rule; it should be in city code. The draft proposed rules are not labeled as Exhibit C to connect them with the ordinance. The PBOT director has the authority to make changes to the administrative rules without public notice or City Council involvement.
3. The lack of a stormwater management system is a major issue for livability in many areas of the city with unimproved and under-improved streets and is hardly addressed in the proposal. Section #2 states that unimproved streets cause localized drainage issues and #17 acknowledges the importance of partnering with the Bureau of Environmental Services (BES) on solutions in this proposal. The 2012 ordinance encouraged the Bureau of Environmental Services to apply context based solutions to streets and apply the “performance method” per the BES Stormwater Management Manual where appropriate. Unfortunately, the draft proposed Rule 3.4 is about the weakest language I’ve ever seen and only commits BES to fund projects with citywide benefit. What projects are of citywide benefit under this methodology???? Will any stormwater improvements be funded by BES? Will any stormwater improvements be constructed in Zone 1? Unfortunately, there are also a number of examples of residential infill on busy arterial streets where the needed street and stormwater improvements were not constructed. PBOT and BES have signed a coordination agreement and are working as a team on the SW Capitol Highway project, for which I thank you profusely. There should be a stronger partnership commitment in this proposal to resolve both the unimproved and under-improved street and the stormwater problems that negatively affect livability in Portland.
4. The proposed methodology is focused solely on residential streets and not “adjacent or related facilities” as allowed under 17.88.010(a)(I) (i.e. unimproved or under-improved collector streets). PBOT’s 6/30/2017 street surfaces data shows that that many “busy” streets are unimproved and under-improved with the largest percentage in SW Portland. Only 54.3% of all streets within the Southwest Neighborhoods, Inc. (SWNI) coalition area are paved with curbs and only 33.9% of arterials (busy streets) have sidewalk coverage. The map on the PBOT Neighborhood Streets Program website shows the majority of the unimproved and under-improved neighborhood collectors are in SW Portland. PBOT’s informal proposal on its LTIC website to improve unknown neighborhood streets within the Tryon-Stephens Creek Neighborhood Street Plan boundary will not do much to encourage people to walk to destinations in SW Portland without sidewalks on busy streets.
5. The proposed allocation methodology does not consider improvements needed to support growth as envisioned in the Portland Comprehensive Plan. There are many unimproved or under-improved streets within Centers and along Corridors. While PBOT believes it has selected “the highest priority unimproved local residential street projects to be funded with LTIC” (Section #12), there has been no public input into the selection of these streets and no

consideration of where there may be the greatest need to improve walking and stormwater conditions in Portland. PBOT claims that there was sufficient input into the Neighborhood Street Plans but the Tryon-Stephens Creek Neighborhood Street Plan listed collectors as priorities (TSCNSP page 49). Recent PedPDX survey results on its website states that citywide, the barrier to walking that received the highest ranking was “sidewalks/walking paths missing on busy streets.”

6. The proposed allocation methodology should allocate LTIC funds to the areas of the city in which they were raised. While not in this agenda item, PBOT’s LTIC website states that 43% of the funds collected were within SWNI and 36% of the funds collected were within Southeast Uplift. The proposed allocation methodology does not consider the area where the funds were collected in determining where the funds are spent. I disagree. The addition of a number of residential infill developments (which is illustrated on the Waiver map) exacerbates street and stormwater conditions in these infilled areas. The areas that are experiencing the most residential infill without street and stormwater infrastructure should be high priority for considering where the LTIC funds are spent.
7. Public involvement was limited to up-front surveys and general discussions and PBOT did not give the public sufficient time to review the actual proposal in Agenda Item 1282. The proposal that was presented to SWNI in October 2017 is the presentation on the LTIC website which was not posted until November 21, 2017. This did not give neighborhood associations, coalitions and other community groups sufficient time to discuss the details. Staff posted a number of new materials to the LTIC website between November 21 and December 1, 2017. This Agenda Item 1282 with proposed revisions to the code and rules was not available to the public until the Agenda Item was posted to the City Council website the evening of December 1. As a side note, PBOT has proposed similar Public Involvement Plans for PedPDX and Southwest In Motion and I have similar concerns regarding these Public Involvement Plans.
8. The proposal does not include public input into streets that will be improved using LTIC funds until the list of improvements to be built with bond proceeds goes before City Council. Draft Rule 3.4 describes a process in which PBOT makes decisions behind closed doors without public participation or property owner input on which actual streets will be improved.
9. PBOT did not convene any stakeholder advisory group to develop the proposed revised rules as implied in Agenda Item 1282. The last LTIC Stakeholder Working Group meeting was on December 14, 2015, almost two years ago. The SWG and the public did not have input into the rules other than the City Council discussions in March and April 2016. These rules were not on the PBOT website until last week. The “acknowledgements” language should be deleted from the administrative rule.

10. The proposal does not address coordination with Local Improvement Districts as directed in the 2016 ordinance. Section 14 says the project team explored the potential for coordination but does not say what the project team did. The study of home sales in Section 15 is not relevant to this proposal. Recent LID formations would be more relevant. Section #16 states this program would not require property owner contributions. The Agenda Item packet does not say whether the project team researched recent LID formations or why this was not considered in the current proposal.
11. The fiscal impact statement only discusses fiscal impacts of the LTIC on persons who wish to develop properties and does not discuss fiscal impacts on future owners of the additional properties on LTIC-eligible streets who are expected to pay for future street improvements through formation of Local Improvement Districts. In SW Portland most LID estimates have been approximately \$60,000-\$72,000 per property so the property owners do not pursue LID formation (except in cases where there is significant institutional contribution to the project cost such the LID near Spring Garden Park). I know of many homeowners who have contacted PBOT to consider whether to deal with unmanaged stormwater and unsafe street conditions through LID formation and have declined because it was too expensive. Many residents throughout the city endure significant livability issues because they can't afford to fix them.

I believe there are serious issues with Agenda Item 1282 and request that City Council postpone action on this item until we (the public) have had a chance to more thoroughly review and comment and discuss changes. I have had several conversations with PBOT staff since October, before seeing Agenda Item 1282, and as you can see from this testimony, my concerns were not addressed in the proposal.

Thank you for considering this request and testimony. Please let me know if you have questions.

Sincerely,

/s/ Marianne Fitzgerald
10537 SW 64th Drive
Portland OR 97219
(503) 246-1847
Fitzgerald.marianne@gmail.com

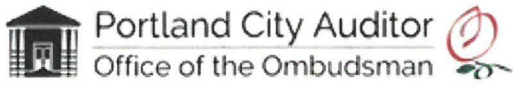
cc: Leah Treat, PBOT Director
Mike Jordan, BES Director
Christine Leon, Anne Hill, and Kurt Kruger, PBOT
Dawn Uchiyama, BES
Sylvia Bogert and David Martin, SWNI

Parsons, Susan

From: Sollinger, Margie
Sent: Monday, December 04, 2017 1:34 PM
To: Council Clerk – Testimony
Subject: Item 1282 - Joint Ombudsman and OEHR Letter of Concern re LTIC
Attachments: Item 1282 - Joint Ombudsman and OEHR Letter of Concern re LTIC.pdf

I wanted to include this for the record. It's already been sent to City Council members and their staff.

Thanks,
Margie



Margie Sollinger
City Ombudsman
1221 SW Fourth Ave, Room 310
Portland, OR 97204
(503) 823-4503



Portland City Auditor
Office of the Ombudsman



188891
OFFICE of EQUITY
and HUMAN RIGHTS
CITY OF PORTLAND

Realizing Equity. Enhancing the City of Portland.

To: Mayor Ted Wheeler
Commissioner Chloe Eudaly
Commissioner Nick Fish
Commissioner Amanda Fritz
Commissioner Dan Saltzman

CC: Director Leah Treat
Chiefs of Staff

From: Ombudsman Margie Sollinger and Director Dante J. James

Re: **Local Transportation Infrastructure Charge — Letter of Concern**
(Agenda Item No. 1282, Time Certain December 6, 2017)

Date: December 4, 2017

The Office of the Ombudsman and the Office of Equity and Human Rights jointly submit this letter for City Council's consideration in advance of its December 6, 2017 time certain hearing regarding the Neighborhood Streets Program (Agenda Item 1282). The purpose of the letter is to draw attention to the Local Transportation Infrastructure Charge (LTIC), a relatively new program designed to collect money from property owners to pay for infrastructure improvements. Although the program has successfully collected additional revenue for public improvements, it has also resulted in inequities that we encourage Council to address.

The LTIC, which went into effect in 2016, is based on a simple calculation: it is the total linear feet of qualifying property frontage multiplied by \$600. It treats all property owners the same. LTIC assessments generally range from tens to hundreds of thousands of dollars. The LTIC must be paid in full and is due prior to issuance of a building permit. Both infill developers and neighborhood associations support the charge because it is predictable and pays for transportation improvements that otherwise do not have a funding source.

According to a City-commissioned study, infill developers are expected to offset the LTIC's impact.¹ Unfortunately for Portland residents who want to build or replace a home on property they already own, an offset is not possible. Instead, for those with more modest means, the LTIC has proven to be cost-prohibitive. As currently designed, the LTIC program does not have a low-income exception nor is there any financing available to property owners who cannot

¹ Evaluation of the Impact of Proposed LTIC on Housing Affordability (ECONorthwest, February 9, 2016).



afford it. This contrasts with the Local Improvement District approach to transportation infrastructure, in which all participating property owners are automatically eligible for up to 20-year financing. Other City programs requiring residents to pay for public infrastructure appropriately seek to mitigate inequitable impacts by offering safety net loans, hardship waivers and lifetime deferrals.

Lack of a low-income exception and financing options means that the LTIC will preclude some residents from building a new or replacement home on their own property. Indeed, within its first year of operation, some residents have been unable to afford to move forward with their projects because of the LTIC – sometimes well after they have made significant project investments. One example involves an elderly cook at a local school district who owns and lives in a manufactured home in Southeast Portland. The home has extensive mold and other problems, so she wanted to replace it with a new manufactured home. She took out a loan to purchase the new home and was readying to install it. Unfortunately, when she applied for a permit with the City, she found out that the LTIC would cost her an additional \$54,000 – an amount she said she could not afford and which represented half of the cost of her new home. The Bureau of Transportation ultimately reversed course and allowed the woman to avoid paying the LTIC based on an expansive reading of a limited exemption, but similarly situated property owners are not likely to be so fortunate under the LTIC's current configuration.²

We recognize the need to collect funds for transportation infrastructure on the City's network of unimproved or under-improved local streets. We acknowledge that many years of work went into the LTIC proposal and that it was supported by infill developers and neighborhood associations. However, the City has also committed in the Portland Plan to "assess equity impacts of policies, programs, public services, investments and infrastructure delivery that may appear fair, but marginalize some and perpetuate disparities." As currently designed, the LTIC's one-size-fits-all approach falls short of the City's commitment. Simply stated, a policy that treats everyone equally does not result in equity.

There are several ways to build fairness into the collection side of the LTIC. Other existing City programs may be used as models. We encourage City Council to take the opportunity on December 6th to direct Transportation to develop adjustments so that the LTIC is equitably assessed and collected.

² Another example involved a couple wishing to build a modest home (\$250,000) for their retirement on property they owned in Southwest Portland. Their project's plans included \$30,000 of City fees based on the City's estimates, but they later learned the LTIC would add an additional \$90,000, which they said they could not afford.

December 4, 2017

Portland City Commissioners

Portland City Hall
1221 SW Fourth Avenue
Portland, OR 97204

RE: Ordinance - Local Transportation Improvement Charge (LTIC) Allocation Methodology

Dear **Commissioners:**

This letter is public comment on the LTIC proposal that will be subject to a public hearing on Wednesday, December 6.

On April 13, 2016, Council voted to establish the LTIC (Local Transportation Infrastructure Charge) to collect what are essentially fees levied in-lieu of sidewalk/1/2 street improvements associated with new single-family residential development. The Council further directed PBOT to determine an equitable allocation methodology for the use of the collected fees. The result is the PBOT proposal for allocation.

I have deep concerns about the allocation methodology as it has been developed.

- 1) The methodology proposed is poor public policy. Fees for pedestrian improvements are being used to finance a streets improvement program that will mostly benefit auto-oriented transportation. The LTIC replaces requirements for sidewalk construction with an "in lieu" fee system. The fees in the current proposal give priority to sidewalks when part of full-street improvements that will include stormwater management and meets some adopted City street standard. Multiple planning documents, including the recent Comprehensive Plan Update, give priority to pedestrian and other active transportation development. The proposed allocation criteria gives priority to auto-oriented improvements.
- 2) Proposed Ordinance, Item 10. The public outreach effort was admirable but was not conducted equally throughout all city areas. 25% of survey residents for one survey lived on unimproved streets, which is a significant bias and doesn't reflect standard street conditions across the city. In addition, was the information given to survey respondents adequate for them to understand they had a choice about how the funds should be allocated? The survey information appeared to emphasize transportation infrastructure as a general term. In the larger statistical breakout, 55% of survey respondents used cars so a bias to auto-oriented transportation seems inherent in the survey. In the focus group I participated in, the majority opinion was that full City street standards were considered well beyond what was necessary for addressing transportation needs.
- 3) Proposed Ordinance, Item 12. Three criteria are listed that guided the development of the LTIC distribution methodology – 1) Equity; 2) Effectiveness and Connectivity; and 3) Project Readiness. The allocation methodology falls short of meeting the intent of these criteria:
 - a. Equity:
 - i. The proposal favors property owners and car owners over lower income individuals who are renters and not car-owners;
 - ii. The proposal favors areas that have already developed street plans in place. The street plans have been mostly developed by city staff and give priority to addressing drainage issues – again favoring property owners and car owners.

- b. Effectiveness and Connectivity:
 - i. This criteria appears to have defined effectiveness and connectivity as connecting unimproved road segments. How does this methodology support pedestrian connectivity to transit, to schools, to commercial areas? The reference in the criteria is only to transportation and stormwater infrastructure.
- c. Project Readiness:
 - i. Only three local transportation plans have been completed – in Cully, Division-Midway, and Tryon-Stephens areas of the city. These plans include broad transportation infrastructure needs but are focused on auto-oriented improvements and especially on stormwater management.

While there is no doubt that Portland needs a program for improving local neighborhood streets, which is largely what the current proposal is, co-mingling the LTIC funds into a larger fund used for full street improvements will significantly dilute the purchase power of the funds. Full street improvements, even using alternative street standards, are expensive with as much as 50% of the cost of street improvements going to stormwater management.

The amount of LTIC funds collected over a two-year period is \$1,851,860. This is during a time of unprecedented building in the city and is not likely to continue indefinitely. The cost of building a one-mile segment of road is \$6.4 million. The \$1.8 million, two-year collection of LTIC funds will disappear into full street improvement projects, not even making a dent in the roadway improvement needs for the city.

If the LTIC funds are used only to improve the city's walking infrastructure or pedestrian environment, a few projects, like pedestrian-activated safe crossings of major arterials, paved paths along routes to schools, traffic separation strips along paved shoulders, could be completed every year that would significantly improve pedestrian safety in the city.

While I appreciate the amount of work both city staff and community partners put into the Neighborhood Streets Program and I think such a program is needed, I do not believe the use of LTIC funds to provide complete street improvements is good policy and is not the best use of these valuable funds that were intended to provide sidewalks and other pedestrian facilities on neighborhood streets.

I urge the City Commissioners to re-consider the LTIC allocation strategy and realign the strategy to prioritize these funds for active transportation projects throughout the city.

Sincerely,

Claire S. Carder
6156 SW Nevada Ct.
Portland, OR 97219

Cc: Anne Hill, PBOT
Jillian Detweiller, Executive Director, The Street Trust
Dar Parrow, President, Oregon Walks
Roger Averbek, Co-chair, Portland Pedestrian Advisory Committee
Anthony Buczek, Co-Chair, Portland Pedestrian Advisory Committee

Moore-Love, Karla

From: Stephenson, Garrett H. <GStephenson@SCHWABE.com>
Sent: Thursday, November 30, 2017 2:56 PM
To: Council Clerk – Testimony
Cc: Moore-Love, Karla; Krueger, Kurt
Subject: Public Testimony regarding proposed changes to Local Transportation Infrastructure Charge
Attachments: LT Mayor Ted Wheeler re Proposed LTIC Fee Cap.pdf

To whom it may concern,

Please find attached testimony on behalf of Dr. R. David Farris for the Council's hearing regarding proposed changes to the Local Transportation Infrastructure Charge during their December 6, 2017 meeting.

Please confirm that you have received this testimony and place it before the Council.

Many thanks,

Garrett

Garrett H. Stephenson
Of Counsel

Schwabe Williamson & Wyatt

Direct: 503-796-2893
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November 30, 2017

Garrett H. Stephenson
Admitted in Oregon
T: 503-796-2893
C: 503-320-3715
gstephenson@schwabe.com

Via e-mail
Hon. Ted Wheeler
Mayor
City of Portland
1221 SW Fourth Avenue, Suite 340
Portland, OR 97204

RE: Proposed LTIC Fee Cap

Dear Mayor Wheeler and Commissioners:

This office represents Dr. David Farris, owner of a lot that is substantially impacted by the City's Local Transportation Infrastructure Charge (LTIC). We understand that the Council has before it a recommendation from PBOT staff regarding a cap on the LTIC, which will be heard on December 6, 2017. We respectfully offer this letter and the enclosed letter from Dr. Farris requesting that the Council impose a reasonable cap on the LTIC.

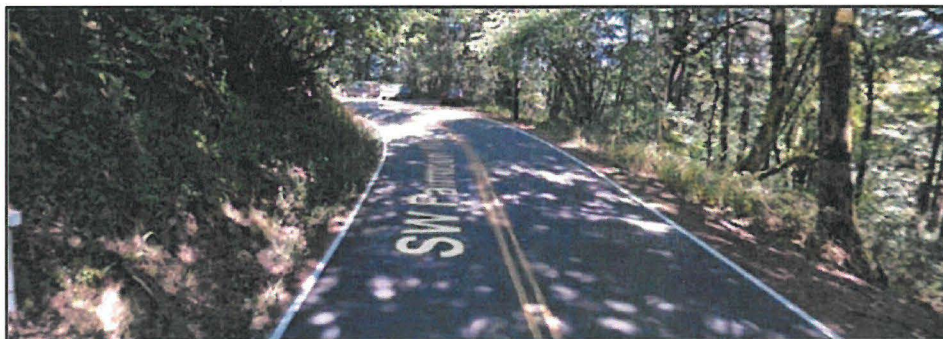
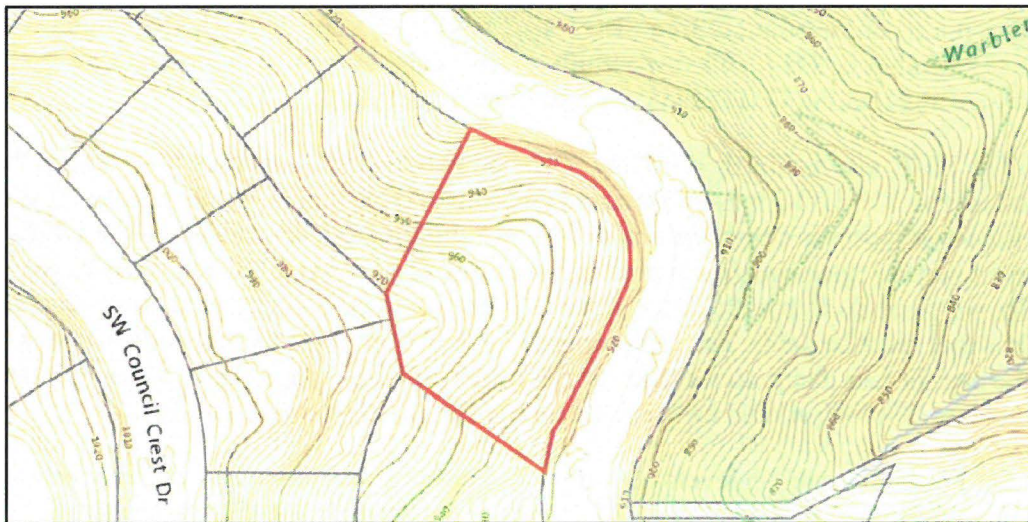
The LTIC was established in May 2016 and is intended to upgrade local streets that lack adequate curbs. The LTIC is paid by permittees constructing single-family homes. It is not a tax – only homes adjacent to streets determined to be “unimproved” are subject to the LTIC. The LTIC must be paid upon building permit issuance and the current LTIC rate is \$600 per lineal foot. For a typical 50 ft. by 100 ft. lot, the LTIC fee would be \$30,000 in addition to permit fees and SDCs that must be paid. The cap proposed by PBOT staff for a lot in an R5 zone is \$30,000, while the cap for less dense zones (such as R10, R20, and RF) ranges up to \$120,000. As we explain below, \$30,000 should be the absolute cap for any new single-family unit.

Dr. Farris owns an undeveloped lot on SW Fairmount Boulevard (the “Property”). He acquired the lot in 2004 for \$125,000. This lot is approximately 10,450 sq. ft. and has approximately 304 feet of frontage on Fairmount. The R-10 zoning of the lot would allow only one single-family home; thus, there is no way to split the LTIC fee between multiple units. At the current rate of \$600 per lineal foot, **the current LTIC fee for development of one new home on the lot would be \$182,400**, in addition to all other building permit fees and SDCs. The LTIC alone would be \$57,400 *more* than Dr. Farris paid for the lot in 2004. Assuming that a new house on the Property would be similar in size and amenities to those in the area, the total governmental fees due would likely be in excess of \$227,400.¹

¹ Based on the BDS online permit fee calculator, an estimate of the sum of building permit fees and SDCs for a home with a \$500,000 construction value is approximately \$45,000, excluding the LTIC.

When manifested in this way, the LTIC is unfair for a number of reasons. First, the sheer amount of the fee is far out of scope with the usual costs associated with sidewalk construction. At \$600 per lineal foot, the LTIC is orders of magnitude higher than the lineal foot cost of curb and sidewalk constructed by a private developer, which typically ranges between \$100 and \$250. We understand that the \$600 per-lineal foot fee is calibrated for the amount it would cost the City to construct sidewalks. However, as explained below, the fee must be roughly proportional to the impact of a single-family home on the street infrastructure. That impact should not be assessed using a substantially-higher public sector construction cost.

Second, there is no link between the LTIC and actual sidewalk improvements. The fee is simply collected for projects along every unimproved street and there are no specific plans for upgrading streets subject to the LTIC. In this case, even if the fee is paid, the City is unlikely to construct sidewalks along the Property and the City has no publicly-available plans to do so. Fairmount Boulevard is literally cut into the side of a hill, making sidewalk construction difficult or impossible in many areas. Dr. Farris's property is composed entirely of slopes in excess of 25 percent, meaning that a substantial hillside cut and retaining wall would probably be needed to construct sidewalks on its frontage, as the following images demonstrate:



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The fact that the neighborhood abutting Fairmount is already developed further reduces the prospect that other owners on Fairmount will pay the LTIC or construct new sidewalks. Simply stated, even if Dr. Farris pays this fee, he or a future owner of the Property will almost certainly never see a sidewalk along the Property's frontage.

Finally, the LTIC as applied to the Property effectively destroys its value. The slope of the Property requires relatively expensive engineering measures to construct a single-family home, substantially reducing the economic margins for doing so. Adding to this a nearly \$200,000 fee for a sidewalk that will be built elsewhere (if at all) means that the Property cannot be economically developed, rendering it valueless.

Like other development fees, the LTIC is subject to a takings analysis under the Fifth Amendment of the U.S. Constitution. First, the City has the burden of demonstrating that there is an "essential nexus" between the fee the City's interest the fee purports to serve. *Nollan v. California Coastal Com.*, 483 U.S. 825, 836-37 (1987). Second, the fee must be supported by an individualized finding that it is "roughly proportional" to the impacts expected to be caused by the proposed development. *Dolan v. City of Tigard*, 512 U.S. 374, 391-395 (1994). Like a required dedication of property, the "rough proportionality" analysis applies to the LTIC because it requires the payment of money as a condition of building permit issuance. *Koontz v. St. Johns River Water Management District*, 133 S. Ct. 2586, 2603, 570 U.S. ___ (2013). Finally, a regulation that would deprive the owner of "all economically beneficial or productive use of land" constitutes a taking of private property without just compensation. *Lucas v. S.C. Coastal Council*, 505 US 1003 (1992).

There is no nexus between the LTIC applied to the Property and a home that might occupy it because sidewalks built with that money, if any, will almost certainly be built elsewhere. Thus, to demonstrate the required nexus, the City must not charge the fee unless it has a plan in place to construct or improve sidewalks along the frontage of the property subject to the charge. The fee is also not roughly proportional to the impact on Fairmount Boulevard of one single-family home, which will generate less than ten vehicle trips per day on average. The lack of proportionality is all the more evident given the fact that a transportation SDC must also be paid for a new home on the Property. Finally, the sheer amount of this fee has made the property undevelopable, thereby depriving Dr. Farris of all economically beneficial or productive use of the Property.

Note that Dr. Farris cannot simply avoid this fee by constructing the sidewalk. The same slope issues that make it highly unlikely that the City will construct a sidewalk on Fairmount Boulevard also make private construction of sidewalks on the Property's frontage virtually impossible and certainly impractical.

A cap on the LTIC fees assessed per unit would go a long way towards curing the problems with the LTIC. Ultimately, the cap must reflect in some way the impacts associated with a new dwelling on the transportation system, as explained above. Zoning makes little or no difference in the typical number of users or trips a new dwelling adds to the transportation system. Thus, the LTIC cap should be no greater than \$30,000 per unit, which is closer to (but

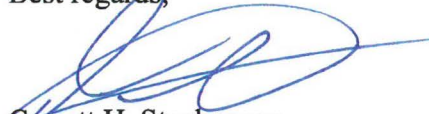
Hon. Ted Wheeler
November 30, 2017
Page 4

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likely still more than) the private cost of a sidewalk constructed on a typical R-10 lot with a 100-foot frontage. And, using zoning as a distinction in the amount of fee to be paid does not satisfy the City's constitutional obligation to make an individualized determination of the essential nexus and rough proportionality of the LTIC.

We support adoption of an LTIC cap and sincerely hope that you will keep this letter in mind when considering such changes.

Best regards,



Garrett H. Stephenson

GST:gv
Enclosure

cc: Dr. David Farris
Mr. Kurt Krueger
Mr. Mark Manulik

PDX\111417\229555\GST\21879222.3

188891

Dr. R. David Farris
3795 SW Chehalem Avenue
Portland, OR 97239

November 28, 2017

Honorable Ted Wheeler
Mayor
City of Portland
1221 SW 4th Avenue, Room 340
Portland, OR 97204

Re: Proposed LTIC Fee Cap

Dear Mayor Wheeler and Commissioners,

My name is Dr. David Farris. My wife Kendra and I respectfully offer this letter to request a cap on the City's Local Transportation Infrastructure Charge (LTIC). As I explain in detail below, the LTIC is far too high. It is so high in fact that it has effectively destroyed the value of our property.

We own a single undeveloped lot off of SW Fairmount Boulevard, not far from our home. We have lived in the neighborhood since 1988 and acquired the lot in 2004. This lot is approximately ¼ acre and has approximately 304 feet of frontage on Fairmount. The R-10 zoning of the lot calls for single-family homes, and the size of the lot would allow us to construct one home. However, at the current rate of \$600 per lineal foot, the LTIC fee for development of a new home on my lot would be \$182,400. Please also note that the LTIC fee alone would be \$57,400 more than we paid for the lot in 2004.

This fee is far out of proportion to construction of one single-family home and effectively makes my lot unmarketable for its intended purpose. No potential owner, builder, or developer has been willing to purchase the property given the amount of LTIC that would have to be paid. And who could blame them? Such an extreme exaction makes this lot impossible to develop economically.

The LTIC was intended to collect public money for discontinuous sidewalk improvements on under-improved streets. As explained in its enacting ordinance, "the funds collected will be used to construct improvements on the City's network of unimproved or under-improved local streets and adjacent or related transportation facilities." Ord. 187681. As Fairmount Boulevard is on the City's list of LTIC eligible streets, one would reasonably expect that the City would have a plan or at least a tacit intention to construct a sidewalk on my property frontage.

However, no plans to construct sidewalks on Fairmount exist. In fact, it is highly unlikely that the City will ever construct sidewalks on Fairmount because, as the enclosed

photographs demonstrate, this would require cutting into very steep slopes above the street and filling onto very steep slopes below the street. The surrounding neighborhood is already fully developed, meaning that is very unlikely that a significant amount of LTIC fees will be collected from development along Fairmount.

The LTIC fee was born of good intentions but has significant flaws. The first and most obvious problem is that the \$600 linear-foot rate is not even within the realm of the reasonable. Private construction estimates for curb and sidewalks are closer to \$50 per linear foot. In fact, the LTIC rate can—as my case demonstrates—make property effectively worthless. This scheme is completely incongruous with the City's stated policies encouraging densification and increased housing supply, and may constitute an illegal taking of property without compensation.

Second, if we or a future owner pay this fee, it will be with the certainty that those dollars will not contribute to new sidewalks on Fairmount Boulevard. This fee is not a legislative tax and does not apply City-wide. It only applies to properties along certain streets. Thus, there is no argument that this is simply a fee that everyone who wants to build a house must pay. LTIC money can only be spent where it is reasonably feasible to construct a sidewalk improvement. To require the owner of a lot to contribute nearly \$200,000 to this fund simply to develop one home along a street that is unlikely to ever see a sidewalk is fundamentally unfair, especially when transportation SDCs also must be paid.

We have two recommendations for the City. First, and most importantly, we support the idea of an LTIC cap in terms of a maximum amount per unit. This amount should be no more than \$30,000 per single-family dwelling. Second, the City should not charge the fee unless it has some kind of plan in place to construct or improve sidewalks along the frontage of the property subject to the charge.

Thank you for your attention in this matter. I hope that you will seriously consider this letter when making a decision on a cap to the LTIC fee.

Yours truly,

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R. David Farris, MD