

RECEIVED

APR 25 3 32 PM 1980
AUD 50:25:646

GEORGE YERKOVICH, AUDITOR
CITY OF PORTLAND, ORE.

BY EC

ACCEPTANCE

Portland, Oregon, _____ April 24, _____ 1980

GEORGE YERKOVICH
Auditor of the City of Portland.
Room 202, City Hall
Portland, Oregon 97204

Dear Sir:

This is to advise the City of Portland, Oregon, that I hereby accept the terms and provisions of Ordinance No. 149508, passed by the Council April 24, 1980, changing the zoning of Lots 1 & 2, Block 15, Kenworthy's Addition, from A2.5* to A0; located at SE Madison Street and SE 16th Avenue, under certain conditions and with certain variances, and declaring an emergency,

and in consideration of the benefits to be received thereunder by me I hereby agree to abide by and perform each and all of the terms and provisions thereof applicable to me.

Very truly yours,

Simpson Housing Corporation

BY:

Donald H. Simpson President

[CORPORATE SEAL]

8000 E. Girard Ave. #101, Denver, Colorado 80231

Address

Approved as to form:

CC PR
City Attorney

*When an acceptance is required from a firm or corporation the Acceptance must be signed by an officer of the firm or corporation stating his or her official title, and corporations must affix the corporate seal.

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APR 25 3 32 PM 1980

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Portland, Oregon, April 24, 1980

BY EL

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and in consideration of the benefits to be received thereunder by me I hereby agree to abide by and perform each and all of the terms and provisions thereof applicable to me.

Very truly yours,

Charles Elwell

Charles Elwell

[CORPORATE SEAL]

Leta Elwell

Leta Elwell

265 Dartmouth, Gladstone, Or 97027

Address

Approved as to form:

[Signature]

City Attorney

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RECEIVED

APR 25 3 32 PM 1980

149508

AUD 50-25-840
GEORGE YERKOVICH, AUDITOR
CITY OF PORTLAND, ORE.

BY  _____

ACCEPTANCE

Portland, Oregon, _____ April 24, _____ 1980

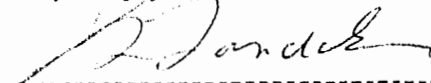
GEORGE YERKOVICH
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Room 202, City Hall
Portland, Oregon 97204

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This is to advise the City of Portland, Oregon, that I hereby accept the terms and provisions of Ordinance No. 149508, passed by the Council April 24, 1980, changing the zoning of Lots 1 & 2, Block 15, Kenworthy's Addition, from A2.5* to AO; located at SE Madison Street and SE 16th Avenue, under certain conditions and with certain variances, and declaring an emergency,

and in consideration of the benefits to be received thereunder by me I hereby agree to abide by and perform each and all of the terms and provisions thereof applicable to me.

Very truly yours,



[CORPORATE
SEAL]

*L. N. Landels

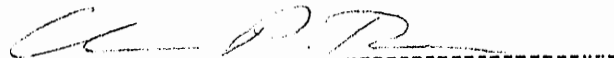


Beatrice Landels

5436 SW Hawthorne Bv, Portland, Or 97215

Address

Approved as to form:



City Attorney

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THE CITY OF
PORTLAND



OREGON

April 24, 1980

INTEROFFICE MEMORANDUM

TO: Mayor Connie McCready
Commissioner Mildred Schwab
Commissioner Charles Jordan
Commissioner Frank Ivancie
Commissioner Mike Lindberg

FROM: Ruth M. Spetter
Office of City Attorney

SUBJECT: Zone Change and Variance Approval for Elderly
Housing Project, No. 6916: Reconsideration of
Continuance

OFFICE OF
CITY ATTORNEY
CHRISTOPHER P. THOMAS
CITY ATTORNEY

1220 S.W. FIFTH AVE.
PORTLAND, OR. 97204
503/248-4047

Dear Council Members:

You recently continued the above matter so that sufficient findings, regarding the granting of variances, could support your final order. Due to the move of the Planning Bureau, such findings were not to be completed until Friday, for next week. However, it has come to my attention that the applicant's ability to obtain financing depends on final Council passage this week. As a consequence, findings have been drafted for this matter today and it is respectfully requested that you reconsider your continuance, adopt the ordinance for this matter, and amend it to include the attached findings.

Very truly yours,

RUTH M. SPETTER
Deputy City Attorney

RMS:mc
Encl.

AMENDMENTS TO FINDINGS AND DIRECTIVE
SECTIONS OF AN ORDINANCE GRANTING
A ZONE CHANGE AND VARIANCES TO PROPERTY
LOCATED AT LOTS 1 & 2, BLOCK 15,
KENWORTHY'S ADDITION, FROM A2.5* TO A0;
LOCATED AT S.E. MADISON STREET AND S.E. 16th AVENUE

Section 1 item 6 is amended to read as follows:

"The City Council, on March 26, 1980, after due deliberation of an appeal in open session adopted the findings, conclusions and recommendations of the Hearings Officer, as supplemented by Exhibit A, attached hereto and by this reference, incorporated herein, and added two conditions."

Directive Section "a." is amended to read as follows:

"a. The zoning of Lots 1 & 2, Block 15, Kenworthy's Addition is changed from A2.5* to A0 based upon the findings, conclusions, and recommendations of the Hearings Officer, as supplemented by Exhibit A, attached hereto and by this reference, incorporated herein,

EXHIBIT A

Applicants have requested a variance from Section 33.34.040 of the Portland City Code which requires apartment dwellings three or more stories high and having fifty to ninety-nine dwelling units to have one off-street loading berth. Applicants propose to have no off-street loading berth. Applicants have also requested a variance from Section 33.34.030 of the Portland City Code, which requires one off-street parking space per apartment unit. Applicants propose to provide 18 off-street parking spaces or approximately one space per four dwelling units. For the reasons expressed in the Report and Recommendation of the Hearings Officer (January 22, 1980), and those set forth in this Appendix A, both requests for variance should be and they are by this Ordinance granted.

Section 33.98.015(b)(1) of the Portland City Code provides that the "[m]odification of the parking requirements" and the modification of "off-street loading requirements only after approval by the City Traffic Engineer,"¹ may be accomplished by major variances. A major variance may be granted if consistent with the standards of subsection 33.98.010(a), applicable to all variances, and the standards of subsection 33.98.010(b)(2), applicable to

1. As noted by the Hearings Officer, the City Traffic Engineer and Planning Bureau approved applicants' proposal not to provide an off-street loading berth. See Report and Recommendation at 12.

major variances. Those standards are:

"(a) Generally, any variance granted shall satisfy all of the following general conditions:

"(1) It will not be contrary to the public interest or to the intent and purpose of this title and particularly to the zone involved.

"(2) It shall not permit the establishment within a zone of any use which is not a permitted use within that zone or the establishment of any use for which a conditional use is required within that zone. This prohibition is not applicable to nonconforming uses described in Sections 33.98.015(b)(2) through 33.98.015(b)(5) and Section 33.98.015(c).

"(3) It will not cause substantial adverse effect upon property values or environmental conditions in the immediate vicinity or in the zone in which the property of the applicant is located.

"(4) It will relate only to the property that is owned by the applicant."

* * * * *

"(2) Major Variances. A major variance as specified in Section 33.98.015(b) may be granted when the following applicable conditions can satisfied:

"A. The variance is required in order to modify the impact of exceptional or extraordinary circumstances or conditions that apply to the subject property or its development that do not apply generally to other properties in the vicinity; or

"B. The variance is required in order to allow enjoyment by the appellant of a property right possessed by a substantial portion of the owners of properties in the same vicinity, while resulting in the comparatively trivial detriment to the neighborhood."

These standards are satisfied by applicants' proposal.

I. OFF-STREET LOADING REQUIREMENT

Subsection 33.98.010(a)(1) requires that the variance not be contrary to the public interest or to the

intent and purpose of the title and particularly to the zone involved. The principal purpose of the off-street loading requirement of section 33.34.040 is to provide a location away from public thoroughfares for the loading and unloading of furniture, clothing, freight, and other personal property into an apartment building. The public policies of the requirements include: To prevent congestion of the streets with loading vans, trucks, or trailers; to eliminate the safety problems that could be associated with loading and unloading property in public streets and thoroughfares by providing a safe place, away from travelled roads, to load and unload property.

The applicants intend to provide a drive-through parking lot which will accommodate loading needs. The loading area will double as a parking area. This loading area will provide the substantial equivalent of an off-street loading berth, and will accomplish the purpose of an off-street loading berth. It will accomplish the purposes of section 33.34.040. Because low-income elderly tend to have less personal property and move in and out of apartments less frequently than the general population, off-street loading facilities in a low income housing project for the elderly are used less frequently than in ordinary apartment houses.

If applicants are not required to install an

off-street loading berth, more landscaping can and will be added to make the project more aesthetically pleasing.

Subsection 33.98.010(a)(2) is inapplicable.

Subsection 33.98.010(a)(3). The lack of an off-street loading berth would have no effect on surrounding properties since adequate alternate off-street loading facilities, described above, will be provided.

Subsection 33.98.010(a)(4). This variance would apply only to applicants' property and not to other properties.

Subsection 33.98.010(b)(2)(A). This variance is required in order to modify the impacts of this elderly housing project. Because of this variance, applicant will be able to install landscaping that would not be possible if an off-street loading berth were necessary. At the public hearing, the major objections to applicants' zone change were aesthetic. The granting of this variance will enable the property to be developed more aesthetically. Applicants offered at the hearing to install an off-street loading berth if the Council desired. Because an off-street loading berth is not needed, given the adequacy of the parking and loading facilities proposed and the fact that the off-street loading requirements on a low-income elderly housing project are low, Council would prefer to have the space that would otherwise be used for a loading berth to be used for landscaping. Such landscaping will reduce the negative visual

impacts of this development to the surrounding community.

Subsection 33.98.010(b)(2)(B). This subsection is inapplicable.

II. OFF-STREET PARKING

Subsection 33.98.010(a)(1) is satisfied. The purpose of the City's off-street parking requirement (section 33.34.030) is to provide adequate off-street parking to accommodate all vehicles that would be introduced by the development. Testimony of the applicants, who are experienced developers and managers of low income elderly housing, proves that their proposed ratio of one space per four units will provide more than adequate off-street parking for this development. The reasons this ratio will be adequate are that low income elderly and handicapped drive less than ordinary apartment dwellers and own substantially fewer cars. Applicants' testimony is supported by prior actions of the Variance Committee, by standards developed by the Bureau of Traffic Engineering, and by private consultant studies. See, Report and Recommendation of Hearings Officer, pp. 8-9, 12.

Subsection 33.98.010(a)(2) is inapplicable.

Subsection 33.98.010(a)(3). Since the variance would require applicants to accommodate on their property

all reasonably foreseeable off-street parking requirements of the development, the development will not cause any substantial adverse effect on surrounding properties or environmental conditions in the immediate vicinity in the zone in which applicants' property is located.

Subsection 33.98.010(a)(4) is satisfied, since this variance relates to applicants' property and to none other.

Subsection 33.98.010(b)(2)(A). This variance is required to enable the developer, through landscaping, to modify the aesthetic impact of its development on the surrounding community. Strict compliance with the zoning ordinance (section 33.34.030) would require the developer to install 53 more parking spaces than are needed to accommodate all reasonably foreseeable parking requirements of this project. The land committed to those parking spaces could not be landscaped or placed into open areas at the project site. The applicants have proposed to include on-site landscaped open areas where residents may walk and sit outdoors. Such open areas could not be made available if the requirements of section 33.34.030 had to be satisfied. Since this project is for elderly housing, landscaped, open areas at the project site are desirable in order to enable residents to enjoy the outdoors without leaving the premises.

ORDINANCE NO. 149508

An Ordinance changing the zoning of Lots 1 & 2, Block 15, Kenworthy's Addition, from A2.5* to A0; located at SE Madison Street and SE 16th Avenue, under certain conditions and with certain variances, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. The applicants, L. N. & Beatrice Landels, deedholders, and Charles & Leta Elwell, contract purchasers, seek a Zone Change for Lots 1 & 2, Block 15, Kenworthy's Addition, from A2.5* to A0; located at SE Madison Street and SE 16th Avenue.
2. A petition complying in all respects with all requirements of Title 33, Planning and Zoning, of the Code of the City of Portland and seeking such a Zone Change has been received.
3. Applicants have paid the proper fee for the filing of such petition.
4. The City Hearings Officer, by Report and Recommendation dated January 22, 1980, (Planning Commission File No. 6916) after and as a result of duly authorized and conducted public hearings held on January 14, 1980, and January 21, 1980, on said property, has recommended that the Lots 1 & 2, Block 15, Kenworthy's Addition, be changed from A2.5* to A0.
5. The notice requirements for the public hearings were fulfilled according to law.
6. The City Council, on March 26, 1980, after due deliberation of an appeal in open session adopted the findings, conclusions and recommendations of the Hearings Officer, as supplemented by Exhibit A, attached hereto and by this reference incorporated herein, and added two conditions.
7. This rezoning is in conformance with comprehensive planning considerations of the City and applicable goals of the Land Conservation and Development Commission. Therefore, the public need is best served by changing the zoning classification of this property.
8. The Council recognized a change in the position of the Buckman Neighborhood Association from approval to denial, in the adoption of the findings of the Hearings Officer.

NOW, THEREFORE, the Council directs:

- a. The zoning of Lots 1 & 2, Block 15, Kenworthy's Addition is changed from A2.5* to A0 based upon the findings, conclusions, and recommendations of the Hearings Officer, as supplemented by Exhibit A, attached hereto and by this reference incorporated herein.
- b. This Zone Change is granted under the following conditions:
 1. The project will proceed in substantial accord with the applicant's statement and plans submitted, with final building design and landscape plans to be submitted to the Bureau of Planning for review and approval prior to issuance of building permits.

2. Street trees shall be planted on SE Hawthorne Boulevard, SE Madison Street, and SE 16th Avenue, in accordance with specifications of the City Forester and at a time designated by the City Forester.
 3. Minimum sidewalk widths shall be five feet.
 4. A covered bus shelter shall be provided according to dimension and location approval by Tri-Met staff, prior to occupancy.
 5. Applicant shall permit and work with a tenant's organization.
 6. Applicant shall consult the City's Energy Advisor regarding the use of energy saving materials and construction techniques, prior to the issuance of building permits.
 7. No occupancy is to be allowed until the City Building Inspector has issued written approval for occupancy.
 8. This project may only proceed and be used as an H.U.D., Section 8 Rental Assistance apartment building for a period of at least 20 years.
 9. The site shall be excavated four feet to six feet below the ground level on SE Madison Street, in order to lower the height of the building.
 10. The Planning Bureau shall review exterior building plans prior to issuance of a building permit.
 11. A Building Permit or an Occupancy Permit must be obtained from the Bureau of Buildings, Room 111, City Hall, 1220 SW Fifth Avenue, 248-4241, before carrying out this project in order to assure that all conditions imposed here and all requirements of the pertinent Building Codes are met.
- c. This Zone Change is approved with the following Variances:
1. A Variance to reduce the required off-street parking from one space per unit to one space per four units, so long as the building is used exclusively for low income elderly and handicapped housing.
 2. A Variance to eliminate the need for an off-street loading berth, so long as the building is used exclusively for low income elderly and handicapped housing.
- d. This order shall not be effective and no change shall be made to the zoning map and no variance shall be granted until acceptance and recording as provided in Section 33.102.010.

ORDINANCE No.

Section 2. The Council declares that an emergency exists because there should be no delay in the beneficial use of the above described property; therefore, this ordinance shall be in force and effect from and after its passage by the Council.

ORDINANCE NO. 149508

DATE

The Ordinance is hereby published in the City of Portland, Oregon, on this 2nd day of April, 1980, at 10:00 A.M. in accordance with the provisions of the City Charter.

APR 2 1980

Handwritten signature and notes in the right margin.

Passed by the Council, APR 24 1980

Mayor McCready
April 2, 1980
D. Warren/lb

Connie Wilcox
Mayor of the City of Portland

Attest:

Berge Fuhrman
Auditor of the City of Portland

Amended

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
Ivancie	1	
Jordan	1	
Lindberg	1	
Schwab	1	
McCready		1

FOUR-FIFTHS CALENDAR	
Ivancie	
Jordan	
Lindberg	
Schwab	
McCready	

Calendar No.

~~1392~~
~~1395~~

ORDINANCE No. 149508

Title

An Ordinance changing the zoning of Lots 1 & 2, Block 15, Kenworthy's Addition, from A2.5* to A0; located at SE Madison Street and SE 16th Avenue, under certain conditions and with certain variances, and declaring an emergency.

APR 16 1980

CONTINUED TO APR 23 1980

APR 23 1980

CONTINUED TO APR 30 1980

Filed APR 11 1980

GEORGE YERKOVICH
Auditor of the CITY OF PORTLAND

By *[Signature]*
Deputy

INTRODUCED BY
Mayor McCready

NOTED BY THE COMMISSIONER
Affairs
Finance and Administration <i>Omca</i>
Safety
Utilities
Works

BUREAU APPROVAL	
Bureau: Bureau of Planning	
Prepared By: D. Warren/1b	Date: 4/2/80
Budget Impact Review: <input type="checkbox"/> Completed <input type="checkbox"/> Not required	
Bureau Head: <i>[Signature]</i> Frank N. Frost	

NOTED BY
City Attorney <i>[Signature]</i>
City Auditor <i>[Signature]</i>
City Engineer

149508