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GEORGE YERKOVICH, AUDITOR  
CITY OF PORTLAND, ORE.

# ACCEPTANCE

Portland, Oregon, July 31, 1980

BY \_\_\_\_\_

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. 150134, passed by the Council July 30, 1980, changing the zoning for Tax Lots 1,3,4,13,15,16,17 and 18, Block 51, Carter's Addition, from Zones A0, A2.5 and R7 to Zone A1, located between SW Market Street and SW Vista Avenue, and SW 20th Avenue and SW 21st Avenue, under certain conditions, and with variances,

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,

*John McBride*  
-----  
John McBride

[CORPORATE  
SEAL]

2018 SW Market, Portland, Oregon 97201  
-----  
Address

APPROVED AS TO FORM

Approved as to form:

*Christopher P. Thomas*

-----  
CITY ATTORNEY  
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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Very truly yours,

[CORPORATE SEAL]

*Selwyn Bingham, Jr.*  
 -----  
 Selwyn Bingham, Jr.

*Clark Bingham*  
 -----  
 Clark Bingham

*Stuart Bingham*  
 -----  
 Stuart Bingham

3939 NW St. Helens Road, Portland, OR. 97210  
 -----  
 Address

Approved as to form: AS TO FORM

*Christopher P. ...*  
 -----  
 City Attorney

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AUG 12 3 27 PM 1980

150134

AUD 80-25-640

GEORGE YERKOVICH, AUDITOR  
CITY OF PORTLAND, ORE.

BY \_\_\_\_\_  
**ACCEPTANCE**

Portland, Oregon, \_\_\_\_\_ July 31, \_\_\_\_\_ 1980

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Very truly yours,

*Sophia Bingham*  
\_\_\_\_\_  
\* Sophia Bingham

[CORPORATE  
SEAL]

840 NW Powhatan Terr., Portland, OR. 97210  
\_\_\_\_\_  
Address

APPROVED AS TO FORM  
Approved as to form:

*Christopher P. Thomas*

\_\_\_\_\_  
CITY ATTORNEY  
City Attorney

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Amended by 151112 150134

Recorded 8/15/80  
Book 1462  
Page 1252

ORDINANCE NO. 150134

An Ordinance changing the zoning for Tax Lots 1, 3, 4, 13, 15, 16, 17 and 18, Block 51, Carter's Addition, from Zones A0, A2.5 and R7 to Zone A1, located between SW Market Street and SW Vista Avenue, and SW 20th Avenue and SW 21st Avenue, under certain conditions, and with variances, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. The applicants, Selwyn Bingham, Jr. (decdholder); John McBride (contract purchaser); and Mackensie Engineering, Inc. (engineer) seek a zone change from Zones A0, A2.5 and R7 to Zone A1 for Tax Lots 1, 3, 4, 13, 15, 16, 17 and 18, Block 51, Carter's Addition, located between SW Market Street and SW Vista Avenue, and SW 20th Avenue and SW 21st 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 notice requirements for the three public hearings were fulfilled according to law.
5. The City Hearings Officer, by report and recommendation dated February 13, 1980 (Planning Commission File No. 6917), after and as a result of a duly authorized and conducted public hearing held on January 21, 1980, on said property, has recommended that the zone change be granted with conditions and variances.
6. An appeal was filed by James Atwood, neighbor, against the Hearings Officer's decision of approval with conditions and variances. The Planning Commission accepted the appeal. On April 1, 1980, the Planning Commission held a public hearing and upheld the Hearings Officer's decision.
7. On April 18, 1980, an appeal to City Council was filed by James Atwood. On June 25, 1980, the City Council, after due deliberation in open session with public notification, denied the appeal and granted the zone change with conditions and variances.
8. This rezoning is in accordance with generally accepted land use planning standards and with applicable City and State legislative enactments as indicated in the adopted facts and findings of the Council.

NOW, THEREFORE, the Council directs:

a. Based upon the following findings and conditions, the zone of Tax Lots 1, 3, 4, 13, 15, 16, 17 and 18, Block 51, Carter's Addition, located between SW Market Street and SW Vista Avenue, and SW 20th Avenue and SW 21st Avenue, is changed to Zone A0.

b. This zone change is granted under the following findings:

1. A small portion of the tract in question at the northwest corner is zoned R7. The remainder of the zone change request is zoned A2.5 and A0 as shown on the present City zoning maps.

Under such existing zoning, applicant would be able to develop the tract more densely than would be permitted under the requested zoning with the requested variances and more densely than applicant's specific project contemplates.

2. Even if appellant's contentions were correct and the present zoning of the property included a greater area of R7 and A2.5 instead of A0, or any other combination of zones, the zones and variances requested by applicant would be granted because of the merits of such action and the findings and conclusions set forth herein.

3. The height of the proposed project has been so limited that it will not cause a material interference with existing views of homeowners in the area, including those on the west side of SW Vista Avenue overlooking the project. The development of the site with single-family homes along SW Vista Avenue would obstruct views from existing homes substantially more than the proposed project. Applicant has agreed to limit height to that shown in its proposal by deed restriction. The proposed project is in compliance with Statewide Planning Goal No. 5 relating to scenic views.

4. The neighborhood to the west of the site consists of expensive homes. The aspect of the project when viewed from the west (SW Vista Avenue) will be in keeping with such neighborhood and will appear similar to a line of single-family homes. Although the proposed project will be recognized as a large multi-unit residential structure with locations to the east of SW Vista Avenue, such use is not out of keeping with the neighborhoods so located.

5. The property is located less than one mile from the Portland City Hall. Therefore, it is expected that a substantial portion of its owners will make trips to Downtown Portland by foot or bicycle rather than automobile. In addition, there is a bus line providing mass transit service next to the project on SW Vista Avenue. The project is in compliance with Statewide Planning Goal No. 12 relating to transportation, No. 13 relating to energy conservation, and No. 14 relating to urbanization.

6. SW Market Street Drive is improved for a width of 18 feet in front of the property but such width only extends approximately two blocks north to SW Vista Avenue and two blocks south to SW 19th Avenue. SW Market Street Drive substantially widens south of SW 19th Avenue. The volume of traffic (23 cars per hour at peak use and 100 average daily trips) is such that the expected increase from this project on SW Market Street Drive would not be an undue increase. Because the main entrance and garage of the project will be on SW Market Street Drive, it is not expected that the proposed driveway on SW Vista Avenue will create a hazard on that street. Any other use of the property adjacent to SW Vista Avenue, specifically including a number of single-family residences along SW Vista Avenue, would create a greater hazard to traffic. Applicant will provide parking at a ratio of two spaces for one unit which is twice that required by the City Code and will eliminate the need for residents to park on SW Market Street.
7. The proposed project will provide an increase in the amount of available housing in the City of Portland. Although the units will be expensive, the project will provide units that contribute to the housing alternatives in the City.
8. None of the requested variances will be contrary to the public interest or to the intent and purpose of the Portland Planning and Zoning Code or to the zoning on the property as changed, because the proposed building will be less massive than that which may be built under existing zoning without variances.
9. None of the requested variances will permit the establishment of any use which is not a permitted use within the zone as changed.
10. None of the proposed variances would cause substantial adverse effects upon property values or environmental conditions in the immediate vicinity or in the zone in which the property of the applicant is located, because the proposed building is more compatible with neighboring uses than that which may be built under existing zoning, and because the variances allow the construction of a building adapted to the topographic conditions of the site.
11. All of the requested variances relate only to the property that is owned by the applicant.
12. All of the variances are required in order to modify the impact of exceptional and extraordinary circumstances and conditions that apply to the subject property and its development.
13. Immediately north of applicant's property is a dedicated right-of-way which is too steep to be improved as a street for vehicles.

14. The stairstep design of the proposed project is such that it does not exceed six stories in height at any given point. Therefore, the unusual considerations relating to sideyard setbacks and total height are satisfied in large measure by the design of the project itself. No shadows will be cast or views impaired.
15. The lot coverage of the proposed project is justified by the extreme topographical problems and also by the fact that the actual building footprint will be less than the amount calculated as lot coverage because of the fact that the building stairsteps back from SW Market Street Drive.
16. The variance relating to the increase in height of wall is required by the topography and in order to enclose the parking area which provides parking at a two to one ratio for the project, thereby keeping the owners' cars off of SW Market Street Drive.
17. The variance relating to projection into front yard is required by the fact that the location of the projection is at the north end of the project where the slope is at its steepest and juts out more abruptly into the building area.
18. It is further found that the legal restrictions imposed by previous ordinances and court decisions upon this property, together with the steep topography, the mixed zoning from the past, and the downzoning now occurring which creates still more restrictions, that both practical difficulties and unnecessary hardships would result from the literal interpretation and enforcement of the regulations of Title 33. Approving these variances in order to authorize a sound architectural and engineering scheme adapted specifically to the difficulties of this site is in the public interest and supports the intent and purpose of Title 33. This is so because it will preclude the less compatible high-rise development under pre-existing zoning which could result in obliteration of the view enjoyed by the public from SW Vista Avenue and from nearby residences above the site, and will reduce the density otherwise possible on this site whose street capacities argue strongly for reduced density.
19. That rather than having adverse effects upon property values or environmental conditions in the immediate vicinity or the zone of the property, the contrary result will be the case in that a building more compatible to the area will be the result. In addition, the ability thus created for the applicant to fit the structure to the site, all as indicated by the testimony before the Council will substantially enhance the environmental conditions which might otherwise occur. It will, given the City's engineering safeguards under Chapter 70 of the Uniform Building Code, greatly enhance the safety of the hill and site.

20. The exceptional and extraordinary circumstances or conditions which are required to be modified here are the highly unusual and steep topography of the site, the multiple zoning, together with previously existing legal restrictions dating back to court action and City Council ordinances of some 30 years ago. All these circumstances, when added to the requirements of the existing Zoning Code, conspire to require that either the property be developed as indicated earlier in a way incompatible with its surroundings, or to support a building whose architecture and engineering is vastly more suitable to this neighborhood.
21. The authorization of these variances will allow enjoyment by the applicant of a property right possessed by a substantial portion of the owners in that same vicinity, that is, development of its property generally in accordance with the expectations of pre-existing zoning and in a manner responding to the topography of the site. Its development in this fashion will result in comparatively trivial detriment to the neighborhood and substantially less detriment than the incompatible development which could be authorized under pre-existing zoning.

c. This zone change is granted under the following conditions:

1. Maximum density of units is to be 31. Final design, including the landscaping plan for both on and off the structure, shall be submitted to the Bureau of Planning for review and approval prior to the issuance of a Building Permit. In its review process, the Bureau of Planning shall require that response is made to the Design Committee's points in its meeting of February 7, 1980. Every effort shall be made to minimize the monolithic or bulky aspects of the structure.
2. Traffic Engineer requirements as to access on both SW Vista Avenue and SW Market Street must be met. The same is true of those of the City Engineer.
3. 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.

d. This zone change is granted with the following variances:

1. To increase lot coverage from 45 percent to 65 percent.
2. To increase building height from three stories and 45 feet to 10 stories and 115 feet.
3. To reduce the minimum side yards from 30 feet to 18 feet on the south and 10 feet on the north.



# ORDINANCE No.


- 4. To increase the projection into the front yard from 30 inches to 5 feet.
- 5. To increase the maximum height of an architectural wall in the front yard from 3½ feet to 15 feet.

e. These variances are granted upon the condition that should the design indicated in Exhibit 5 be substantially changed, further public hearing will be required.

f. This order shall not be effective and no change shall be made to the zoning maps until acceptance and recording as provided in Section 33.102.010.

Section 2. The Council declares 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. 120034

ORDINANCE NO. 120034

JUL 22 1980

GEORGE JERNIGAN

Title

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Passed by the Council, **JUL 30 1980**

Order of Council  
July 22, 1980  
H. Hognlund/lb

Attest:

*George Jernigan*  
Auditor of the City of Portland

Calendar No. 2754

**ORDINANCE No. 150134**

**Title**

An Ordinance changing the zoning for Tax Lots 1, 3, 4, 13, 15, 16, 17 and 18, Block 51, Carter's Addition, from Zones A0, A2.5 and R7 to Zone A1, located between SW Market Street and SW Vista Avenue, and SW 20th Avenue and SW 21st Avenue, under certain conditions, and with variances, and declaring an emergency.

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	

Filed JUL 25 1980

**GEORGE YERKOVICH**  
Auditor of the CITY OF PORTLAND

By Robert Croell  
Deputy

INTRODUCED BY
Order of Council

NOTED BY THE COMMISSIONER
Affairs
Finance and Administration <i>[Signature]</i>
Safety
Utilities
Works

BUREAU APPROVAL
Bureau: Bureau of Planning
Prepared By: H. Hoglund/lb      Date: 7/22/80
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
City Engineer