

## Exhibit D – Public Comments

City Real Property Coordinator  
1120 SW 5<sup>th</sup> Ave., Portland, OR97204  
Property ID: #R178250

To whom it might concern:

I strongly request that the vacant property at the corner of SW Council Crest Dr. and McDonnell Terrace - #R178250 remains an open space.

I am a property owner in the neighborhood and I grew up close to the piece of property in question. I am aware that there was a serious landslide in the 1990's and that it was deemed "unbuildable" by the City of Portland as a result. I am not aware of any circumstances that would change the status of this property as an unbuildable site. Any consideration of development and construction is ill advised in my opinion. Again, I request that this site remain an open space.

In addition, this piece of property has been an open space for as long as I have known. It is a place where neighbors have gathered to chat and connect, to take in an awesome view of the city, and to view the beauty of the Cascade Mountain Range. It has served as a valuable part of the health of this neighborhood as an open space. This is a moment when more open green spaces, more trees, and tree canopies are needed. This property offers all of those things in its present state as open space.

Sarah Mason  
2657 N.E. Community Lane  
Bend, Oregon 97701

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To: The City of Portland, c/o Ms. Virginia Bowers  
From: Andrew Mendenhall and Deanna Feeley

Re: Excess Property Disposal, SW McDonnell Terrace and SW Council Crest (R178250)

Dear Ms. Bowers,

My spouse Deanna Feeley and I are writing to you to express our deep concern regarding the City of Portland's consideration of disposing of Lot #R128250 which is adjacent to our home a 4260 SW McDonnell Terrace.

Neighbors, members of our community and the Healey Heights Community Association have been expressing their concerns to you and the City of Portland based on the following history; In 1996 the home located on Lot R178250 was destroyed in a landslide which was attributed to several factors. After lengthy litigation it was determined that the lot was not safe for construction, an encumbrance has been on this parcel since that time and is logical considering the history of a natural spring being located on this property. The City of Portland assumed ownership of this lot as part of the litigation settlement.

Twenty-six years after this incident the lot is now being considered for sale and development. This represents a risk to our home, and surrounding homes due to the impact of a construction project that would inevitably involve drilling pilings down to bedrock. This process will destabilize the existing hillside and the development of this property will unequivocally place a home ABOVE our home at 4260 SW McDonnell Terrace creating loss and casualty risk to our home in the event of an engineering failure or future landslide resulting in engineering failure.

In addition to being disruptive to our neighborhood and straining our minimally maintained roads with heavy equipment, the process of developing this lot places our home at risk for damage from settling as a result of the drilling and construction process. The City of Portland will assume risk for any future damage to our home resulting from the development of this adjacent lot or loss resulting from landslides, foundation instability or other loss or casualty event resulting from future development. This letter, and dozens of others you have received from this neighborhood document the precedent for keeping this lot undeveloped.

We strongly encourage the Bureau of Environmental Services to retain this parcel of real estate or transfer this to another bureau and permanently restrict this property from future development. Deanna and I will pursue litigation against the City of Portland if any damage to our home results from any future development of this lot. We believe it is reckless to allow this lot to be developed based on the presence of one or more springs on the lot and the past landslide history resulting in the other adjacent house being damaged. If this property is deemed buildable it would require complex drilling into underlying bedrock which would threaten the stability of our property and other nearby properties. It is unlikely this risk will ever be fully mitigated sufficiently through design engineering or material science.

Thank you for considering our public commentary in the course of your discernment regarding the disposition of this property.

Please confirm you received this email. Thank you very much for your time.

Sincerely and respectfully,

Andy Mendenhall MD and Deanna Feeley

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Fred Spada  
2709 SE Woodward St.  
Portland, OR 97202  
August 8, 2022

Portland City Council  
Bureau of Environmental Services  
Re: Council Crest and McDonell Terrace Property

I am submitting this letter as a cease and desist order on the sale of the property at the corner of Council Crest and McDonell Terrace per the settle agreement between the City of Portland and my parents in 2006 after the city was found guilty in a court of law of negligence of maintenance of a storm drain running through the property which caused a landslide in February 1996.

Per the agreement the property will never be sold as the city pressured my parents in a post out of court settlement by declaring the property unbuildable and would never grant them a permit to build their dream home with a city view. If the city declared it was unbuildable in 2006 then it is very much unbuildable in 2022 and will be unbuildable forever.

As the son of the previous owners I will pursuit any and all legal action against the City of Portland, the realtor, and the purchaser if this property is sold for the amount of the sale and the amount for what the value of my parent's dream home would be today which was denied through City of Portland Mafia tactics.

The neighbors in the surrounding area reached out to my parents recently regarding this matter it was discussed they would pursuit legal action if this settlement is broken.

It would be in the best interest of the city to drop this sale immediately and never bring it up again as this will cost the city more in court costs as it did back when it went through courts at a cost to the city of \$2million in legal costs and fees and the media scrutiny that will come with it on a city wasting money again when the city is begging for money from the property taxpayer as myself.

Fred Spada

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City Real Property Coordinator  
1120 SW 5<sup>th</sup> Ave., Portland, OR97204  
Property ID: #R178250

This property must be kept as open space. It is beneficial to the neighborhood and already has a designation as unbuildable by City of Portland engineers stemming from the landslide that occurred in 1996.

I live near this property and have done so for a good part of my life. When the landslide occurred in 1996, the debris slid down hill, burying Fairmont in 8' to 10' feet of mud and continued a good way further down the hill towards Terwilliger Bld., I was living in the area. Not only have I witnessed the situation that the landslide created but I recently spoke with Marietta Spada. She and her husband owned the lot at the time of the slide and spent 10 years in litigation over who was at fault for the damage from the slide. Ultimately, it was decided by the State Supreme Court that the City of Portland held the major portion of the responsibility. However, during the period that the litigation was ongoing, Mrs. Spada told me that they privately had 32 truck loads of gravel and treated dirt dumped in such a way as to prevent any more sliding. That is the reason there is a steep, cliff-like face to the SW part of the lot. Also, during the period of litigation, Mrs. Spada said that they were told by city engineers that the lot was unbuildable and that they, the Spadas, would never be given a permit to build on the property. At the end of the litigation, the Spadas settled in 2006 with the City of Portland (the Oregonian ran a story about it on June 29<sup>th</sup>, 2006) and one of the agreements reached in the settlement was that the City take ownership of the lot.

It has been held since then as open space with very occasional maintenance apparently done by a company contracted by the city. There has never been any circumstances that would indicate a change in this status of being an unbuildable lot.

As a result of the history of the lot and the previous contention that it is unbuildable, I believe that of the three options offered as choices, this lot must be kept as open space.

Elisabeth Mason-Khan  
4334 SW Bernard Dr.,  
Portland, OR 97239  
503 201-9050

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Dear Ms. Bowers, As a resident of the neighborhood, I am writing to comment on the proposal to declare the property at the corner of SW Council Crest Dr and SW McDonnell Terrace as surplus. Given the history of this parcel, and the reason for which the city came to be in possession of it (massive landslide in the early 1990s), it is unbelievable that the city would consider selling the property. The best use for this parcel is to remove the invasive vegetation that has overtaken it and intensively plant drought tolerant native trees and shrubs in order to stabilize the steep slope and turn it into a greenspace that will improve air and water quality and provide habitat for birds and other small wildlife. After years of neglect, the notion that the city would attempt to sell the property for any kind

of development is indefensible and will be opposed by the neighbors. On the other hand, we would welcome and assist with turning it into green space that will benefit native plants and animals.

Thank you for the opportunity comment.

Sandra Joos  
4259 SW Patrick Place  
Pdx, 97239

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**In reference to real property ID #R178250, we are astonished that the city would consider declaring this parcel as surplus and subject to sale to a private owner. We witnessed the landslide from this property in 1996 and are well aware of the potential hazards associated with the property, including the water flow from above and out of the property. After the landslide incident, our understanding is that the city declared it unbuildable and consequently assumed ownership of the property.**

**It is unclear to us why this could now be considered a buildable lot. We suspect economic, bureaucratic, and/or political forces. If deemed buildable, a project would encounter structural issues that would likely necessitate securing into underlying "bedrock". We imagine that process would be very disruptive to those of us nearby, and could possibly be a destabilizing force on the bedrock itself, potentially threatening stability of other nearby properties.**

**And, as experience has shown us over the years, major construction projects entail a great deal of neighborhood traffic from large heavy trucks, which inevitably degrade street surfaces, many of which in our neighborhood receive only limited maintenance by the City.**

**Accordingly, we urge that the Bureau of Environmental Services retain the parcel of real property, or otherwise transfer it to a different Bureau, and prevent its reversion to a buildable property.**

**Brook Howard  
Ann Howard**

**4243 SW McDonnell Terrace  
Portland, OR 97239  
503-347-3658**

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TO: Virginia Bowers

On Friday, July 29, 2022, I walked past an employee of a surveying company who had just arrived at the lot at the southeast corner of the intersection of SW McDonnell and SW Council Crest Drive (#R178250). He was peering over the edge onto the steeply sloped and bramble-covered lot below. He shook his head and said to me, "They didn't tell me I'd need a ladder for this." When I passed him again about fifteen minutes later on my way home, he was empathically telling a person on the phone that he could not complete the survey due to the steepness and overgrown nature of the

lot. Indeed, it is more an unmaintained cliff than a "buildable" lot. My walking companion joked that the city would sell the lot and then deny a building permit to the hapless buyer because of its limitations.

While that joke may have been unfair, if the city sells this lot it needs to offer more disclosure to potential buyers than is currently on the portland.gov website. It needs to include the lot's history:

- It is known to the neighborhood as "the landslide lot:" it is the lot that slid all the way across SW Fairmount Blvd, causing Fairmount to close for several days and causing damage to adjacent properties.
- The fault for and cause of that slide was the basis of lengthy litigation between the lot's owner at the time and the city.
- The litigation concluded with the city taking ownership of the lot.
- That the cause of the slide may or may not have been addressed by the city and therefore could happen again.

In other words, if the City proceeds with this sale, it should be clear it is an "unbuildable lot" and not suitable for any structure. It is not enough to direct buyers to "investigate all federal, state, and local government laws and regulations pertaining to development or use of the site, including but not limited to, zoning and building restrictions."

I strongly urge the city to reconsider selling it, and instead to convert it to dedicated green space. Thank you for including my feedback in your public comment and taking it into consideration.

Sincerely,  
Jennifer Andres  
4260 SW Council Crest Drive

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Thanks for the quick answers. I would like to provide an official comment/concern if that is ok.

My concern about the sale is about a future build on the site. When BES first took possession, they did so because there was a landslide that actually took out the front corner of my house. I purchased my house 2 years ago, but two neighbors (who have owned their properties for decades) told me this. When I obtained a geotech survey of my property, the geotech company noted that the property owned by BES was graded, benched, and had a 30-foot wide rock stabilization mass constructed immediately below council crest drive likely as a means of slope instability repair. This repair was first noted in photographs from 1998. I am concerned that if someone were to build on that lot, that it would increase slope instability leading to landslides (in an already landslide prone area) which would adversely affect all the housing structures in the immediate area. According to the Statewide Landslide

Information Database for Oregon, there was a mapped landslide about 600 feet to the north of my property (per the Geotech report). Beyond this, I worry that any drilling (ie to place pile supports/foundation/etc) would adversely affect my own house's pile foundation.

One quick question: if discussion for this empty lot is changed from the August 31st city council meeting to a different date, how will I know? I'd like to attend, and will follow your prompt of signing up the Monday before the meeting.

Thanks Preetha

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Virginia, My name is Roger Campbell I live at 4316 SW Bernard Dr with my wife and son for the past 16 years. I saw the public notification this morning on my walk. I am assuming that this property will be sold by the City and a home will be built there. If that happens we will be forced to move as it will totally obstruct our view and replace it with a home directly facing our front yard.

This property was never supposed to be built on as the City bought the Property after a great landslide caused by a incorrect drainage issue. It is a natural habitat for local wildlife and would be detrimental. There needs to be some greenspace in local neighborhoods and every piece of property doesn't need to be occupied by another home. This is also a communal area for people to walk their dogs watch 4<sup>th</sup> of July fireworks and Solar viewing events.

The sale of this property and erecting another large home would be a great disservice to the neighborhood and we will be personally displaced by it.

I would appreciate any information you can provide and if there is a public hearing that can be attended.

Thank you

Roger Campbell  
503-849-0561

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Hello Virginia,

I have called you but we have yet not connected. I am the current president of the Healy Heights Neighborhood association and have lived here for over 50 years. We are opposed to the idea that this property would be sold as anything other than a community /open space. This has been an open community spot for over 50 years. We want to kept it that way for the next 50 years and beyond. In the 1950s it was a community space when neighborhood would gather to burn leaves when that was the way it was. It was a space to gather and watch Mt. St. Helen's ash plumes. Where city folk came to see a lunar eclipse and the neighborhood would turn out for 4th of July local fireworks before the viewing of the blues festival big show over the city. Countless young couples came to see the city lights as if they were under the Hollywood sign in California. The old Richfield oil sign was there for all the city to see.

The lot has been deemed unbuildable and as one neighbor said unethical to sell it as a lot. As deemed unbuildable it means no affordable housing which means the other choices are open space or community space. This is what the community of the Healy Heights Neighborhood Association will fight for. You may have already had input from individual neighbors as we have put this on our neighborhood google group and hope that this will be decided in a favorable way to all our neighbors who value this open/community space.

Mason Van Buren, President  
Healy Heights Neighborhood Association  
Masonvanburen@comcast.net  
503 223 1864  
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