



CITY OF
PORTLAND, OREGON

OFFICIAL
 MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **26TH DAY OF FEBRUARY, 2003** AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Leonard and Sten, 4.

Commissioner Leonard arrived at 9:37 a.m.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Ben Walters, Senior Deputy City Attorney; and Officer Michael Frome, Sergeant at Arms.

On a Y-4 roll call, the Consent Agenda was adopted.

		Disposition:
TIME CERTAINS		
165	TIME CERTAIN: 9:30 AM – Accept the Independent Stakeholder Assessment of Development Review in Portland (Report introduced by Mayor Katz)	CONTINUED TO MARCH 26, 2003 AT 2:00 PM TIME CERTAIN
166	TIME CERTAIN: 10:15 AM – Direct that N.W. York Street is named for York, William Clark’s slave, in honor of his role in the Lewis & Clark Expedition and the history of Portland (Resolution introduced by Mayor Katz and Commissioners Francesconi, Leonard, Saltzman and Sten; replace Resolution No. 36070) (Y-4)	36124
CONSENT AGENDA – NO DISCUSSION		
Mayor Vera Katz		
167	Authorize the City Attorney to file litigation on behalf of the City as may be required to recover money from Zurich American Insurance Company as a result of claims made against a policy of insurance in regard to the Tanner Creek Stream Diversion Project, Phases 2 and 5 (Resolution) (Y-4)	36125
*168	Contract with Mercury Associates, Inc. and provide for payment for vehicle management consulting services (Ordinance) (Y-4)	177276

Commissioner Randy Leonard		
*169	Amend agreement to forbear on enforcement of franchise remedies with Portland Energy Solutions Company, LLC to allow for orderly transition of provision of chilled water services (Ordinance; amend Ordinance No. 176542) (Y-4)	177277
*170	Authorize grant application to the Oregon Emergency Management administering the Federal Emergency Management Agency Supplemental All Hazard Emergency Operations Planning Grant for the Crime Prevention program in the amount of \$44,129 for neighborhood watch materials, community education and block captain training (Ordinance) (Y-4)	177278
Commissioner Dan Saltzman		
*171	Approve settlement with Triad Mechanical, Inc. in regards to Inverness Pump Station Project No. 5842 (Ordinance) (Y-4)	177279
*172	Authorize an Intergovernmental Agreement with the Oregon Department of Environmental Quality to address rule authorization and permit requirements for Underground Injection Controls (Ordinance) (Y-4)	177280
Commissioner Erik Sten		
*173	Amend agreement with City of Gresham to implement the HOME Investment Partnership Program to decrease the amount of funds available by \$175,000 for a total available amount of \$793,102 (Ordinance; amend Agreement No. 34599) (Y-4)	177281
*174	Authorize agreement with Southeast Uplift, Inc. for \$67,915 for Kerns Target Area project and provide for payment (Ordinance) (Y-4)	177282
*175	Authorize agreement with Central City Concern for \$44,600 for the Transitions to Housing Program and provide for payment (Ordinance) (Y-4)	177283
REGULAR AGENDA		
Commissioner Dan Saltzman		

FEBRUARY 26, 2003

<p>176 Clarify and strengthen the utility, billing, collection and adjustment policies of the Bureau of Environmental Services (Second Reading Agenda 161; amend Code Chapter 17.36) (Y-4)</p>	<p>177284</p>
<p>177 Amend agreement with Kennedy/Jenks Consultants to provide additional engineering and construction monitoring services for the Groundwater Treatment Improvements, increase compensation, and extend the agreement term (Second Reading Agenda 162; amend Contract No. 32548) (Y-4)</p>	<p>177285</p>

At 10:58 am, Council recessed.

FEBRUARY 27, 2003

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 27TH DAY OF FEBRUARY, 2003 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Leonard and Sten, 3.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Frank Hudson, Deputy City Attorney; and Officer Michael Frome, Sergeant at Arms.

	Disposition:
178 TIME CERTAIN: 2:00 PM – Consider the Land Use Board of Appeals remand of the application by Rowen Rystadt, applicant and Terry Carney, property owner, for a zoning map amendment to address the adequacy of Police Services and the On-Street Parking Management at 8816 N. Edison Street (Evidentiary Hearing; LUR 02-00027 ZC)	CONTINUED TO MARCH 13, 2003 AT 2:00 PM

At 3:27 p.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland

By Karla Moore-Love
Clerk of the Council

For a discussion of agenda items, please consult the following Closed Caption Transcript.

FEBRUARY 26, 2003

Closed Caption Transcript of Portland City Council Meeting

This transcript was produced through the closed captioning process for the televised City Council broadcast.

Key: ***** means unidentified speaker.

FEBRUARY 26, 2003 9:30 AM

Francesconi: Here. **Sten:** Here.

Katz: Present. I need, I need him.

Sten: Can we start the 9:30?

Moore: He's still coming.

Katz: Let's take the consent agenda. Commissioner Saltzman is -- personal excuse or waiting for commissioner lindberg, and you are right, we can't take it.

Francesconi: You've been waiting for commissioner lingberg since he left. Unfortunately, he's gone. And you're stuck with the rest of us.

Katz: Two points. I think some of us are a little weary, so -- not functioning on all cylinders. We will set the consent agenda -- before we start, I want to thank all of you on the city council who, who worked with us in one way or the other in different, many different ways to get this settling of the contract between the Portland school district and the, the teacher's association. Just also want to tell all of you that the work is, has really just begun, but the city and the county now are partners with the school district, and it's something that we have not seen before. So, it's a new day, as karla wenzel said last night, so thank you. All right, 165.

Item 165.

Katz: Ok. Come on up, and as you come up, commissioner, commissioner leonard, I called you commissioner lindberg, so -- all right. We have a report that has been put together by innovation partnership, one of our public-private sector partners, and as part of the regulatory reform, we wanted to do an independent assessment of development review, and you will hear the pieces that they took on during this period of time. We are going to hear the testimony today, but I understand the planning commission would like to re -- review the report, and is that still -- I will bring it back in two weeks and then we will vote on it today, but I didn't want to delay the testimony. Part of all of the regulatory reform was to try to get all of the best ideas and the best thinking from the variety of stakeholders, so when we accept this report in a couple of weeks, it will be just part of everything else, that doesn't mean that everything in this report will be, will be adopted. It will be a menu of things for all of us to review. So, with that, let me turn it over to margaret mahoney and sam adams.

Sam Adams, Chief of Staff, Mayor's Office: Good morning, my name is sam adams. I am the chief of staff for the mayor and I am here to just make a few introductory comments before you hear from the good people who have worked very hard over the past many months. In fact, I think there are about 100 active participants that were involved in putting this assessment together. Before that, though, I do want to make a quick announcement that, margaret and coaler, and the cities and the bureau's computer information folks met their target for last week, met their target as in our work plan of getting all the permit status and complaint status and land use application statuses online. Anyone 24 hours a day in the city can log in and find out what the status of their information is. So, information, as you will hear from folks involved with this assessment, clear information readily available is one of the key deliverables for regulatory improvement and we have started that process last week. The regulatory -- excuse me, the assessment you are going to hear

FEBRUARY 26, 2003

about today is one of two in-depth outside reviews that are part of the regulatory improvement work plan that you approved some months ago. One was the, the independent audit from the city auditor shop where they did -- they did a scientific survey of applicants through the process. They looked at our turnaround times, our costs. They look at how we compared to other jurisdictions. That, combined with this, this independent assessment are key in our thinking to get deeper into the issues of regulatory reform and will serve as inputs for the regulatory improvement work plan that commissioner Leonard and Mayor Katz, our offices and staff and the bureaus will be working on for next year. That's due to come back for consideration on March 26. The -- early on when we were sort of assessing about how to, do things differently in terms of regulatory review, looking at the previous efforts, we knew that we could fortify the assessment of what it was like to be a customer, a stakeholder, a participant, a member of the staff in our current processes. To the degree that we could accurately capture and understand good and bad, what it was like to walk in the shoes of stakeholders in this process would directly relate to how successful we would be in terms of achieving real meaningful reform, and we are looking for reform here not only to be the best permitting process in the United States, not only to remove the barriers that stand in the way of investment and reasonable investment in the city, but we also want each and every transaction with each and every stakeholder, whether they are the applicant, the neighborhood affected by it, whether they are the developer, whether they are the staff. Each and every transaction to be as successful as possible. So this stakeholder assessment is really critical from that point of view. As the Mayor said, this is one of, one of many inputs and I am about to wrap up. Margaret will give you a little more detail about some of the other inputs that we are considering for the regulatory improvement work plan for next year.

Margaret Mahoney: Thanks. I am Margaret Mahoney, Bureau of Development Services. We have about a dozen different projects going on as a part of the regulatory improvement work plan. Two of them are customer assessments or outside assessments. As Sam said, the audit done by the city auditor -- this report that you are going to get this morning from the Innovation Partnership, which looks in depth at a number of cases. We also have the two pilot projects that we are doing in BIDs with the other bureaus. The moneyback guarantee and the small business enhancement. We are beginning the Boeing process improvement project this month. We have done considerable outreach in a number of ways with different interest groups on regulatory issues. We have got the top ten, the annual list of projects coming out of the bureaus, the threshold review that you will be seeing in a couple of weeks and subsequently some additional ones after that. The S.D.C. Review, customer service training, which is beginning this week with B.D.S. staff and all the bureau staff. They are involved in development review, and the impact analysis work group that's still meeting. We are looking at the issues in development review from many different aspects, as Sam indicated, but we are trying in each of these to look at the issues and recommendations across five particular elements and that will help us organize the proposals we bring back to you in the last week of March. So, we are looking at regulations. We are looking at process or how we apply those. We are looking at the customer service interactions and the quality of that and how we improve those. We are looking at knowledge issues, how do we make sure that everybody in the process really has the information they need, and then lastly, we are looking at the costs. So, we are organizing the inputs from these many efforts around those five elements, and then we will bring that back to you in the latter part of March.

Adams: Let me just conclude by saying thank you. I would like to thank the co-chairs, John Bradley and Kathleen Carter. I want to thank the staff of Innovation Partnership, Glenn Baldwin, Alicia Coal and Deanne Phelps. I would also like to thank the nearly 100 folks that have been involved with this process and a special thanks to the folks at the Bureau of Development Service

FEBRUARY 26, 2003

and the other development bureaus who participated in this unusual process and did a lot of leg work on it. So that's our opening remarks.

Katz: Ok. Who is going to make the presentation? Come on up. Gwenn why don't you both introduce yourselves.

Gwenn Baldwin, Innovation Partnership: Gwenn Baldwin, I am a principal with innovation partnership.

John Bradley, R and H Construction: John Bradley, I am with R and H construction.

Baldwin: John served as co-chair of this steering committee. We had a little power-point presentation. There we go. And hopefully, you can all see that. If not, we have some hard copies that you can go through. This is-- this was an independent stake holder assessment of development review in Portland. Let me start with a little bit about innovation partnership. Our mission is to tackle persistent community problems in Oregon, and we do so by looking at sort of three main issue areas. Education, community building, and economic vitality. Clearly, when we are doing this assessment, we were trying to address issues around economic vitality in Portland. Our approaches are several-fold. We try to make sure that there are diverse perspectives at the table. We try to conduct research. We try to provide a neutral forum that includes business, community, and government representation and support, and certainly, this project met those standards. We also tried to identify solutions that partners can sustain beyond innovation partnerships' involvement.

Bradley: Good morning. I am here to tell you Gwenn did that. She brought together a group of over 100 volunteers, type a personalities, as you might imagine with very diverse interests, kept us very focused and kept us working on thoughts and ideas that might actually be accepted and work as an improvement. I am here to, to -- as a member of your business community to thank you for so carefully considering this so that we can keep the people employed. We have employed and hopefully gain even better job base here in the city of Portland, which is important to all of us. The city staff, Sam Adams, Hannah Kuhn, Margaret O'Mahoney, and Hanh Ta were very positive. Their attitude and their cooperation and their willingness, I was very, very pleased and I think you should be very proud of the four of them. We appreciate that they work at the city. It's a very difficult job that they have. I often thought that Margaret O'Mahoney has the toughest job in the whole city of Portland. That's my personal opinion. So, thank you very much.

Baldwin: I also do want to thank innovation partnership staff who did make this possible. Alicia and Deanne both were subject to early morning meet and goes late night editing, and I appreciate their, their good spirits as well as Erik and Cheryl and also Rob of heritage consultants, who assisted us in the project shadowing. But, onto the project, itself. The purpose of the assessment was two-fold. One, to identify significant pressure points, real or perceived problems with the development review based on the actual experiences of stakeholders, and then the other, to make strategic recommendations, specifically that address those problems while keeping Portland a great place to live, work, and play. People were very committed to that outcome. The stakeholders involved customers, city staff, and constituents, and by that, I mean business and residential applicants or their professional representatives, single family residential owners, small business owners, developers, contractors, land use attorneys and planners, and architects. With city staff, we tried to involve city staff from bureaus across the spectrum involved in development and review. Bureau development services, planning, bureau of environmental services, transportation, fire, and parks and urban forestry. Constituents, folks who are engaged in development review but aren't necessarily the applicant or the staff organizations, like neighborhood organizations or environmental or business organizations. The perspectives of all these groups were represented throughout the assessment from the steering committee to the technical advisory committee to the perspectives of the case studies that we looked at and that the committee members drew on to identify pressure points and recommendations. The project involved 15 case studies representing a

FEBRUARY 26, 2003

diversity of project types, residential, small business applications, and different applicants, first-time folks, frequent customers, and some who may choose not to develop in Portland again based on their experience with development review. We also had a 35-member steering committee. They were responsible for prioritizing the pressure points and the improvements based on the stakeholder experiences. We had a 22-member technical advisory committee also made up of stakeholders who are responsible for venting the steering recommendations, a little push and pull to that I can sure that they were strategic. And then we also had 11 summaries of projects that we shadowed in real-time as they moved through the development review process.

Bradley: Before you is a list of the steering committee, and I think if you glance through it, you will see that we had a very diverse group and in many cases, sort of the top of their game in each one, and they all brought a great perspective and worked out really well.

Baldwin: We also had a technical advisory committee that was very diverse, and I want to acknowledge by the slides that there was great participation. The project, itself, has Margaret noted, there were five areas we looked. Regulations and how they affected the element review, the process involved around applying the regulation, the customer service interactions and how they were perceived by constituents and the applicants, knowledge or lack of knowledge of the city's regulations, processes, and how it affected development, applicants, and constituents and staff. And the costs of regulations and the process and their impacts on all the stakeholders. So, what did we find? Well, we found that, that there was several underlying issues that encompassed many of the individual pressure points. Unclear city goals. A lot of goals involved the comprehensive plan but equally weighted. The complex prescriptive regulations that may not fulfill city goals, regulations that were written that didn't necessarily tie to a particular city goal and that were so complex that they were difficult for staff to implement, difficult for constituents and applicants to understand. A lack of flexibility in codes and processes. It was challenging sometimes to achieve compliance because there was no, no ability to think of different ways of achieving them. Lack of consistency in rules, time, and cost, that it was unclear how long it would take to get through a particular type of process or that there might have been different interpretations or regulations implied and the costs would wildly differ, depending on a whole range of, of circumstances. Also, a concern, a lack of team approach among bureaus and between staff and applicants, and this really is about the 360. It is not solely an issue about the staff, but it's also about the applicants and the constituents and how they come together around any given development project. But, it's also about the frustration that happens when bureaus, who have overlapping and sometimes understandably conflicting codes and regulations put the applicant in the middle of trying to broker. Lack of knowledge among new applicants, particularly tough when you have, when you have a very complex, very large volume of regulations for, you know, the, the average homeowner or the average neighborhood association member, the average small business person to really understand what's going on and that that can cause problems throughout the process. They didn't know what they didn't know. And last, high costs, and that these were identified as being driven by the regulation, less so the permit cost, themselves, although certainly s.d.c.'s has impacted small business, but the nature of the volume and the complexity and the prescriptiveness of regulations, that there are huge costs outside of that, carrying costs for loans, contractors not able to work, penalties because of tenants who weren't able to move in, and simply not getting revenue from the business you hoped to open. So, where did that lead the committee in terms of building priority recommendations? First, there were three recommendations. Want to put them out here, that the committee felt were really important to implement, and that the rest of the, of the recommendations will be made more effective by these three recommendations. The first was to change the regulation review, the regulation creation, review, and evolution process. The issue and the analogy we used a lot was the overgrown lot, that there's an overgrown lot of regulations, that it involves

FEBRUARY 26, 2003

some flowers and some roses, but it also has a lot of overgrown weeds and maybe a couple of cars, and that the first thing that needs to happen --

Bradley: Bus or two. [laughter]

Baldwin: Let's not go wild here. But the first thing we need to do is really evaluate across the board, are the regulations meeting their objectives? Are they duplicating or conflicting with other regulations however well intentioned they were, and that, and that heavy pruning needs to happen before many new regulations are put into, into play. And we outline in the full report, which I won't go into for time considerations, specific questions that we think should be asked as part of, of the impact statements that you called on staff to do, that we have also said that, that you should look at across the different bureaus so that we really integrate what is going on and that all of the bureaus understand the impact that they have on each other's regulations so that both, for example, the planning commission and city council will have full information when they deliberate. This really is about giving a complete picture of what regulations are like, what they are doing both in their current state and the new ones coming down. In order to do this, though, we are mindful of the pressures of costs that the commission and the council faced, and we wanted to suggest a redirection of existing staff who are involved in regulation and promulgation, about 50% be directed to evaluation initially, and then more of that balance could be restored over time.

Recognizing that not everyone is a full, fully does regulation writing as a full-time job. In fact, that rarely is the case. Empowering what entity to resolve interbureau disagreements, and this harkins back to a recommendation that was called for in blueprint 2000, but the committee felt it was still an issue and warranted implementations to move to empowering one entity to resolve interbureau disagreements. This is where there are disagreements and conflicts between codes with a specific project. Right now there is no one who can broker that, other than council, and rather than have individual cases come to council on a regular basis, we recommend that, that one entity, and generally there was agreement it would be the director of the bureau of development services, be able to make those decisions to move projects along, recognizing that that decision could be appealed to council if a really significant policy issue was, was felt to be in play. And then modifying prescriptive zoning code regulations to be more outcome based -- get back there for a second, was really about recognizing that some building and zoning codes do warrant adequate level of prescription. Health and safety and certain goals warrant being very specific. However, too much of the zoning code is now prescribed and it may eliminate ways of achieving compliance and the outcomes that were intended, and that, and that that was important to, to address. Other recommendations we think are important. Developing additional materials and information for new applicants. Right now the bureau of development services has some, some materials under the accessory dwelling unit, one was raised up as a particularly effective one, clear, easy to understand and effective and in helping the applicants understand their responsibilities and giving constituents the information they need. The other thing was developing a mechanism for red flagging problems at the front end of the process. Through checklists and questions, applicants would have the information they need to meet all the submittal requirements which help staff and applicants better identify potential problems and move the process along. Modifying thresholds and review processes to allow more permitting over the counter. We do agree that, that the city council should increase the trigger for nonconforming use upgrades and also the applicants should be able to choose which upgrades to do on nonconforming development rather than requiring a certain order of upgrades, that there be some flexibility to recognize how a site may be developed or improved.

And then the last two, increasing the number of project teams, like the facilities' permit program. I have got to tell you that there were rave reviews about what a terrific program it was. It created and fostered a real team approach among all the stakeholders. It is -- it's fast. It's affordable. It really gets incredible, positive marks, and also we heard very positive initial feedback on the major

FEBRUARY 26, 2003

project groups, so we are asking that there be additional project teams developed, and specific, to look at small business districts as the next teams to pilot. So many communities, whether it's gateway or belmont or 23rd have buildings that, that have similar issues. They are connected physically, and it would go a long way to help small business if they had a team that really understood what was going on. Lastly --

Francesconi: Why don't you do that -- the whole council just needs direction, just go do that -- sorry. [laughter]

Baldwin: And then last, institute more timely and affordable adjustment processes and insure appeals process exist in all the bureaus. Obviously, there is a statewide land use system in play and the committee respects that and acknowledging that. However, there are a number of bureaus. It isn't just the bureau of development services or just planning that's involved, and right now it is unclear how, how other bureaus comment on the adjustment process, what they are, their responsibilities inner terms of time line, and it's not clearly communicated to either the applicant or the constituents. The same is true with, with appeals. Right now fire marshal and bureau of development services have very clear appeal processes and costs associated with them. It's not clear among the other bureaus what that is. They may exist and they are informal, but that needs to be very clear. So, in conclusion I want to recognize that over time the city has made improvements to, to address development review concerns, and while they were incremental and they were improvements, they were not necessarily integrated, ongoing, comprehensive, or even fully implemented, and chronic pressures on all the stakeholders remained. But in launching the most recent regulatory improvement effort, you have recognized that an integrated, continued focus is needed and that, that the alternative is that Portland potentially risks losing more economic opportunity. The entire council must commit itself, its bureaus and its resources to meaningful, ongoing evaluation and correctional problems arising from all parts of development review. And also, the actions, ordinances and services administered by each of these parts of the development review system. We are confident that these recommendations will make a real change and address real problems. The sustainability of all these works and the improvement ultimately rests with you, the city council. You must support the implementation of these recommendations through the process of the regulatory work plan and the budget for 2003-2004 in the proper format and in the public process that it is a part of. But, resources, staff, or otherwise need to be implemented as part of these budgets beginning july 1, 2003. Last, I want to close by thanking the co-chairs and the steering committee, the technical advisory committee, all the folks who volunteered and participated for the effort they put into this work. It was hard. We were kept to a very tight schedule by the calendar of today that we have been given, and we tried to meet that deadline, to meet your timetable for coming into budget window. I would like now to ask a couple of committee members to come up and share their experiences with this. Steve able, bonnie mcknight, kevin johnson and tomasina gabriel --

Katz: Thank you.

*****: Thank you very much.

*****: You will come on later? Good morning.

Steve Abel, Stoel Rives: Good morning. For the record, steve able, attorney with stoel rives. It's a pleasure to be here this morning. I was struck by the fact that many of the members used the overgrown lot and the need to prune that lot, and after the overgrown lot is pruned, to maintain it as time goes on in a way that keeps it from becoming overgrown, but provides for a healthy lot, and I think that that analogy is exactly what is before us when we deal with the regulatory portions of this particular program. That's what I would like to speak to this morning. On the committee there was a concern about how regulation is promulgated in the city. That concern is one that I think that I experienced when I was on the planning commission, and it's one that I think needs addressing in

FEBRUARY 26, 2003

this particular process. It really is a combination of the first three elements of the recommendations that come before you from innovation partnership. Simply stated, sometimes regulation is not necessary to achieve city goals. We do acknowledge that regulation is necessary in many circumstances to achieve those goals, but in some, they are not necessary. I think an analysis needs to go on about whether our city objectives can be reached only through regulation or whether there are other programs that can achieve the same result. The committee felt that achieving some form of discipline in regulation promulgation is important. What I mean by that is a fairly structured environment of decision-making in which you first identify what the city's goals are before moving forward, so there is clarity about what the city goal may be with respect to a particular element, and I recognize that in that circumstance, there will be situations in which the goals are competing and in many ways, inconsistent. But, there needs to be some effort in that circumstance to try to prioritize those goals. Once those goals are achieved, there is a need to identify the strategies through which the city wishes to, to meet those goals, and in many instances, those strategies will be regulatory and in many instances those will be nonregulatory strategies. We need to decide which one might be the most effective. Then there's the need to identify regulation if regulation is necessary, and then very importantly in the process is the need to, to test that regulation to make sure that it's effective, make sure that there are no unintended consequences. We have seen in many instances with regulation unintended consequences which are micro in nature or macro in that they compete with the basic policy. Those are very important analyses. We need to make sure the outcome is regular-based so we get to the desired outcome and we have a number of ways to get to that outcome, and that we are not too rigid in our regulation, prescribing a regulation that doesn't get to the outcome. Then I think the next two steps are ones that the city really hasn't done on the land use code, and I think they are really important. That is to review that regulation after implementation, whether it be three months later or six months later, let's history with that regulation, review that regulation, and then step two in that process is if there are problems with that regulation, be quick and effective in amending that regulation or, or frankly, repealing that regulation, if it's not achieving the intended goal. I think the promulgation of regulation should include that, that final step. It's the only way you will get to a healthy lot, if you will, in your zoning code. We all recognize that, that the strategies can be complex, the goals can be complex. They can compete with one another, and so I think that final step is important in a discipline that will allow for, for promulgation of a good solid regulation meeting city goals. One final comment and I think it's something that gwenn had indicated, is that a lot of this requires a commitment on, on behalf of all the city bureaus, the city council, and the planning commission to agree upon the way in which the city promulgates regulation and abide by that particular protocol. It will also require a lot of coordination between the bureaus that I think is critical in promulgation regulation. So with that, I will close and turn it over to bonnie. Thank you for your time.

Bonny McKnight, Co-Chair, Russell Neighborhood Association: My name is bonnie mcknight.

I am co-chair of the russell neighborhood association land use chair of that association, and welcome, commissioner leonard. This is my first opportunity to see the east county people on the council and east county aren't on the council.

Francesconi: Some are a little further east than others. [laughter]

Sten: Bonnie, I think it's east Portland --

McKnight: Not to me. [laughter]

*****: I'm sorry. [laughter]

*****: I did read that article.

Sten: Otherwise you wouldn't be eligible for service. [laughter]

FEBRUARY 26, 2003

McKnight: Well, some, some old habits diehard, and I will work on that one. I think the article said that there is no right way to characterize it, so possibly that's the next long steering committee process.

Katz: Bonnie, I called commissioner Leonard, commissioner Lindberg, so we are both in a different historic phase.

*******:** Absolutely.

Katz: We need to move on.

McKnight: And I will try if you will. First of all, I want to express my appreciation for the opportunity to take part in the steering committee because from my viewpoint, it was an opportunity to, to speak and share viewpoints and ideas with a number of people that would be otherwise very hard to, to get to from a neighborhood perspective. I think the sharing ideas was probably the most valuable thing that happened during the steering committee meeting. What I found from that process is what I generally believe to be true anyway. We are more alike than we are different. The problem being that sometimes the only time you talk to each other is about the differences, so I like the fact that we could get together. I want to just pick out three primary things I think came out of the, of what I heard people in the committee say, and pass those on, and then I will be more specific about the report as we go forward. First of all, I think that it was very clear that the general belief is council needs to stay more engaged over the longer term consistently and provide more direction to where we are going as a city. Now, whether you do that by, on your own or put together processes that do that, the point was that solving problems is not necessarily a direction for the city, and that too often, especially with land use, it's, it's at least my perception that we get into problem solving and bringing the problems where we should be bringing the questions about the directions in which we are going. Secondly, I believe it was fairly unanimous that we needed a process which includes opportunities for all stakeholder input early and often, as both regulations develop but probably more importantly, as regulatory review processes develop because we need, as Steve said, we need to test what we have done, make sure that it's right before we create new problems that we have to write regulations for. And thirdly, that it's important if we are this far down this particular road, that there be adequate resources dedicated within the bureaus to fully participate in the process because their knowledge is key, and sometimes their, their lack of participation can also be the key, and that can get to, to broadening a problem that probably wasn't that big in the beginning. So, I just want to express my, my hope that this process will continue. I also want to say that I am grateful you clarified the role of the public review of this document because that got lost in the process, and I think that it's important we make clear, as we go down this road, that this is not business as it sometimes has been done in the past, but it's a new direction where we really want to get ideas from everyone, so I appreciate that.

Katz: You did hear that it's going to go to the planning commission?

McKnight: I did, indeed, and the role of the planning commission was one -- that's one of my personal favorites that I think we really need to spend some time with, planning commission plan, I hyphenate that because I think that they get -- they kind of get set aside sometimes. Thank you very much.

Kevin Johnson, BOORA Architects: We drew straws, and I will jump in. I am Kevin Johnson. I am an architect in Portland. I am a principal with Bora Architects, and I just want to thank all of you actually first off yesterday for your hard work and success in pulling together some, some much-needed help for our schools. I have three kids in the Portland public schools, and thank you, thank you, thank you, thank you for reaching some success, and Mayor Katz, as you see, I think the work is just begun, and maybe that's a good segue to what we have got here is that, that as John said, it was a great, talented group of type A individuals meeting on a fairly regular basis and taking a lot of their time and effort to put this together and here the work is ready to just begin, and I want to thank

FEBRUARY 26, 2003

commissioner leonard for, for meeting with the group of the a.i.a. and hearing some of our thoughts on things and yeah, as you have said before, you have been trained at some point to go into burning buildings, and this may be one situation like that. But, not quite so daunting. And really, as it was said, the analogy of the vacant lot there, the lot is there and the roses are there, and we have got some weeds, and this is that process. This is getting through that. So, again, really appreciate it, and i'd say while, while you had a great kind of talented group that put this together, their hearts were in the right place. I think that everybody really, honestly is committed to the city and really honestly is committed to, to helping make this a great place to do business. A couple of three things that I wanted to emphasize in this larger part, this one produced, and gwenn has done a thorough job of going through this, so I am just going to be redundant a bit. One is how will the recommendations reduce frustrations for stakeholders, and I think that there's two or three things in here that, that really address that. One of them is creating the materials for the applicants that kind of clarify what they are about to do when they are going to do development. I see this in my profession all the time in working with, especially the, the infrequent flyers as they get referred to, the person who, who is in business, small business, doing the residential property, and they are going through this for the first time, and they have never seen any of this before, they can get down the road a ways before they even understand what they are involved with, and they are really, there needs to be an emphasis on clarifying for that, that group of stakeholders. What it is that's expected of them, and what they need to do, and it's currently not there. So that's, that's emphasized here. Develop additional materials and information for new applicants, develop mechanisms for red flagging problems unknown to the applicants and modifying thresholds for review process to allow more permitting over the counter. And one emphasis on that, that's such a human nature, positive element to be able to go to someone, talk to them about what the issues are, be told the bad news if there is such a thing about their property, right across the table and not have a submission process where a few months later they get a recommendation that's hard to understand. So, that whole process on how the stake holder is greeted, treated, dealt with, and put in the right place in the right way is really a strong emphasis that's in here. A second element is how to resolve the bureau disagreements, and maybe that's one of the, one of the toughest ones and more, more just a note that that really has to happen. That's, that's where so much of our professional lives is spent, whatever term you want to use, counseling, marriage counseling, babysitting, running ourselves back and forth between bureaus, trying to orchestrate some, some level of consensus. It can become really difficult and I am sure that it's not a wonderful thing for the people on the other side of the table, either. So empowering one entity that doesn't have to go so far up the ladder will be a critical piece to this. As a last comment, improving the appeals' process because there is that need to, to see where unique instances happen, they need to be, to be orchestrated at a level of, of a bigger vision and so the appeals' process, which is clear in some of the bureaus and really is, is very unclear in other bureaus, so those are three elements in here, and just kind of adding some emphasis to it, but thank you for the opportunity, and I feel like, like I still am seeing myself involved in this process, and ongoing and improving this and making it a great place to do development.

Thomasina Gabriele, Gabriele Development Services: Thank you. That's great because I think he covered most of the recommendations in general and that gives me the opportunity to specifically deal with the one you didn't talk about. I am thomasina gabriele. I am a member of this task force. They asked me to mention that I was part of the blueprint 2000 process and on the current development advisory committee to the bureau of development services, actually was thinking not about mentioning all that because it feels like I have been involved with these regulatory reform processes for a very long time. However, it is a continuing process, but I have learned since I was a homeowner in Portland is pruning is not something you do once, which was a surprise the first time that happened to me. But, it's an ongoing process, and I think that this effort

FEBRUARY 26, 2003

recognizes more than any of the others i've been involved with, that it is an ongoing pros and it really deserves a lot of attention on a regular basis. I wanted to talk about one of the specific recommendations, that's number seven, and that's a recommendation to have specific project type-based teams or permit programs, and I want to talk about that for, for a particular reason. There is actually when we call talk about just commercial permits, residential permits aside, there's actually about 32 different types of permits that are in that system, so it's not a one-size fit all, everybody fits under the same types of requirements as they go through the process. Right now, the rave program you heard about, facilities' permit program, and the new pilot for the, for the major projects program covers about 40% of those commercial permits, and when we, we had a debriefing of the program, at one point one of the staff members from b.e.s. said that they look at it as sort of the pacman approach to customer service and permit processing design, and they were hoping that they could take off bites at a time. They bit off the frequent user of the system who has numerous buildings and is doing tenant improvements over and over and over again. That's the f.b.p. program, and now they are looking at major -- that was the f.b.p. program. And now they are looking at other projects in the city of Portland. What this report recommends that it's, it's time to take the next chunk this next year and when we looked at the case studies, there was 15 case studies that we reviewed. Four out of that 15 were about small businesses that were remodeling or renovating or moving into new, new commercial buildings, and that's why we picked that as our next chunk. They shared -- the case studies shared a lot of common problems. There was not enough knowledge of the building that they were moving into. There was not enough knowledge of the code, and that was both the, the applicant, but it was also the staff because it may have been the first time that they were in that building or, or there was no way in the system to, to track what had already happened in that building that was going to affect the current applicant. Just to give you a couple of examples. One bakery and restaurant it, took weeks just to figure out if that was a change of occupancy and/or a change of views, and they had to determine that before they could really figure out what kind of plans they needed to, to submit and what kind of fees they were going to be paying. There was another really unfortunate, I thought, really unfortunate case study where it was a green building that was just being built, and it was going to house three new businesses, and there was a conflict between pdot, who was treating it as a commercial zone that did not reflect the fact that it was on the new interstate light rail max line and was requiring so many parking spaces that the building owner had to reduce the building footprint by 100 square feet. Now, you think well, you know, 100 square feet, they can really handle that. Well, that 100 square feet made that project ineligible for a transit s.d.c. Create, and so while everybody was very polite and understood and could explain how all these things came together, what that turned out to be is nobody could figure out a way for that transit credit to be given to that building or the parking space requirement to be reduced, and they very politely told the, the commercial building owner that his, his s.d.c. charge doubled to \$18,000. And they were reluctant to do it, but it happened because there was no, no way in the system to really coordinate the bureaus, figure out the best approach, and get some give and take between what's really going on, on the street on the site. Those are just two examples of what happens. We have city-wide issues about stormwater, about bringing nonconforming uses into more compliance with what we think are standards of what we would like to see in the city, how to pay for that infrastructure and often what is happening is, is a very small project in a building, and they are really just trying to open their business, is really having to try to solve all of these large city-wide issues. What we propose then is, is if you start with this new permit-type program, you could have a team that really worked with the individuals, but with the, the overall city viewpoint being brought to bear. They could study the whole street. They would know what all the s.d.c. charges were for each, and what was required on that street. Maybe they, in some cases, could take a block-face approach where not each individual person had to put two bicycle parking spaces in

FEBRUARY 26, 2003

front of their business, but there would be a place on the block face where the bicycle parking would go and then each, each small business person would benefit from that and each bike user would benefit from that. It also would be a way to, to understand more on a system basis when the regulations really were not having their fact. Nonconforming use has been a thorny issue. It is raised as something that people have a hard time dealing with. Small business owner doesn't understand why, why, while they are improving their restaurant kitchen, they are supposed to be thinking, about putting additional landscaping in a parking lot that they don't own. It may that be there's a different way to, to meet those kind of requirements and not have it be part of a building permit. There is some, some hidden poison pills, as one of the people in the b.e.s. staff said. In these recommendations, they sound like they are great things. Commissioner Francesconi said go ahead and do this recommendation, but I want to caution you, you know, everything takes money. You have to put this in the budget. In talking with staff, they really felt that they could start designing this program and piloting it with just one program manager, but you have to, to budget for the program manager. They have to be the right person. They have to be in some bureau. He didn't care if it was in b.e.s. This could be in any of the bureaus. But they had -- this is the next poison pill, they had to have the ability to call upon all of the review staff in all of the bureaus to come and solve the issue for the whole street or for the small business, and mayor, you are shaking your head, I don't know exactly why, but that's a tough thing to do because we have been handling it in blueprint for a couple of years. So, even though it's tough and even though you will find that there are, there are some, some thorny issues in there, I really recommend you do that because I do think that what you will end up with is another group of very happy, satisfied are business owners in the city who, like the f.b.p. business owners, who understand why they are paying their money, they are happy to pay you their fees. They hope that there is a connect between what they are doing on their projects and what is good for the city, and I think in these times when, you know, we really have to look to all of us to, to pay for the schools, happy business owners are probably a group you would really like to have. Thanks. [laughter]

Katz: Thanks. Keep going.

Francesconi: This would make the pizza guy happy, I will pay for it myself. [laughter]

Katz: And sam, probably you would be the best one, after this is all over, they keep talking about, about the problem-solving, and I want you to address the sdot committee, and assuming that's for big projects, and I need to understand what I am really hearing. All right. Who wants to start?

Simon Tomkinson: I guess I do. I am on the faculty at Portland state university and run a small design and architecture company. Originally I am with small business a lot. That is basically -- that is our bread and butter, and one of the biggest issues that we have is consistency, and so I am here to, to maybe show some examples as to how, how this, this push for, for changes in the process of development can actually help. First, the good news is that we have actually already seen some changes in terms of how, how the staff at the city are working with us, and we are very happy about that. We typically give four to six weeks for permit process. We have been able to do that in much less than that in some cases. So, I want to thank everybody involved in this process. I think that people at the city know that this is -- that there is a problem and there is a problem to be solved. So, I appreciate that. This report is a fantastic report. I read it in completion last night, and it really does have, have the summation of some of the frustrations I see in my practice on a daily basis. The other good news is that the industry for regulations is changing by itself through my exposure at p.s.u., the regulatory reform happening in the uniform building code is moving towards more performance-based, so we are going to get more help not only out of, of, you know, this effort, but also as a whole, the industry in construction is looking for performance-based criteria. And so that's the good news. The difficulties are, for me in my marketplace that I really look at is the sensitivity of the margaret place to these changes. To give you some context, september 10, 2001, we had 16

FEBRUARY 26, 2003

projects in our office. By October 1, we had three. In this scenario, they get closed or, or turned down very quickly by banks based on, on the economic climate. That unknown of four to six weeks also has a huge economic effect, so if you count not only the four to six weeks required for, for the permit, but also the loss of jobs coming out of the loss of work based on sensitivity of the economic climate, we are talking about a lot of economic sensitivity. A second point of the difficulties are the frustrations of the individual owners. Most of the small business, and I am talking businesses between basically one and 15 people. They usually come to me with a signed lease. They have already committed and the first thing that they say, I didn't know that this process had -- I had to go through this, and I think that some other examples have been mentioned about landscaping for, for an overall building when you are renovating a kitchen or have a very small portion. Second frustration is sort of the short-term memory of the creation of the laws themselves or the regulations that actually get enacted. What happens is the interpretation changes, so -- am I done?

Katz: You can finish your thought, and yes, you are done but finish your thought.

Tomkinson: All right. The short-term memory needs to be addressed. These are all, all these regulations are done in a good way with a good heart, but what happens is the original, the original problems that it was solving actually gets forgotten, and so we are left with no context for the law. So thank you.

Katz: Thank you. Amanda.

Amanda Fritz, Portland Planning Commission: I am Amanda Fritz, and I want to start by thank you -- thanking you for saving Portland's public school system, not just from this year, but you saved it from going down the tubes, and I thank you. Let me tart over, I am Amanda Fritz, and I am here representing the Portland planning commission. As the commission just learned yesterday evening at this time, the commission has not seen the report, has not had the opportunity --

Katz: Don't waste your time up. It's going back to you.

Fritz: I know. Thank you. As the commission, we believe it is important to have the planning commission's review the reports on actions that would result in significant changes to, to the city's comprehensive plan and zoning code, and we respectfully request you not act until you have allowed a sufficient input from the planning commission and community stakeholders with sufficient time for a meaningful review. Two weeks is something, but we just met last night, and we worked for three hours on 58 amendments that were presented to us, directed by you on, on the middle code stuff, so we didn't have time last night.

Katz: Fair enough. We will give you as long as you get to it, as soon as possible, we will give you enough time, and then bring him back.

Fritz: The planning commission leadership would like to get on the march agenda but I don't think we can get it back in two weeks.

Katz: Ok. We will work through that with Gil.

Paul Niedergang: My name is Paul, thank you for the opportunity to address you. I live in southeast Portland at 1524 southeast 35th place in the Hawthorne district. I have a small real estate development company that does projects mostly in the urban area, mostly along main streets, southeast, northeast, and in Portland. I am also co-chair of the Hawthorne Boulevard Business Association, and I have a lot of contact with small business owners in that role. I was on the development review steering committee, and I must say that I was impressed with the intelligence, experience, technical knowledge, and insight of the committee, despite the fact that I am a regular at the Bureau of Development Services and have 15 years of investment, real estate investment and investment experience. I frequently felt kind of out of, of my league in that group, so it's, it's a very experienced group that put this report together. People really know the system inside and out, and I really advise you to, to study their recommendations carefully. What I want to address here, however, is how the whole process affects and impacts small business owners that are not insiders

FEBRUARY 26, 2003

or frequent flyers. By small business, I don't mean companies with less than 200 employees or one or \$2 million of annual income. I mean the mom and pop shops that are -- that we see along the main streets but are really the backbone of our urban communities. I mean, the baker -- the barber, the bead shop, printer, graphic designer, small restaurant, pizza-maker, coffee shop, clothing store.

I mean, those folks. These are businesses generally with, with less than five employees and almost always less than ten, but there are a lot of these businesses in the hawthorne district, there is some 400 different businesses that make up our district. So, cumulatively we are talking about a lot of jobs, but small businesses, a few jobs at a time. These are folks that, that frequently take home less than \$50,000 per year and for whom \$25,000 is a huge investment. These are people who essentially own their own jobs and are sometimes owned by it. As someone works in real estate development and investment, I am familiar with what, what one needs to address to obtain permits. When I go to b.d.s., I have the advantage of having -- of knowing the lay of the land, and I know when I need to hire professional help. To other small business owners, it's a bureaucratic maze that has many traps and pitfalls. Can I finish up?

Katz: Just finish your thought.

Niedergang: Ok. I guess the question is -- what are we going to do to help the small business owner and to my mind, we need to implement a small business district program and also support small business advocacy programs with Portland development commission.

Katz: Thank you.

Niedergang: Thanks.

Katz: Thank you. Anybody else?

Moore: That's all who signed up.

Katz: Is there anybody else that has signed up -- or hasn't signed up that would like to speak? All right. Can I get my -- we do have a process for bringing folks to the table to deal with, with major, problems, and your track record has been pretty good, so talk about, is that something that -- is that what they were referring to or --

Adams: Let's see if I can --

Katz: Identify yourself for the record.

Adams: I am sam adams, and I work for the mayor. Let me try to think out loud a little bit with margaret and -- bottom line, I think what they are recommending is taking the problem solving of the city regarding individual applications to the, sort of the next level in a couple of different ways.

But, what we do currently have is the strategic development opportunities' team that deals with zoning and process issues for either businesses that want to locate somewhere or relocate somewhere in the city or deals with land that someone wants to use, whether it's for open spaces, like cross island, or for business uses or residential uses. That's, the sdot committee. We also have the customer assistance team in the bureau that deals with more day-to-day constituent services and involves representatives from a variety of bureaus. Margaret -- as you know, you approved on december 18 new inner agency agreements that also included additional problem solving elements, and I will have margaret talk about those.

Mahoney: I think that the response to the concern raised about interbureau issues and decision making is really related to several different elements. One of them is being -- having the staff be clear how they resolve that disagreement as quickly as possible at the lowest level, and we don't have that currently because the staff work in many different bureaus, but that is part of the intent of the inner agency agreements. Another specific element is having very clear appeal procedures for every bureau. As some of the speakers noted, and I think a number of you know, we have very clear appeal procedures in --that are quick and administrative in b.d.s. and fire, but we don't have a similar process clearly articulated. We do have some informal process that are fast appeal processes in the other bureaus that the staff and applicants can use when it takes more than a staff decision.

FEBRUARY 26, 2003

The other thing that we have put in the interagency agreements is when those things cannot happen at the immediate staff level, that the bureau of managers come together to do that, and we are walking through how we are going to do that as we have just implemented the new interagencies.

Katz: Anybody else? All right. Fine.

Francesconi: I have a question.

Katz: Yeah, sorry.

Francesconi: On the first were you, we clearly need -- I mean, the report --

Katz: We are accepting --

Francesconi: Ok. We clearly need somebody to make decisions, ok, quickly in a timely way, so that we can sort out these conflicts. That's the first recommendation. And Margaret, the group suggests that you be the one. When we look at the question of speed, we have to include the appeal time that could happen to the council, as well, in that speed quotient. If you have to make every decision, the odds are, I think, that more might get appealed to us. I guess the idea that I would like you to explore, in the SDOT committee has an economic development and function, and I don't think that we should weaken that, and so I don't think that it is SDOT, but the idea of three bureau managers, Margaret, B.E.S. and Transportation, as kind of the team. It has to be an odd number, so you actually vote, and it could be 2-1, you know, and I don't know if that's the record, but I think it might be, and do it in a very timely way where it has to happen within 14 days or whatever it is, and with the appeal to council, to me that brings it out a little bit. Takes a little bit off you, but it -- I'd like you to at least seriously look at that because I don't think that it would slow things down, and I think it would lessen appeals.

Mahoney: Commissioner, that was the, the concept that I just referred to at the bureau director level, that it actually be a panel of bureau directors, and we have been talking with PDOT staff and need to engage B.E.S. and the other bureaus on that kind of forum.

Adams: So you, you have given us enough authorization that December 18th inner agency to pursue the notion that you just outlined.

Francesconi: And so it doesn't slow things down, so we are not talking about 20 bureaus.

Mahoney: I think that, that concept works with, with any issues that come out of, of the nonland use regulations. When the project also involves a land use adjustment, then we have got a different timing problem. That's where the red flagging early helps us --

Francesconi: That's a good transition because, you know, and it was addressed. Kevin addressed it, but if we could speed up the red flagging early issue, now, I don't know how you do that because I don't know the system enough, but boy, this would be nice, I mean, because that causes so much frustration.

Adams: You are absolutely right.

Francesconi: If there is any way to speed that one up, I know that they put it for down the road. But, the red flagging one --

Mahoney: We are working on these already having to figure out how we do them, so there are pieces underway. We are not waiting at this point to get going on some of the administrative things we can tackle.

Francesconi: The third one, and it really is the small business one you know, I read a letter yesterday from somebody who didn't know about a, a small business who made the switch to another building or didn't know about the transportation system development charge and here we go again, and so if you -- and it's not for me to do somebody else's budget, but if, if that is a big deal -- that is a big deal, and if we are about to raise taxes on small business to pay for a schools, it's important not only that we look at the reforming of the B.I.T. But we look to see if we can do

FEBRUARY 26, 2003

something on the permit side, too, so that we can say at least we are doing something back. This one should be seriously looked at from my perspective.

Adams: There are a couple of things that we have talked about. One is with, with the new information online available to everyone in the next phase of identifying if a particular property might be subject to, s.d.c.'s and many are, so giving people that, flag when, because most people go in, if you are looking to buy something and go on, Portlandmaps.com, and to flag for folks this particular property might be subject to the following s.d.c.'s and give them a link to get more information about that. That's one thing. The auditor also in the audit brought up issues related to funding and s.d.c.'s and then our own internal assessment, and we are going to pursue that to have some items for you to consider in the next regulatory improvement work plan there.

Mahoney: But I think that that's a good example, though, where it takes the commitment of all the bureaus because the complexities of the transportation s.d.c., the stormwater s.d.c., the parks s.d.c. Really take all of those bureaus who have drafted that to work with us together to provide information up front to applicants so they understand what those are, and to make it as clear and simple as possible. I have asked that our swat team, which represents all the bureaus, to particularly tackle the s.d.c. One because there isn't one piece of information for an applicant that shows them that range.

Adams: And I guess the other thing because part of your suggestion related to the underlying costs of, of the -- might have related to the underlying costs of the permits, themselves, separate from the s.d.c.'s, and that's where it was important for us to get trained in terms of the process engineering, and to get these two assessments done, and maybe that's a good way to wrap up. The audit that dick tracy and his team did combined with, combined with our assessment on the process from boeing and our customer service training are all intended to be a nucleus around reducing the costs within the bureau and the processes as much as we possibly can and delivering very good interactions for all stakeholders.

Francesconi: We do need to reduce the cost so transportation has looked at that and has reduced the cost to the s.d.c. for small business. There is no commercial parks s.d.c.. There is a housing. So, each bureau needs to look at that, but if we can incorporate some process suggestions, like I think this one is, that uses the facilities' program, tries to give small business to -- if I understand right --

Mahoney: That's right.

Francesconi: Here's the last thing, the customer service side, but what you are working on, but the 24-hour turnaround and phone calls, can we just do that as a policy right now? It's listed as a suggestion 24 hours, I mean --

Mahoney: That actually is our current standard. We try to meet that, but the same staff who answer calls are also checking plans and dealing with walk-in customers, so they are constantly juggling all of those, but that is the standard that we try to hold them to.

Adams: 15 minutes, we have a standard of 15 minutes. Anyone walks into the permit center, that they get help and 24 hours for phone calls returned. As much over-the-counter help as we possibly can, and then you know all the moneyback guarantees.

Francesconi: Ok. Thanks.

Leonard: First of all, I want to say I very much appreciate the work that margaret and sam have done on this. This is a report that I promise you I won't implement and I support the various recommendations, and including the one on having, -- I have a slightly different view than commissioner Francesconi with respect to, having the, one person having the authority to sign off on agreements. I think that one of the observations I made is a failure on the part of the city to trust its employees not just from the bureau of director position but down to the front line and invest in them authority. And I think that that's created a lot of the problem. There are -- in our form of

FEBRUARY 26, 2003

government, these little kingdoms that exist, and we as a council need to recognize that and be willing, also, to do our part, and I hope that I can count on the support of the council to specifically address that recommendation because I think that that is a key recommendation that you have developed, and, and I can't overemphasize that. In the bureau, as I have said many times, this assignment from the mayor is, is -- there is no other assignment more important because I see this as key to the creation of good jobs in this bureau, in this city. Family wage jobs. Expanding the tax base, and providing revenues for us to do the services that we do, if we do permitting the way that I would like to see us do it, so this -- this all ties together to those goals for me. The s.d.c. charges that commissioner Francesconi raised needs to be viewed by the council I think in context of, of revenue and expenses in general. I am real concerned that we charge s.d.c. charges at the drop of a hat that would, in my opinion, impede the growth of small business or the development of business, but on the other hand, aren't quite so, so specific and we do not develop the same kind of criteria when we, we award abatements. That may not seem connected or tied, but it is to me. I think that we need to have -- and this is the council. We need to have a coherent policy for, forgiving abatements and charging s.d.c. charges that are related to each other, and I want the mayor and the council to know that I am developing just such a plan as we speak. It will address those issues. But the goal in mind of economic development. I appreciated the analogy of the overgrown lot. That made me -- I want to use that analogy in this statement I am going to make. There are two ways to view an overgrown lot. Some view it as a mess and unsculptured and in need of being cut back. I can assure you that there are others that view that same lot and can see a path in it and see a variety of different flowers available from which you can pick and develop a beautiful bouquet. What that means is that there are two ways to view the number of codes that we have. One is, how it has been characterized in that process. There are too many codes. There are conflicting and there is no way to make sense of them. That is a point of view and a state of mind. Versus another point of view that might say we have a lot of codes that gives us a lot of options to get to yes. That's a different way of viewing the problem. We can have this study and adopt its findings, and if that's what we focus on and agree is the problem, we will be back here talking about this in a very few short years. This is an important part of what we are doing, but it's part of what we are doing, and let me give you an example of what I am talking about. Just this week I had a, a small business person come in and say, you want to know problems at the bureau of buildings? Here's a problem. I went in with a set of plans, said "bureau of development services on it," it didn't say that. It said bureau of -- what was the previous name?

Adams: Opdr.

Leonard: Yeah. They rejected the plans because it didn't have the new, the new name of the bureau on the plans. That is symbolic of what I am talking about. There is, there is a perception and a culture that exists that will not allow us to get to where we want to get unless we address that attitude, and the -- I have been thinking about how to say this and I want to say it correctly and politely without causing undue harm. But, I want to also make it clear to the bureau employees that as of march 25th, those kinds of responses I don't consider to be conflicts in code. I consider them to be job performance problems and it will be addressed as such. I appreciate the work that we have done. I appreciate when problems are pointed out, but there's also a problem I think that's existed from the person in charge, from the council of the bureau of buildings, and that's the lack of management and setting clear goals and objectives, and that's going to change, as well. And those two, those two strategies, this document and that different way of viewing how we are going to manage the bureau, I think, are going to get us to where we are going to need to get, but it's going to be a lot harder than anybody, I think, realizes, to get there. But, that's my goal, and I want to do it in a, absolutely a cooperative fashion with the community, the bureau, but especially the council. Thank you.

FEBRUARY 26, 2003

Katz: Any of you want to respond? Ok. Thank you. All right. Let me just say, you know, I can save it for, for next, next time when we accept the report. There are a couple of issues here. We have a comprehensive plan. All of the elements of the comprehensive plan are important to the city. That's why it's a comprehensive plan, and how to prioritize that, it's not even an issue that I want to even consider. The point is, it has to work together because there are citizens in this community that, that have pieces of that plan that represent the values of the city of Portland. And that's why it's a comprehensive plan. Now, do we need to review it on a regular basis? Make some changes? Absolutely. It was on a work program at some point, and because of budget constraints or shifts in priorities for the council and the bureau, we never quite got to that, and we probably need to think through how to do that. But, that's, that's because of state law, that's a very long and tedious process with a lot of community input. A lot of community input. And we might want to consider doing it at some point, maybe when the economy improves or when we have some additional resources taken away from other programs. Commissioner -- both of the commissioners referenced this form of government, and it is a problem. There is no question about it. I have put together bureau manager groups to solve some issues. They work well together, but every once in a while it breaks down because they say, you are not my commissioner in charge. And so unless the council gives the mayor the authority, who is supposed to gently, and that's the word in the charter, gently supervise the city, it isn't going to happen, and even if you give a mayor the ability to do that, it may happen. So, we need to know that we are working with a form of government that is archaic in a lot of the issues that you have all identified as a result of that. Now, that means that we have to work harder, and we have to work smarter and we have to, work more cooperatively with each other to get the work done. I think that that's the message that commissioner Leonard was sending, that everybody needs to clearly understand that with this umbrella of, of a form of government, that gives each one of us some bureaus and some responsibilities, but nobody, all of them, that the bureau managers who are hired need to work better together. It's, it's improving but it still has a long way to go. Having said all of that, I want to thank everybody for the work that they have done. As I said, we will vote to accept the report. There will be elements of this report that will fold into the work that the bureaus are already doing. There will be some elements of the report that, that I think will stay on the shelf for a while that we are going to hear from the planning commission and from the citizens in this community who have been part of, of putting together the comprehensive plan, and a lot of the land use regulations as to what they see needs to be done next, but this is, this is a very good start for all of us, and I want to thank especially, especially Miss Gabriel for all her work, the blueprint 2000 under a different commissioner to this process on an interim commissioner to, to the process to be continued on a third commissioner. So, thank you. All right. Let's go to 166 and then we will go back to the consent agenda.

Francesconi: We need to accept --

Katz: No, I said we are going to do it when it comes back from the planning commission.

Francesconi: I misunderstood, I'm sorry.

Katz: 166.

Item 166.

Francesconi: Let me just -- come on up, sir, let me just briefly introduce this. Some folks from the community, including the person, the advocate here, just called my office recently and said that they would like this change, and I guess that I recommend this to the council because if we are going to change the future, we first have to admit the past in order to move forward, and so this is something that I think that, that it's a small but significant step that we need to do here today. So, let me turn it over to you, sir.

Ron Craig, Filmworks Northwest: My name is Ron Craig, native Oregonian, and I am executive producer of Filmworks Northwest, documentary film-maker. First, I would like to thank all the

FEBRUARY 26, 2003

commissioners for going along with this. It may seem like a small step as far as changing york's significant part in the expedition film. Once again as documented filmmakers, we go back into history the way it actually happened. I am going to share this small story and then I am going to be out of your hair. Last month I had the honor of being invited to the thomas jefferson foundation invited me to charlottesville, virginia to, speak at the university of virginia and also at montecello. Along with that request I spoke at about three elementary schools in the area -- actually, five elementary schools in the area. One of the elementary schools I had gone to, I was speaking on york and small, about 9-year-old child came up to me after my presentation and what we do know is, is nobody knows what york looked like. We have no images. The slaves did not -- well, I assured the child we had polaroids, and he thought that was amusing. [laughter]

Craig: He wanted to know what york would look like, and so this was a small 9-year-old african-american child, so I took him over to the classroom mirror and I said, that's what york looked like, and his eyes just, just lit up, and it was so empowering that he understood this was part of his history, and so with the naming of the street, as far as northwest york for york, it is empowering for the next generation, so I want to thank you on behalf of the next generation that we will know who that man was and we know what he did to contribute to the development of this country.

Katz: Thank you. Anybody else want to testify? All right. Roll call.

Francesconi: Well, we are still struggling to, to overcome our history of slavery and it's people like you that are helping us to do just a step at a time, a step at a time, so thank you, sir. Aye.

Leonard: Aye. **Sten:** Thanks, aye.

Katz: As I said before, somebody who tried to trace the trail, not by foot and not the original trail because some of them were through treacherous mountain passes. I have an incredible appreciation for what these men and women and child went through, and it was an incredible journey for them, and true pioneers, and we ought to honor them all and we -- especially ought to honor the ones that haven't gotten much focus because of their race or their gender. So I am very happy to do that. Aye. Ok. Consent agenda. Items to be pulled off the consent agenda. All right.

Anybody want to pull items off the consent agenda? Roll call.

Francesconi: Aye **Leonard:** Aye. **Sten:** Aye.

Katz: Mayor votes aye. Measure passes. Regular agenda. 176.

Item 176.

Katz: Roll call.

Francesconi: This is a good thing. Aye. **Leonard:** Aye. **Sten:** Aye.

Katz: Mayor votes aye. 177.

Item 177.

Francesconi: Aye. **Leonard:** Aye. **Sten:** Aye.

Katz: Mayor votes aye. Thank you, everybody. Due to lack of the agenda, there will be no afternoon meeting today, but we will come back on thursday at 2:00. We stand adjourned.

At 10:58 am, Council recessed.

FEBRUARY 27, 2003

FEBRUARY 27, 2003

2:00 PM

Katz: Good afternoon, everybody, the council will come to order. Karla, please call the roll.

Leonard: Here. **Sten:** Here.

Katz: Mayor is here. Commissioner Francesconi is excused. Commissioner Saltzman is on personal business. And we are here to do the city's business. So, let's read the item. 178.

Item 178.

Frank Hudson: Good afternoon, everyone. Today's hearing is an evidentiary hearing. This case is on remand from the land use board of appeals. Also known as luba. The fact that this is an evidentiary hearing means you may submit new evidence to council in support of your arguments. The evidence may be in any form, such as letters, petitions, slides, photographs, maps, or drawings. If you haven't given the council clerk a copy of the evidence you plan to submit, you should give it to the council clerk after you have finished your testimony to the council. Any photographs, drawings, maps, or other items you show to the council during your testimony should be given to the council clerk at the end of your testimony to make sure that it becomes part of the record. Order of testimony will be as follows -- we will begin with the staff report by the planning bureau staff for approximately ten minutes. Following the staff report, the city council will hear from interested persons in the following order -- first, the appellant, also the person who appealed, also known as the petitioner will go first and will have ten minutes to present his or her case. Following the appellant, persons who support the appeal will go next. Each person will have three minutes to speak to the council. This three-minute time limit applies regardless of whether you are speaking for yourself or on behalf of an organization such as a business association or neighborhood association. The applicant will then have 15 minutes to address the council rebut the appealate's presentation. The council will hear from persons who oppose the appeal. If there's no principle opponent, the council will move directly to testimony from persons who oppose the appeal. After supporters of the appeal conclude their testimony. Again, each person will have three minutes, whether you are speaking for yourself or on behalf of an organization. Finally, the appellant will have five more minutes to rebut the presentation of the opponents of the appeal. The council will then close the hearing and deliberate. After the council has concluded its deliberations, the council will take a vote on the appeal. If the vote is a tentative vote, which it will be today, council will set a future date for the adoption of findings in the final vote on the appeal. If the council takes a final vote today, that will conclude the matter before council. If you wish to speak to the city council on this matter and have not signed the list located outside of the council chambers, please sign up at this time with the council clerk. The scope of testimony will be as follows -- there are several guidelines for those presenting testimony and participating in the hearing. These guidelines are established by the zoning code and state law and are as follows -- any testimony and evidence you present must be directed toward the approval -- the applicable approval criteria for this land use review or other criteria in the city's comprehensive plan or zoning code which you may believe applies to the decision. The planning staff will identify the applicable approval criteria as part of their staff report to the council. Before the close of this hearing, any participant may ask for an opportunity to present additional evidence. If this kind qualify is made, the council may either grant the continuous or hold the record open for at least seven days to provide an opportunity to submit additional evidence and will hold the record open for an additional seven days --

Katz: Not on this one, frank. This is an appeal from luba.

Hudson: Right, correct. Remand decision. So, I can skip that part --

Katz: Yes.

Hudson: For the record. There's one last thing i'd like to say. With respect to the matter before council today, I want to quickly summarize the issues. As I said, this is a remand hearing. There

FEBRUARY 27, 2003

are two issues presented in Luba's remand decision. These issues are summarized in the notice you got from the city. Please try to focus your testimony on those two issues, otherwise council may not be able to consider your testimony in their deliberations. The first issue is this -- when council reviewed this proposal the first time around, council determined that the current level of police services in the area would be adequate to meet the additional demand generated by the proposal. Luba disagreed with that assessment. Luba concluded that there was not substantial evidence in the record to support council's determination that the current level of police services will be adequate to meet the additional demand generated by the proposal. So, first issue before council is whether the current level of police services is adequate to accommodate the additional demand. Issue number two, when council reviewed the proposal the first time, council found that the proposal was consistent with transportation policy 6.15. As you may recall, 6.15 concerns onstreet parking. Luba also disagreed with council on that point. Luba concluded the city's findings were inadequate insofar as the findings failed to demonstrate the proposed rezoning, was consistent with policy 6.15. So, the second issue is whether approval of the proposed rezoning is consistent with the city's on-site parking. Thank you for your attention.

Katz: Thank you, Frank. Ok. So two issues. The adequacy of police service and onstreet parking issues. Come on up. Oh, it's you again. All right. Let's have a staff report.

Mark Walhood, Bureau of Development Services (BDS): Good afternoon, Mayor Katz, members of council. I am Mark Walhood, Bureau of Development Services. We are here today as --

Hudson: Excuse me.

Katz: What's the matter?

Hudson: I don't think you asked about Ex parte contacts --

Katz: You are absolutely right. Since we had heard this, have there been any ex parte contacts with anybody that's involved in this?

Leonard: I received e-mails that came across my desk that I deleted, one I saw and didn't respond to that were related to that case.

Katz: Do you think that would influence--

Leonard: I intentionally didn't get into the substance of them. I realized what it was about --

Sten: No ex parte.

Katz: Ok. Conflict of interest? Anybody want to challenge our responses or lack of responses on these two issues? Ok.

Hudson: And also in the record Commissioner Leonard, did you have an opportunity to review the record?

Leonard: I had an opportunity to review the record as it's been submitted and have a briefing.

Hudson: Ok.

Katz: Ok. Thank you.

Walhood: As I mentioned on remand from Luba, case is LUR 02 --

Leonard: I am sorry. I want to just point out that I noticed on the back of, of a flyer that went out that it does say call or write our new city council member Randy Leonard to encourage him to participate in this hearing. Those are the types that I saw and then I didn't read them.

Katz: Ok. Thank you, Commissioner Leonard. Good lobbying attempt. Didn't work. [laughter]

Katz: Go ahead.

Walhood: We are here to consider testimony regarding the two assignments of error that Mr. Hudson mentioned, which have been identified by Luba related to the adequacy of police services and onstreet parking. We will -- council will review the revised responses submitted by Portland Police and Transportation. Briefly, the history of the case last June, hearings officer approved the proposal with conditions requiring frontage improvements and a performance guarantee to insure

FEBRUARY 27, 2003

that the improvements would be done. In July and August Council heard the appeal of the hearing's officer decision and denied the appeal but addressed some of the neighborhood concerns by modifying the approval to add conditions requiring compliance with the design standards or design review and expressing the preference for an Edison street driveway entrance. Last December Land Use Board of Appeals heard an appeal of Council's decision, and as we have heard remanded the case to the city on two assignments of error out of the seven areas regarding police services and transportation policy. The proposal is a zoning map amendment in compliance with the existing comprehensive plan from single family residential R-5 to high density residential. While the applicant intends to redevelop the site, we have had 25-35-unit project in a 4-story building over parking that has been advised as a parking -- if approved zoning would be changed to RH high density in conformance with the base zone. I have a copy of the site plan. Existing and proposed zoning map, zone changes, but the scenic overlay and recreational trail remain. Here are some pictures of the site. Edison is on the right. Baltimore is going downhill on the left. This is the foreground house. Another picture of the Baltimore frontage going down the hill toward Cathedral Park. The picture of the overgrowth on Baltimore. The approval criteria are the 855.050 zoning code approval criteria for zoning map amendments, and the transportation element of the comprehensive plan. We have two remand issues, as I mentioned. The first is regarding the police services. The appellant before Luba argued the police response did not support a conclusion that services are adequate and that it did not contain the required demand analysis. Luba agreed, but with the statement that while services appear to be adequate, the response did not contain the quantifiable demand numbers called for in the criterion. We did get a revised response from the police this week signed by Chief Kroeker which includes a demand analysis based on average calls per person and a conservative estimate of the increase in residence that's far in excess of the likely residents. The conclusion of the letter was that North Precinct resources are adequate to serve the rezone. The second issue relating to onstreet parking, the appellant argued before Luba that the approval of the proposal in conformance with this criterion was not supported by evidence in the record and that the additional demand for onstreet parking could not be satisfied. Luba agreed that the findings in the record were inadequate. Transportation also this week has submitted a revised response with additional findings for parking flushing out the situation a little further and with the conclusion that the policy is met. The alternatives facing Council, the first one would be the staff recommended course of action, which is to uphold the previous City Council decision based on the supplemental responses from the police and transportation, other options, of course, are to further modify the previous decision or to overturn the previous decision. And I kept that pretty short. Are there questions?

Katz: Do the three options again. The first option was the hearing's officer?

Walhood: Well, essentially, this is, this is -- we are back like we were last July where we are, we are facing an appeal of the hearing's officer decision, so upholding our, our City Council's last one would be denying the appeal again.

Katz: Ok. And with modifications, and the modifications are the two. Has everybody seen the two notifications? One from the police bureau and one from, from the PDOT? Do you want to summarize it briefly or -- do we have -- I don't see anybody here from the police bureau.

Walhood: I don't think --

Katz: But you want to summarize it?

Walhood: Sure.

Katz: Well, why don't you summarize both of them.

Walhood: Ok. Let's go back here. The police response -- what we needed was some data, some quantifiable data to provide an analysis of the demand that would result. The police bureau discussed -- there's about 48,000 people in the North Precinct with just slightly less than the

FEBRUARY 27, 2003

population. So there is 48,203 residents and they responded to 47,857 calls. That worked out an average of 9.9 calls for service per every 10 residents. The applicants are proposing 25 to 35 units based on the maximum buildout under the high density residential zone. You could get up to approximately 55 units. If we take another conservative estimate of, of two persons per household, the number would be 110 residents, so they took that number of incremental additional people, which was a 1.4 increase over the existing population, so they averaged that, multiplied the increase in residents by the average calls per aren't per year. There was a -- phrased as a minimal increase by the police bureau. That they could handle it with existing personnel. The on-site parking -- excuse me, onstreet parking finding and the letter from transportation discusses luba's concerns briefly. The original finding was extremely brief. We have flushed out an additional finding -- I will go ahead and read parts of it. Generally residential, high density zones will be well served by transit facilities or near areas with supportive commercial services. The site is a block from the st. john's district, the area served by four park routes. The zoning code does require one parking space for every two units in the development of four or more units. The finding says that no additional onstreet parking restrictions will result, except in front of the driveway access to the site allowed by code. It is transportation's understanding that the outcome is providing more than the required on-site parking and staff from transportation also review parking again during the design review. There was some additional research done on aerial photos from 1998, 1999, and 2000, and those shows no more than three vehicles per block face parked on the street. Transportation found in summary that there did not appear to be a current lack of onstreet parking in the vicinity, and based on the proximity of the transit and provision of on-site parking, that the policy was met.

Katz: Ok. Questions? All right. Let's hear from the appellant. So two issues --

Walhood: Yes.

Katz: Ok. You have got ten minutes.

Erik Palmer: Good afternoon. Thanks to each of you for being here. My name is erik palmer. I am a petitioner in this case. I live at 8207 north edison. I spoke to the council at the prior hearing on this matter, and the issues that luba remanded in this case have remained pretty consistent for myself, for miss fay who filed the appeal, and for other members of our neighborhood. From the very beginning, we expressed great concern about the idea that development could be supported with adequate city services, particularly including police, transportation, and parking. I am going to dive right into some discussion about the two specific matters that have been remanded. I initially filed as an intervener in this case because I questioned what the rationale that the council offered for approving the application based on the police sufficiency issue. It seems to me that that was a great description that was offered both from the dais and the documents that followed of how the city manages the allocation of police resources, but when I sat down and read the code, the code said something different. It said that there was an expectation that there would be a demand analysis made and that the analysis would have some kind of quantitative basis. And so that argument was made before luba, and luba remanded, essentially, for the same, offering the same interpretation of the code that the neighborhood had. Looking at the testimony that we received from the police bureau this week, I credit the bureau, I think that there is a little bit after change in that the methodology that the bureau used to analyze this -- the sufficiency of this site was legally sufficient. However, I think also that there are -- there is evidence submitted into the record previously, and will be submitted during the course of this hearing. It calls into question the, the 55 units, the base number. We don't have any evidence in the record that any testimony in the record that, lets us know how that number was arrived at. It's my belief, and I believe that there will be evidence in the record that shows that, that number could be somewhat higher under the, under the --

Leonard: am I able to ask questions now or wait?

Katz: He's on a time schedule.

FEBRUARY 27, 2003

Palmer: Also, I note that the, that the earlier police recommendation stated the dependency relating to sufficiency based on the particular kind of parking scheme associated with this site. The current recommendation doesn't address that at all, so it appears to me that there's a discrepancy there, that should be resolved. Moving onto the parking issue I had submitted photographs that I believe you should have right now. One of the things that we are looking at is the actual conditions of onstreet parking in the neighborhood and the actual patterns of the way the parking is -- the demand for parking and the consumption of onstreet parking in the neighborhood. And I was particularly interested in the project that is quite close to my house on north willamette that has eight units, eight on-site parking spaces, and that has created a situation with onstreet parking that, that diminishes the safety and the livability for traffic that goes down north willamette. Those cars weren't there before this development was completed, but somehow despite what I consider and always considered the poor design of the development, it made it through whatever it had to go through on the part of the city, and all of a sudden we have a situation relating to onstreet parking that is a problem that wasn't dealt with up front and that there's no recourse by which we can, we can deal with it on the back side. I find that -- I fear that, that the situation at 8816 north edison is going to turn into a very, very similar situation. The neighborhood is documented with, -- in great detail our concerns about how the management of onstreet parking will affect the livability and the safety, the economic vitality of the neighborhood. Baltimore is heavily used by trucks and by boat trailers, and so between the slope issues that we have brought out before, the mix of traffic that's on this road and the concerns about what a maximum buildout -- how many cars that is likely to put on the street, you know, the neighborhood is here to say that we need something more -- something better than just an assertion that the parking infrastructure is sufficient in this development won't diminish -- the livability of the safety of the intersection. Fortunately for the neighborhood and fortunately for this appeal policy, 6.15 of the transportation element addresses some of these questions directly. I quote, as luba said in its remand, given the evidence that the proposed reason may result in additional demand for onstreet parking. The above quoted finding is adequate to demonstrate compliance with the requirements of policy 6.15. The parking supply and demand will be managed to encourage residential neighborhood livability. Parking will be maintained for existing residential using where parking is inadequate and the city will act to protect parking. It doesn't appear to me that the person who wrote the transportation revised recommendation on this has read that part of luba's remand nor has read the code as carefully as I have. I have concerns about, you know, how the parking -- how there's going to be assurance that the parking will be managed and analyzed in a suitable fashion during the continuing portions of this development process. And to cite another part of the, of the luba's remand, the city does not explain why the findings in the present case which do not consider supply or demand at all are sufficient to satisfy transportation policy 6.15. The revised finding in my reading from transportation also fails to address the supply or demand in a meaningful way. I'd also like to emphasize that the policy requires that onstreet parking will be maintained for existing residential uses, not for residential uses that might come in the future, and this particularly applies under the policy to adjacent residential properties on both baltimore and edison, several of which do not have, are older properties that do not have their own offstreet parking. When I last spoke to the council on this matter, I posed the following question -- what is the appropriate mechanism for dealing with the situation where the people who put together the comp plan map and this particular zoning designation just got it wrong. Particularly in a case like this one where the original planning decision is more than 20 years old. The answer, I said then and I state even more strongly now, is what we are doing right here, both Oregon law and Portland code function with the expectation that planning decisions can be turned back through the application of quasi-judicial proceedings. If the comp plan map was truly the final word on zoning under the relevant statutes, we wouldn't need a

FEBRUARY 27, 2003

comp plan map. We'd just have a zoning map, and a normal course of the development would eventually deal with now in conforming sites all without the need for proceedings like these for taking these things to luba and that type of thing. This neighborhood understands that, that the bar is set and properly set very high for overturning the comp plan map designation through, through a hearing like this. However, this appeal has cleared that bar. The record before the council includes a large volume of the neighborhood testimony proposing the zone change, the testimony is substantial, it is directly relevant to the approval criteria, and as demonstrated by luba's remand is based on a careful and rigorous reading of the relevant land development code and the transportation element. I have got a minute left. Thanks very much.

Katz: Questions? Questions? Commissioner Leonard? [inaudible]

Leonard: The issue I noticed in the record with respect to the number of units, the b.d.s. Report says the applicant may pursue some future developments and performances with the proposed r.s. Designation if it is approved, do we have an idea of a range of what that means?

Katz: Why don't you come on up and let's, let's get this question answered. I need to ask a question on transportation, so don't go away.

Walhood: Ok. The rh zone does not regulate the number of units. The r.h. zone limits the amount of floor area, so with the 4-1 on a 10,000-foot site, you can have 40,000 square feet of residential area, common areas and dwelling units. We got the number 55 in the zoning code, it says r.h. will generally result in 80 to 120 units per acre. We took that number -- I took the 55 number from transportation's previous response of may 16, where 55 units was mentioned as the higher threshold, and that number came up in the hearing's officer hearing because they wanted us to use the, the --

Leonard: I appreciate what you are saying but let me be real specific on what I am asking. Is there a range that the developer is limited to with respect to the number of units?

Walhood: No, there's -- no, there's, there's --

Leonard: There's no upper end limit in terms of the number of units?

Walhood: No, you can cram as many units as you wanted into 40,000 --

Leonard: Thank you.

Katz: What was the -- what was the information that was provided at the -- in front of the hearing's officer on that particular question?

Walhood: That based on the code's estimate it will be 80 to 120 units per acre, that we would have no more than 55 units.

Katz: And who said that in.

Walhood: That was in transportation's response.

Katz: Ok. All right.

Palmer: May I clarify one little part of that? I just wanted to say that cherrie eudaly brought forth that number, 55. However, and I discussed it with her, but there's been no information submitted to the record that supports that number --

Katz: So that's -- that's an estimate number. All right. Now -- thank you. With regard to -- thank you. With regard to onstreet parking, luba agreed with pdot but said that since the train of thought was not on the record, that the city did make the decision based on that, and that -- no? Yes?

Walhood: I'm sorry, I didn't follow you.

Katz: What did -- how did -- did luba agree with pdot apples? -- pdot analysis?

Walhood: Luba didn't think that there was enough there.

Katz: Enough information. Ok. Thank you both. Further testimony? Ok. On the appellant's side?

Katz: Do we have someone from transportation here? Ok.

Deb Fay: My name is deb fay, I am at 8836 north edison street and I am also a petitioner. Today i'd like to speak to you about the parking, transportation, and police issues that luba has remanded

FEBRUARY 27, 2003

to the city in the matter of the proposed zone change at 8816 north edison. Residents today submitted substantial evidence on parking, transportation, and police issues. This evidence is both qualitative and quantitative and shows the approval criteria for a zone change from r-5 to r-h has not been met and is not possible. This evidence proves there is not enough onstreet parking available to satisfy the demands that the rh zone would demonstrate. Onstreet parking demand in this area would jeopardize public safety. The transportation evidence of an aerial photo taken several years ago on a workday is not evidence of anything but the fact that the residents and workers in this area are auto-oriented commuters. The public transportation available in this area does not attract riders. Public transportation in this area takes approximately three times as long to reach the same destination as a car does. Public transportation is located on the other side of the st. john's truck route is difficult and dangerous to reach. The availability of buses at the st. john's transit stop has declined one-third since 1996. The police have made a legitimate effort to provide demand numbers but the information provided to them by the planning bureau is not accurate. Their numbers are not the max allowed for a full buildout at the site. The city bureau's inability or unwillingness to perform the review process that the law requires has plague this l.u.r. process for this project. The residents have taken the luba decision seriously and done the detailed analysis that the city bureaus should have done. That evidence has been presented today. The addition of a five-story building to any part of the city should require planning staff that is experienced in large-scale development within the city of Portland. The fact that the proposed development will be affecting a residential area of single story homes with narrow streets, unimproved streets and existing parking demand issues should alert the city bureaus that a thorough review is required. All city ordinances and policies should be thoroughly reviewed before any zone changes are allowed. The city bureaus did not do a thorough review as required by the city ordinances and policies. The city council as the reviewing body did not enforce the city ordinances and policies and approve the zone change. St. Johns is in the process of developing a new plan. The residents do see the need for higher density in the city to grow and have opposed -- and have proposed that r.h. zoning should be near the river front on the brownfield areas. The residents around 8816 north edison street hope that the city council apply due diligence in the second hearing and insure that all city ordinances and policies are hereto in this matter in denying the zone change.

Katz: Thank you. Go ahead, sir.

Salvatore Hall: My name is salvatore hall and I live on 8827 north edison street. As first time home buyers my wife and I lived at this home since june of 2002. One of the selling points of the house was a magnificent view of the river, park, and st. John's bridge. We purchased the old house even though we have in garage or offstreet parking. The neighborhood was charming and quiet and there didn't seem to be any reason to worry that we wouldn't be able to park our two cars on the street in front. Three weeks after we moved in, we learned from our next door neighbors that a developer planned to turn the lot diagonally across from our house into a five to seven-story building. Ignoring the fact that such a building would entirely eliminate any view that we have of the bridge and most of the river, we were understandably upset at the idea that we might have to compete with our neighbors for parking and possibly face the prospect of having to park several houses down the street from our home. We chose to join the neighborhood activism effort that was already well established to try to reduce the size of the development there, therefore reducing added parking burden of more vehicles in the immediate area. Understandably we share the same general feeling of this group. We are not against high density and we understand it means compromises, but despite the substantial neighborhood testimony about the unique situation at the corner of baltimore and edison and the valid points and question the community raised about the approval of the zone change, not only was this good faith ineffectual on our part, it was ignored by the applicant. Even as newcomers it was apparent he had no inclination of working with the

FEBRUARY 27, 2003

neighborhood treating our concerns as nothing more than an obstacle between him and a very large stack of money. We don't mind high density. We don't mind development. We don't mind working with developers. We do, however, mind harmful, rushed and irresponsible development. We've joined with our neighbors to improve the neighborhood and we are an example of the st. John's residents who will be directed affected by this development. This hearing is an opportunity for the city council to set right the issues that lura remanded back to the city. We bought our home with the idea that the view would be a tradeoff for the lack of offstreet parking. We are disheartened and frustrated that this development threatens to take away both. We are the example of what the city claims to encourage. First time home buyers who are excited about their community with a vested interest in making it a better place to live. Unfortunately, by imposing ill-conceived developments, such as this one, with all of its problems and no plan for adjusting them, the city effectively punishes us for making an investment and commitment to our community creating a disincentive for people like us to revitalize the urban neighborhood. Thank you.

Michelle Mylet: I am michelle. I live at 8835 north edison, next door to sal. I also have no offstreet parking. In regards to this case, lur 020027 zc, you should not grant this zone-change. The reason is simple. There is the adequate -- the onstreet parking is not adequate for this zone change. Concerned members of the neighborhood repeatedly raise this fact and we continue to raise it today. The facts are clear. Parking on baltimore is hazardous due to the steep grade, limited visibility, heavy boat traffic and truck traffic. And the parking on edison is limited. On baltimore, if you park cars on both sides of the street, on both sides of baltimore, which would have to happen for the proposed number of cars they are going to have, the trucks have to go right up the middle of that hill, and it's a setup for an, for head-on collision on that hill right there due to the limited visibility. In addition, if you put cars on edison and on baltimore, that's a blind corner. I have to take that corner in the mornings, and already, it's difficult to see who is coming up the hill, but if you park cars on both sides of that corner, it's, it's going to make it more -- it's a dangerous -- it's a setup for a very dangerous traffic situation. In addition my partner and I both park our cars on edison and with the addition of 27-88 cars, I don't know what the proposed number of cars is on the street, it would take away our only parking. This would seriously affect the livability of, of our neighborhood. So, I am concerned about the safety of that corner at baltimore and edison and my neighborhood livability. So, thank you.

Katz: Thank you. All right. Karla.

Katz: Go ahead.

Dave King: Ok. I am dave king. Live at 8728 north edison and i've been there since around 1975. That's right across baltimore from the property in question. First, I want to commend you guys for the constructive role you have been playing with our schools, bringing them back from the edge. Lura remanded your decision to grant this zone change partly based on goal 6.5 which says in effect the management of parking must encourage safety, vitality, and livability in neighborhoods. In other words, neighborhood safety, livability, and economic vitality can't be negatively impacted by the proposed development. My wife, lori, and I were instrumental in removing three drug houses from our immediate neighborhood and we are concerned about drug dealing at the property in question, and the police don't seem to be able to do anything about it. Mainly, I am here to say the neighborhood is virtually unanimous in the opinion that these guys are going to continue to negatively impact safety and livability. The huge building block and the view of the bridge and forest park, the influx of renters will be adding to the, to the off and on problems of late night parties, drugs, fighting, and noise caused by the existing apartments that are right across edison street from this property. So, there goes livability. Besides the ongoing police issue, there's also going to be a parking issue. Right now there is adequate parking for the folks living near that corner. If they build row housing, it would max out the parking but it would probably still be barely

FEBRUARY 27, 2003

adequate. If the zone change goes through, we will really be looking at not being able to park in front of our house. That isn't the end of the world, I will grant you but it's clearly a negative impact on livability. Like if you are trying to juggle groceries and umbrella in your grandson's hand while you are walking a block from your house from where you had to park. But what really worries me about this is car theft. During the reagan depression of the 80's, which looks like it's coming back, we experienced epidemic of car theft in that neighborhood. If you can't park in front of your house, our neighborhood could become like a nice rich mine for car thieves. Your car is too much away to protect it. It's a serious impact on safety, livability. So, this zone change would be a violation of 615 just because the effect on parking is not good for safety or livability. As far as economic viability, if cars are parked on baltimore, which he was just saying, baltimore hill, both sides of the street, there will be less roadway than there is now and now it's really minimal. Considering the truck traffic that's going up and down. Bad impact on economic viability. Thanks for your attention.

Katz: Go ahead, sir.

Jim Barnas: My name is jim barnas, I live at 6810 north baltimore. I live on the hill in question, and I lived there for -- I bought my house 12 years ago and have been working on it ever since. In the past couple of weeks, I have had a chance to spend some days at home working on the house and it just brought back really clearly to me the impact that trucks have on that, on that hill. I don't know if my document has been distributed. I just put together a list of the companies that are down on the waterfront, and there's moonstruck chocolates, peninsula iron, independent marine, mar-com marine, a.m.j. specific, Steno benchmark, bushwhackers and phoenix gold. I don't want to go into a lot of detail, but it's a whole range of businesses down there, and the trucks that service those businesses range from, from u.p.s. to fed-ex which makes multiple deliveries a day to the regular freight haulers, roadway overnight, oak harbor, extra, c.r.t., green transfer, bullet, red away, jet delivery, schnitzer steel picks up scrap from the metal workers. Mar-com.it's liquid oxygen and liquid nitrogen tankers that come down the hill, as well as acetylene welding trucks, sandblasting material, and shipping containers all day long. I don't think you can consider this, this issue unless you consider the whole environment that's there. It's very heavy. The apartment across the street that was, that was mentioned has ten units currently. Currently, there's not enough parking on-site for the cars that are there. And they have just converted what garages there were to an office, a laundry, some kind of storage, and two additional three-bedroom apartments. So, there's a lot more cars right there. The other thing as far as on-site parking in the new development, the plans that we were shown showed that the only way they could get the minimum on-site parking underground was to use what they call tandem parking, which is putting in one space, one car behind the other, and, and that's not going to work.

Katz: Thank you.

Katz: How many more people are testifying on this matter for the appellant?

Moore: That's all who signed up.

Katz: Ok. Go ahead.

Rick Sandstrom, Chairman, Friends of Cathedral Park Neighborhood Association: Good afternoon. My name is rick sandstrom, I am the chairman of the friends of cathedral park neighborhood association. I have a letter from the association and the board stating that we initially oppose this project and we still do for a lot of the -- for most of the reasons or all of the reasons that we have heard today. But what I would like to say is that I can address the parking. I can address the police problem, but this area has a lot of offstreet parking that is required by the residents. I, myself, have no offstreet parking, and I don't even live anywhere near here. This whole neighborhood is right with it, so this is going going to be an indication of what you will be seeing in the future, is groups coming here. So --

FEBRUARY 27, 2003

Leonard: Did you mean onstreet parking?

Sandstrom: Probably. [laughter] I'm sorry. What I am here to, to say that we definitely are opposed to this project.

Katz: Thank you.

Mount Burns: I am mount burns, live at 8828 north willamette boulevard, just around the corner from the proposed development. I would like to speak to the question of the adequacy of police services. First, between my wife and myself, we have lived a variety of neighborhoods over the past 20 years in Portland, including Irvington, hollywood, sellwood, hawthorne and belmont, southwest, lake oswego, and beaverton. We now lived in st. Johns for nearly seven years and during that time we called police for emergency and nonemergency service more times than we ever did over the combined previous years we lived in other areas of the city. We have called for everything from public drunkenness to drug dealing to domestic disputes to a person threatening a child with a vehicle, and about four nights ago gunshots, which we called on before. While the statistics say it is one of the areas with the lowest crime rates in the city, our experience is we have made the most calls there than any other part of the city that we have lived in. We have concerns about adequacy of police services are these -- the police department report uses the number of 55 units suggested by transportation. There's no verification that this could be the maximum number of potential units. So, it's possible that the number could be higher. The report also says that r.h. Rather than the r.h. with an far. That is a higher density. Report states that r.h. Zoning would allow up to 55 dwelling units, using the assumption of two persons per household, this would allow an increase of up to 110 residents. If the number of units is 55, it's truly the maximum number of units that could fit into this potential development. The assumption of two persons per household is incorrect. The 2002 census gives figures of 2.23 persons per household in the cathedral park neighborhood. Which brings the total number of residents to a possible 122.65 or more. Therefore, the numbers used by the police bureau in their estimates are erroneous. The number of 55 units has never been verified, either. At a recent friends of cathedral park neighborhood association meeting, a representative from the north Portland precinct notified members that they are reducing services due to the failure of measure 28 saying that they are cutting back on answering calls for no overtime for special sting projects. I am also concerned about the callup of the reserve troops. There are 58 Portland police officers who are also in the military reserves. 11 have already been called up. While none have been called from the north precinct, two officers from north precinct have recently been reassigned to other precincts. There are currently several developments underway in cathedral park neighborhood.

Katz: Why don't you finish your thought.

Burns: Thanks. One on north edison, which will house close to 100 new homes, a another plan next to cathedral park which proposes 300 row homes. With the exception of more homeland security alerts, reduction in the number of officers and services due to reserve callup of measure 28 adequacy and police services in our neighborhood concerns me greatly.

Katz: Thank you. I am going to need to -- can I correct information here on the legal parameters? Measure 28 didn't directly impact the police services. I think what they, they are referencing is the impact on the county, so just wanted to clarify that. Ok. We will have impact on how we do our business, all right. Go ahead.

Katz: You have three minutes.

Veronica Bernier: I have less than three minutes. Good afternoon, everyone. I will just sit here. Hi. Hi, everybody. This proposal has come up before in another shape. There was another bid for just about the same amount of land. One was affordable housing, it supports housing, and when you have housing, you increase police services. What we need really out there is another subprecinct. Like we had in the northwest, and I vote for about 36 in a subprecinct with one first

FEBRUARY 27, 2003

aid station there, and that's my suggestion immediately. You need to increase policing and case in point in the southeast, similar area, just about as far out. We had a fantastically big wreck that was undersupported by police service. Dispatched one fire. It was mark's fire truck. He came up and made a total snafu of the whole wreck, delayed treatment and did everything incorrectly. That's a classic example of what happens when you have mismatch e.m.s. services to the amount of population in the area. That is a classic case in point in another area. Translate that over to the northeast, and you find the same thing happening under policing, ballistic events, and not a strategic eye to see that happening. When you have ballistic events, you need to match it man on man so we need more police out there. Thank you.

Katz: All right. Applicant. You will have 15 minutes.

Terry Carney: Hi, I am terry carney. I am the landowner and developer. I'd like to start with saying that the transportation and police bureau have now made excellent findings. To really summarize chief kroeker's letter, he says that for every one person that moves into the neighborhood, it's an additional one call throughout the year. So depending on the number of units, of course, and the number of people in that building, the calls will actually be less than what most likely less than what chief kroeker has allowed for. Where he said that that's a minimal impact. They currently have, the man staff to handle. Cherrie eudaly's letter, to summarize that, she's saying right now aerial photos show two to three cars per block face in that neighborhood. These streets are greatly underutilized. This area is near great public transportation and within walking distance to shopping and buses. I'd like to go over a little bit of a, an analysis on the baltimore street we are required to do a half street improvement to the frontage of our property. This half street improvement will add 10 feet of pavement to the right side of the road as you are driving down the hill or adjacent to our property. It will also add curb, planter, and 6 feet of city sidewalk. This half street improvement will greatly improve the visibility of the traffic going down the hill, the parking situation, you actually, even if we end up putting the driveway in front of that, or accessing baltimore, you would lose with the driveway 29 feet of frontage, but you would be gaining 71 feet of new parking spaces. From the testimony I have heard here, it sounds like the neighborhood really isn't interested in any new cars being parked on the street. Fully improved streets are meant to be parked on both sides. There was a question as to the number of units that would be built where the maximum would be 55. The plan that I had put forth, and I realize what this, this approval would actually allow for the, for the full r.h buildout to an unknown number of units that the plan that we had put forth had 29 units in it. I would like to actually suggest that we limit the number of units to 35. This will give us plenty of wiggle room with our rough drafts of 29 units. I think it will appease the neighborhood somewhat. I'd also like to -- actually, I am going to end with this. Remind the council that, that the neighborhood association actually did take a vote on whether to appeal this or not last summer. They voted against appealing it. That's why you have a single individual in the neighborhood appealing it now. Thank you.

Katz: Anybody else for the applicant.

*******:** I'd just like to --

Katz: Identify yourself for the record.

Rowen Rystadt: Yes. This is rowen rystadt, I am an associate of mr. Carney in this project. I'd just like to say as far as livability goes, I think we are going to improve the livability of the area. Currently there's only one path down to the boat ramp, and that's on the opposite side of baltimore. Our proposed project, our project will provide the sidewalk for people to be able to walk down to the park on both sides of the street, so I think that we are, we are actually improving the livability of the area and needing more than meeting the parking requirements. There's been talk about 55 units, you know, that's not possible on a 100-by-100 lot. We are confined to, actually, the most, you know, I think the most you could get would be 35, absolute most, and we would agree to, to limit it

FEBRUARY 27, 2003

to 35 to help appease the neighborhood because I realize a lot of people think that we are going to be putting in a 55-unit complex, and that's just not the case. We are not doing that. It is a beautiful neighborhood, and we are going to be adding, you know, 29 views of the river and the bridge, and that's, that's going to improve the neighborhood, and as far as the police adequacy, it's based on 55, you know, we would agree to 35, which, which should more than exceed what the police have said that they could handle. And that's all I would like to say.

Katz: Thank you. Anybody else? Let's have five minutes of rebuttal.

Erik Palmer: Ok. I just would like to address a couple things that mr. Carney and mr. Rystadt said real quickly. There's the discussion about the aerial photos that you showed two or three cars per block face, and he stated that, that represents the circumstance of the neighborhood right now, which is incorrect. The most recent aerial photo submitted into the record to my knowledge was 2000, so that's more than two years old. Additionally, submitted today was substantial documentary charts, numbers, graphs, a lot of data that shows the actual mix in quantity of onstreet parking that's happening today. There's also the question about aerial photos taken during the day when most people are at work. The measurements that we have cover a large, you know, over a period of time over a period of different times in the day, including those times when you would expect the highest concentration of parked cars in the neighborhood. Mr. Carney also talked about the question of, of the half street improvement that he's required to do. I think that the half street improvement, there is reasonable chance it will improve the livability but doesn't address the criteria. The criteria states and the expectation put forward by Luba is that there's going to be a commitment that the livability, safety, and, and vitality of the neighborhood is going to be preserved in the area of onstreet parking, and we do not yet see any substantial evidence that supports that or that outweighs the substantial evidence that the neighborhood has entered to the contrary. On the same point, he mentioned the idea that, the question that there be 29 feet of frontage consumed by the driveway access. Possibly 71 feet of new parking spaces, you know, in the in the absence of an actual plan, we can't really deal with those numbers, especially since there's the likelihood that if the, if the parking entrance is put on the Baltimore side, that it's positioning might consume additional space that's not available for onstreet parking based on how close it is to other residential, residentially zoned property and also how close it is to, to the, the stop sign at the corner. We have the question of the number of units mr. Rystadt alluded to the fact that he thinks that -- he says it's not possible to have more than, than 35 or so units, and I guess I respectfully disagree. I think it's very possible to put more units than that in this particular site, and I think that there is substantial evidence in the record that would support that. The last thing he does -- oh, we talk about 29 views of the river and, and of the bridge. I find that hard to believe that, that the front units, the ones that face away from the river will have those views. Not that any of that is relevant to the approval criteria. Before us -- finally mr. Carney talked a little about the vote held on the appeal and about the fact that an individual had, had put forward this appeal and that it didn't represent the, the neighborhood associations, the neighborhood association's intent to have this appeal pursued. Again, I disagree that a, the chair of the neighborhood was here earlier testifying about how, how the, about what the neighborhood's concern should be. The Luba remands -- touches specifically on the issues the neighborhood raised about the project since the very beginning. When mr. Carney originally visited the neighborhood association I believe in September of 2001, the record shows that there were -- the minutes show that the questions were raised about, about how parking and how police adequacy would be managed. Those concerns have stayed consistent throughout the entire process of hearings and appeals that we have pursued on this. I believe that, that the neighborhood -- I believe that mr. Carney misunderstands that the vote that was, at one point taken by the neighborhood association didn't represent an approval for him. It represented a mixture of opinions about how the neighborhood should properly deal with, with this development, and I think that, -- but I think that

FEBRUARY 27, 2003

the opinion of the neighborhood is very consistent, that we don't think that this project is the right thing for the neighborhood, and we're concerned, once again, to bring it right back to the approval criteria, we are particularly and have always been particularly concerned with the issues of the livability, vitality, and safety of parking, transportation, and police coverage. Thank you.

Katz: Thanks.

Palmer: Did I identify yourself? I am erik palmer.

Katz: Ok. Thank you.

Palmer: Thank you.

Katz: Transportation and then commissioner -- did you want to --

Sten: Transportation.

Katz: Transportation. Come on up and identify yourself. Commissioner Sten has some questions.

Elizabeth Papadopoulos, Office of Transportation: Elizabeth, office of transportation and cherrie eudaly also with the office of transportation.

Katz: All right.

Sten: Could you elaborate a bit more for me how we make the criteria, to make the finding that there's enough onstreet parking for, for the overflow?

Papadopoulos: Yeah, if you wouldn't mind i'd like to step back and read a little bit of the criteria and describe a little bit of what we are dealing with when we respond to this. Policy 6.15 is part of the transportation element, and it was written first and foremost for transportation to use to manage what they do as an organization, and then to guide them in their various efforts. It also, as a secondary piece, applies to certain types of land uses, zone changes, in this case, the relevant ones. I am going to read some of the language because I think that when you listen to it, you will see that some of it is very broad, and again, that's because we are trying to do these, these -- how we work for the city, how we work within the city. It's not really written as typical land use criteria. They get to be very specific. So the first sentence says "manage the supply, expirations, and demand for parking and loading in the public right-of-way to encourage economic vitality, traffic safety, and livability of residential neighborhoods." now, you can take that in many ways. You could take that as we need to look at what people are doing there today. We can also take it and look at it as what does the city want to see in the area in the future. How do we put those two pieces together. It doesn't say clearly you should preserve a certain amount of parking one way or the other. It's very open. It does say that, that if we have got operations issues, we should be paying attention to what we are doing with the parking, and in fact, on a daily basis, we, we have an operations section to deal with parking issues if we have a safety problem at an intersection. The next part talks about -- says, it says parking in the right-of-way in general should serve land uses in the immediate area. Now, that includes the people who are there today, but it also includes the lands that are redeveloping. So, when a project comes in under the zoning code, we need to look at what is the current demand, but what's coming under the zoning code and what is the proposed zoning? Does it fit the comp plan and can they be accommodated within the onstreet parking. It also talks about maintaining onstreet parking in older neighborhoods where offstreet parking isn't adequate. Now, when -- we have heard some reference to say aerial photos. When we are looking at sites, part of what we are looking at is what's the ongoing demand in an area? Is it heavily parked like northwest Portland where really it's hard to imagine you could squeeze in another car or does there appear to be much of the time a fair amount of unused parking on the street? And that's what we are seeing in this area. We are seeing a fair amount of unused parking in the area

Leonard: Can I ask you a question on that?

Papadopoulos: Sure.

FEBRUARY 27, 2003

Leonard: The point was made earlier that the observations of the amount of parking in the area were done in daylight hours. Has -- is that a point well taken?

Papadopoulos: The aerials would have been during the daylight hours, that's true

Leonard: Is that reflective of the impact on the neighborhoods if you, if you pick it on -- if you take the photo on a wednesday at, at 1:00 p.m. Versus say sunday at 1:00 p.m.?

Papadopoulos: Some of the aerials, I think one of the aerials was on a weekend.

Leonard: You think or you know?

Papadopoulos: I looked at a previous case, not this particular case but I was asked the same question and when I went through I found that one was taken on a weekend. I could be wrong for this one but generally what we see is streets are highly underparked during the daytime, although there's likely to be more parking in the evening, it's unlikely to take up the full amount of parking on the street. You know, we, we -- it is based to some extent on our experience. We haven't been out on the site at night but generally, that's, that's the, that's the relationship that we see

Leonard: Where did the aerial photo come from? Who took that?

Papadopoulos: Those are provided to the city. There's a mapping firm that flies those.

Leonard: Is it important to know the date and the time that those are taken?

Papadopoulos: If you would like us to get that, we can.

*******:** I am going to add that I did --

Katz: Identify yourself for the record.

Cherrie Eudaly, Office of Transportation: Cherrie Eudaly, transportation. I made a site visit on a sunday. I spent a sunday afternoon driving all the streets making all the turning motion to check for the visibility, and that was my main concern, but there wasn't a tremendous traffic impact on a sunday afternoon. From a personal perspective

Leonard: But, but, ok. Thanks.

Papadopoulos: So sort of -- I am being long winded here, and I am sorry, but it's not a case of counting cars specifically. What we have to look at given what we have as a very general policy is, is there some onstreet parking out there and can we maintain onstreet parking. If what we were seeing in the area was that it was highly parked or if we were seeing there really wasn't onstreet parking, and therefore, we are concerned that some amount of spillover could not be accommodated, then we would have to come back and make a finding not in support of this criterion, but given that we are finding space and given -- and there actually is onstreet parking available, we found that the supply was adequate.

Katz: Do you want to add anything? Further questions? All right. Did I hear -- let me see if I understood that the applicant is willing to limit the, the number of units to 35?

Carney: That's correct.

Katz: Ok. All right.

Sten: Can you, at this point, make any commitments on how many parking spaces you will have?

Katz: Come on up. Thanks, ladies.

Sten: Yeah, thank you.

Carney: Terry Carney. At this point I would like to commit to on-site parking to be what is required by the code. And that is directly related to the number of units. I believe it is one parking space on-site per two units.

Sten: You have to commit to that.

Carney: I guess I do. [laughter]

Sten: That's the code. I guess the question was, can you commit to any more than that. I will rephrase it.

Leonard: Mayor Katz?

Katz: Just a minute. That was a question --

FEBRUARY 27, 2003

Carney: At this point, I cannot commit to any more than that. Our initial plan, though, however with the 29 units did include more parking spaces than required by code. Jim mentioned the, fact that some of them were tandem spaces. A tandem space only counts as one per code.

Katz: Go ahead.

Leonard: Where are we at procedurally?

Katz: Questions, if you have any questions. Ok. Council, just -- thank you. There's three of us. We have gone through this. We are going to have to have a unanimous vote on this, otherwise we will have to continue until we get the rest of the council here. I will take a motion and we will see where we are.

Leonard: I'm, i'm --

Katz: Excuse me, you are --

Fay: Can I answer the question?

Katz: We usually don't take a question but we will take one. What is it.

Fay: Have you reviewed the material submitted --

Katz: Yes, yes. Thank you.

Leonard: Mayor Katz, I move to overturn the hearing's officer decision and uphold the appeal.

Katz: All right. Discussion?

Leonard: I am unpersuaded that the impacts that have been described on traffic in the area and the impacts on police services in the area have been adequately addressed.

Katz: Further discussion? All right. Let's do roll call.

Sten: Did we get a second?

Katz: A second? Sorry, there is no second?

Katz: Ok.

Moore: Did we get a second?

Katz: No, we don't have a second. Ready for another motion?

Sten: Can we have some council discussion?

Katz: Sure.

Sten: To think out loud for a minute, I -- I voted -- I mean, I think the neighborhood has made a strong case that this is an out of scale to the neighborhood, and they said that before. And I am concerned about the comp plan zoning. By my read, which I voted last summer, I felt that, that the criteria to approve a comp plan is essentially that the services are in place to put it in there. That's a quick version, and I was convinced that the services are there. I'm still there -- i'm absolutely convinced that the police services are there. I don't believe that having -- even a 55 new units will make the police unable to serve this. I have been honing in on the parking because I think that that's where the strongest case is, you know, and on reflection, I continue to see a case there, but i'm not -- i'm close on this, and not quite ready to say that the services aren't there, which is why I was asking the applicant, is there any way that we can talk about getting some more of that parking off the street or making some more compromises that would allow me to feel absolutely comfortable we are the best that we could. I think the applicant -- I did vote last summer that, that to say the services are there, I am not comfortable saying that that's completely wrong, but given that this measure -- given where you are, this measure is going to fail.

Leonard: I would just say in response to that, that I respect that that was the council's decision last summer, but in reviewing the record, luba didn't agree, and I think that we are put in a position of having to -- without getting into the merits, of any of that respond to their decision, and I mean, it's easy for me to say I am coming at this freshly, but I am viewing it in the context of their decision and their decision clearly was that they didn't feel that those two issues, police services and parking had been adequately addressed. So that was the purpose and the justification for my motion and decision.

FEBRUARY 27, 2003

Sten: And I guess what I am -- I am thinking out loud, which is dangerous

Leonard: I am trying to do less of that, myself. [laughter]

Sten: Ok. No more. Ok. [laughter]

Leonard: It is dangerous.

Sten: The situation as I view it right now is you have come to the conclusion the services are inadequate

Leonard: With respect to how it was framed by luba.

Sten: Which now means that at today's date, we're not going to, to have three votes to, to --

Leonard: That would be my comment, as well.

Sten: I was trying to kind of get at looking at the applicant, whether or not there's, there's any other ways to look at this or do we have to have another hearing --

Leonard: I didn't have an amendment on my motion.

Katz: I know that you didn't include that in your motion, and what commissioner Sten, what you are asking for, he did lower the number of units, you are asking for some kind of a commitment on the number of off-site parking places?

Sten: Well, it seems to me that that's the most -- for me, at least, the most gray area on. I don't think that there is -- I don't have any doubt about -- I mean, the criteria, I want to say this out loud to the neighborhood because I am very sympathetic to the neighborhood's sense of this isn't a fit, and I am also trying to be careful to work within what I think are the legal requirements on the issues. The legal requirement, you know, if you buy a piece of property and it has a comp plan designation, you have the right to appeal -- or to request that it goes to that comp plan, and generally it should be approved if the services are there. I think that the services -- the only ones I find questionable are the parking with the transportation. I tend to error on the side of transportation saying that, that they are going to be met. I found their argument decent, but that's -- so that's what I am focusing in on, if there is a way to get the parking spaces onto the site, therefore at least dramatically lessening the impact to those of you who are going to be fighting for parking spots, that would, but that might not get commissioner Leonard there --

Katz: And I think what we are going to have to do is we are going to have to delay this and come back when everybody is here.

Leonard: Let me ask the question about that procedurally. It would seem that we have a date and a time for a hearing. We had a vote. I don't quite understand waiting until the composition changes.

Katz: Because there's not three votes, and we have to have at least three votes in one direction, one way or the other.

Leonard: You have -- it would it seems to me if you didn't have the votes, and I am just asking procedurally here to overrule the hearing's officer's decision, that this effort fails. I mean, that's the way it works in the Oregon legislator. If you don't have another, if you don't have 31 votes in the house, you can't say well, I will wait until next week until so and so gets back and then I will have 31 votes.

Hudson: Frank Hudson, city attorney. The way the city code is written is that for council, for council to either approve or deny the land use matter, there has to be either three votes up or three votes down.

Leonard: Are we actually denying or are we just --

Hudson: We are doing nothing. We have to keep carrying it over until we either get three votes up or down.

Leonard: I see.

Katz: Ok. So having said that, let's make sure that we bring this back. We need to set the date and the time, and Karla, make sure that we have everybody here.

FEBRUARY 27, 2003

Moore: Mark, do you want to set another date? Next thursday, commissioner Francesconi is out, but next wednesday I have everybody in, unless you want to go further out.

Walhood: I have another matter on thursday. The --

Leonard: Can I say one thing more? I would encourage something unique that doesn't happen very often that the parties get together and see if they can find an agreement.

Katz: I was going to get there in a minute. Go ahead, karla, let's set a date.

Moore: Thursday the 13th would be two weeks. I show everybody in right now. There is a, there is a 2:00 schedule for 30 minutes.

Katz: Ok. Thursday on the --

Moore: March 13.

Katz: Thursday, march 13 at 2:00 p.m. All right. And you will all be ready. May I suggest that staff please, or the city attorney's office remind commissioner Saltzman and commissioner Francesconi, especially commissioner Francesconi to review the, the testimony and commissioner leonard made a good suggestion that, that this is probably a little easier to resolve than some of the, some of the more contentious land use issues, and I think really commissioner Sten is right. It is on the parking, so if the groups can sit down and work something out and if, if the developers can think of a way that they can maybe cut down some of the onstreet parking, we may have a, a proposal that would fly. You don't need to do that, but it might be useful for you to consider that. All right. Ok, everybody? Yes.

Carney: So at that time, we will have another -- another full hearing?

Katz: I guess I will need to talk to our city attorney. You need to be here, whether we will go through this all over again -- I think we probably will need to do that just so that the, the other two commissioners -- you are going to have to replay this over and over again so that the other two commissioners hear the same testimony. Ok. Thank you, everybody.

Palmer: Is the record open between now and then or is it closed?

Hudson: That depends. I think it might be necessary to take some additional evidence on the parking, alone, and so it's up to the council.

Katz: We will keep the record open. Ok. Fine, we stand adjourned.

At 3:27 p.m., Council adjourned.