



CITY OF

PORTLAND, OREGON

OFFICIAL
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 6TH DAY OF MARCH, 1991 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Clark, Presiding; Commissioners Blumenauer, Bogle, Kafoury and Lindberg, 5.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Harry Auerbach, Senior Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

The Mayor proclaimed March 10-16 as Girl Scout Week.

Agenda Nos. 329, 339 and 346 were pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 330** Accept bid of Goodyear Tire for high speed pursuit tires for \$62,010 (Purchasing Report - Bid 94-A)

Disposition: Adopted; prepare contract.

- 331** Accept bid of Woody From Tire Co. for truck, tractor and implement tires for \$104,317 (Purchasing Report - Bid 96-A)

Disposition: Adopted; prepare contract.

- 332** Accept bid of Northside Ford for two cab and chassis w/utility service body and canopy for \$50,000 (Purchasing Report - Bid 98)

Disposition: Adopted; prepare contract.

- 333** Accept bid of Wentworth Chevrolet for thirteen pickup trucks for \$145,405 (Purchasing Report - Bid 99)

Disposition: Adopted; prepare contract.

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- 334** Vacate a certain portion of N. Beech Street, N. Kaiser Center Drive, N. Montana Avenue and two alleys, under certain conditions (Ordinance by Order of Council; C-9748)

Disposition: Passed to Second Reading.

Mayor J. E. Bud Clark

- 335** Accept construction work at the Portland Building as complete and pay Russell Construction, Inc. (Report; Contract No. 26477)

Disposition: Adopted.

- 336** Confirm appointment of Gwendolyn J. Harrison to the Portland/Multnomah Commission on Aging for a term to expire July 1, 1993 (Report)

Disposition: Adopted.

- 337** Confirm appointments of William Failing, Bill Naito, Bill Scott, Susan Seyl and Larry Troyer to the Board of Vintage Trolley, Inc. (Report)

Disposition: Adopted.

- 338** Confirm appointments of Dennis Batke, Richard Caplan, George Eighmey, Gary Gerard, Karen Krone, Richard Levy and Rebecca Mowe to the Adjustment Committee (Report)

Disposition: Adopted.

- *340** Pay claim of Marvin Wright (Ordinance)

Disposition: Ordinance No. 163921. (Y-5)

- *341** Contract with Jon Pace & Associates, Inc., for programming services for Office of Finance & Administration (Ordinance)

Disposition: Ordinance No. 163922. (Y-5)

- *342** Contract with Mark Magnusson & Associates, Inc., for programming services for Office of Finance & Administration (Ordinance)

Disposition: Ordinance No. 163923. (Y-5)

- *343** Amend Contract No. 25766 with Linn A. Kuczek for Urban Services Canvasser services (Ordinance)

Disposition: Ordinance No. 163924. (Y-5)

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- *344** Amend Contract No. 25800 with Richard E. Spohn for Urban Services Canvasser services (Ordinance)

Disposition: Ordinance No. 163925. (Y-5)

- *345** Amend Contract No. 25931 with Megann Ratzow for Urban Services Canvasser services (Ordinance)

Disposition: Ordinance No. 163926. (Y-5)

Commissioner Earl Blumenauer

- 347** Approve Change Order No.s 1, 2, and 3, accept completion of SE 102nd Avenue south of SE Lincoln Street sanitary sewer system, and make final payment (Report; Contract No. 26295)

Disposition: Adopted.

- 348** Accept completion of the SW Terwilliger Blvd. storm sewer, Phases IV and V, and make final payment (Report; Contract No. 26327)

Disposition: Adopted.

- *349** Authorize the Commissioner of Public Works and the Auditor to amend Ordinance No. 162932, passed April 18, 1990; an intergovernmental agreement with the State of Oregon, Department of Corrections (Ordinance)

Disposition: Ordinance No. 163927. (Y-5)

- *350** Call for bids to purchase one pavement cold milling machine with a five-year maintenance contract, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 163928. (Y-5)

- *351** Revocable permit to Kells Restaurant and the PLAN Adoption Agency to close SW 2nd Avenue between SW Ash and Pine Streets on March 17, 1991 (Ordinance; waive Code Chapter 14.24.030)

Disposition: Ordinance No. 163929. (Y-5)

- *352** Revocable permit to Jakes Restaurant and the Oregon Special Olympics to close SW Stark Street between SW 12th and 13th Avenues on March 16th through March 18, 1991 (Ordinance)

Disposition: Ordinance No. 163930. (Y-5)

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- *353** Revocable permit to Kaiser Foundation Hospitals for a building foundation in the right-of-way of an alley behind +/- 3800 N. Interstate Avenue (Ordinance)

Disposition: Ordinance No. 163931. (Y-5)

- *354** Authorize the Commissioner of Public Works and Auditor to execute an Assignment of Easement to accept the NE Marine Drive from NE 47th Avenue to NE 82nd Avenue bicycle path (Ordinance)

Disposition: Ordinance No. 163932. (Y-5)

- *355** Authorize the Commissioner of Public Works and Auditor to execute and deliver to Hayden Corporation a bargain and sale deed, and accept a bargain and sale deed from Hayden Corporation, for the Hayden Island Wastewater Treatment Plant land exchange (Ordinance)

Disposition: Ordinance No. 163933. (Y-5)

Commissioner Gretchen Kafoury

- *356** Authorize application to the US Department of Housing and Urban Development for an Emergency Shelter Grant under Title IV of the Stewart B. McKinney Homeless Assistance Act of 1987 in the amount of \$174,000 (Ordinance)

Disposition: Ordinance No. 163934. (Y-5)

Commissioner Mike Lindberg

- *357** Amend construction contract for Oaks Bottom water level control structure (Ordinance)

Disposition: Ordinance No. 163935. (Y-5)

- *358** Grant a revocable permit with conditions to Linnton School Place for the installation and maintenance of a drainage outlet in Forest Park (Ordinance)

Disposition: Ordinance No. 163936. (Y-5)

REGULAR AGENDA

- 329** Accept bid of Environmental Pollution Control, Inc., for four high dump municipal street sweepers for \$432,000 (Purchasing Report - Bid 27)

Discussion: Don Wheeler, 3645 SE 32nd, said a City employee told him that improprieties may have occurred in connection with the awarding of this and the following purchase. Mr. Wheeler, a union representative for City mechanics, said he has no concrete proof at this point but asked that action on these items be delayed until a full investigation can be made to ensure that no one company has an advantage because of the way the specifications are written.

Lou Bruneau, Operations Manager, Maintenance Bureau, said the Fleet Improvement Plan specifically spoke to the vending out of unusual and difficult-to-maintain equipment for maintenance. He said Environmental Pollution Control is the logical company to do this maintenance because no one else manufactures street sweeping equipment of this type. However, he added, the specifications were not written to exclude anyone else.

Mayor Clark said he would like to discuss these allegations with Mr. Wheeler and will keep Council informed if he receives additional information.

Disposition: Adopted; prepare contract.

- *346** Amend master lease Purchase Agreement to allow purchase of four street sweepers (Ordinance)

Disposition: Ordinance No. 163937. (Y-5)

- *339** Agreement with the Portland Trail Blazers for enhanced police services for the Trailblazer games (Ordinance)

Discussion: Cay Kershner, Clerk of the Council, said there had been a request to continue this one week.

Mayor Clark said this was to straighten out some of the legal and liability questions.

Disposition: Continued to March 13, 1991 at 9:30 a.m.

Mayor J.E. Bud Clark

- 361** Support effort of the Help End Willamette Meteorite's Absence Committee to return the Willamette meteorite to Oregon (Resolution)

Discussion: Annie Campbell and Stephanie Corey, students at Lake Oswego Middle School, described their efforts to have the meteorite returned from New York to Oregon.

Disposition: Resolution No. 34820. (Y-5)

328 TIME CERTAIN: 9:30 AM - Adopt Scenic Resources Inventory, ESEE Analysis, Scenic Resources Protection Plan; amend Comprehensive Plan and Title 33 of the City Code by adding a Scenic Resource zone, Rocky Butte plan district and Central City plan district height limits; and amend Official Zoning Maps of the City of Portland (Ordinance introduced by Commissioner Kafoury)

Discussion: Jeanne Harrison, Planning Bureau, reviewed the issues left outstanding at the October, 1990 hearing. These were: 1) revision of the scenic resource zone and Rocky Butte Plan District to insure adequate protection of trees within scenic corridors and on Rocky Butte; 2) addition of the Bellrose Line and three Willamette River views of Mt. Hood; 3) alternate view corridors for SW Market Drive; 4) the BOMA (Portland Metropolitan Association of Owners and Managers) request for modification of building heights in the Central City Plan District; and 5) the deletion of shore pine from the tree list and transfer of vine maple to another category.

Ms. Harrison said the first revision clarifies the review process for tree cutting and deletes the exemption for red alder and big leaf maple that would have allowed them to be cut at a larger size than other trees. She said the Planning Bureau proposes deferring consideration of the Bellrose Line and Mt. Hood views to the next fiscal year. Regarding the SW Market Drive view, Ms. Harrison said staff was unable to reach a resolution with either the neighbors or property owners and recommend that the view corridor adopted by the Planning Commission stand, even though it is not perfect. The Planning Bureau recommends that the BOMA request be deferred to the Zoning Code Monitoring Task Force for a study of its total effect on downtown.

Ms. Harrison said the Bureau was recently approached by representatives of Union Pacific requesting that the view corridor at Overlook House be moved to allow construction of two towers approximately 180 feet tall that could intrude into the present corridor. She said the view originally proposed has been widened through Parks Bureau pruning and that it would be possible to rotate the viewpoint south approximately 22 degrees to accommodate this proposal.

Ms. Harrison asked Council to adopt the ordinance, putting the scenic resource inventory, the ESEE analysis and the scenic resource protection plan into effect. She said there is a lot of public support for the plan, which is required by the State and must be complete by June 30, 1991.

Barry Gross, Attorney representing Union Pacific, said his company has been negotiating for two years with another company to build a \$5,000,000 facility requiring both rail and barge service and employing 20-25 persons.

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He said the company has indicated they will not proceed if a height restriction is in place and asked that the corridor be rotated to the south to allow the project to proceed.

Jim Ferriday, Bunge Corp., said the proposed view point from Lillis Albina Park and the 50 foot height restriction would halt any of their expansion plans for a new grain elevator.

Ms. Harrison said there is an adjustment process which allows the Bureau to review proposed changes on a case by case basis in order to mitigate any negative elements. She said it is clearly stated that such items as grain elevators are a part of urban views.

Commissioner Blumenauer said the record should reflect Council's intent to permit activities which have a historic and legitimate relationship to the river so as not to put people through unnecessary hoops.

Mr. Ferriday said he would prefer not to have to go through a variance process.

Richard Allen, Attorney representing Forest Height Estates, said they were disappointed to see the proposed changes regarding tree preservation which decrease flexibility and are troublesome for residential development. He also objected to added language in the Plan which states that every effort should be made to preserve the maximum number of trees, declaring that it was unclear if this was an enforceable standard or merely meant to be guidance. He said, if it was meant to be enforced, it could be costly and also could preserve trees at the expense of scenic views.

Mr. Allen, who also represents W. B. Hoffman, developers of the SW Market property where a view corridor has been proposed, said they do not own all the property along the corridor and thus are unable to arrange a trade. He said this is a view he did not think was worth protecting but could be protected by denying a street vacation if his client were ever to seek one.

Individuals urging adoption of the Plan included:

Ken Benshoff, 2902 NE Rocky Butte Road
Mavis Holt, 1235 SE 115th
Nancy Rosenlund, 5830 NW Cornell Road
Ben Altman, 700 SW Taylor, #305, Columbia Corridor Association
Molly O'Reilly, 1414 NW 53rd

Supporters cited the need to protect scenic views and preserve trees in urban areas. They also complimented Ms. Harrison for her work in an area where there are no models to follow.

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Logan Ramsey, 3026 NW Skyline Boulevard, objected to the tree cutting restrictions.

Ms. Harrison responded to the issues raised. She said the tree cutting regulations were changed to address concerns about the value of maples and alders and to make the removal review consistent with the new Code. She said the new sentence Mr. Allen objected to regarding tree preservation is meant to provide guidance but is not mandatory. She said a tree removal review process is necessary for exceptions. She said they have tried to give property owners flexibility without having to go through a public review and allow them to replace trees they find unattractive. She said the Bureau does not believe the tree regulations are burdensome as they only affect the first 20 feet back from a right-of-way or designated corridor.

Commissioner Kafoury asked if people would be prevented from creating a view from their home.

Ms. Harrison said there is no limit on pruning, and property owners may remove trees from driveways and easements without restriction. She said the regulations could affect front-door views but property owners are allowed to remove trees without replacement from driveways and easements, as well as dead or dying trees. In response to the request to increase tree diameters, she said experts in the field recommend using six inches as the standard and noted that the City has long used six inches as the starting point for tree counts.

Commissioner Blumenauer moved to amend the plan to: 1) clearly identify that the new sentence referenced in subparagraph (g) regarding maximum preservation of trees is for guidance purposes; 2) rotate the view from Overlook House by 22 degrees; and 3) develop language to clarify the intent to preserve the historic nature of grain elevators.

Commissioner Lindberg seconded the motion.

Ms. Harrison noted the recommendation from the Bureau of Planning to delete shore pine from the approved tree list and move vine maple to a different category. Commissioner Blumenauer moved to add that language to his amendment. The amendments carried. (Y-5)

Commissioner Blumenauer said this allows Council to close public testimony and hold the final vote next week. He congratulated Ms. Harrison and all those involved in this project, calling it a proud addition to the City Code.

Disposition: Passed to Second Reading as Amended

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- 359 Accept bid of Special Asphalt Products, Inc., for crack sealing material for \$55,590 (Purchasing Report - Bid 84-A)

Disposition: Adopted; prepare contract.

- 360 Reject all bids for furnishing curbside recycling containers (Purchasing Report - Bid 85)

Discussion: Commissioner Blumenauer said they would try again.

Disposition: Adopted.

Commissioner Earl Blumenauer

- 362 Consider vacating a certain portion of NW 27 1/2 Street south of NW Nicolai Street at the request of H. Naito Properties (Hearing; C-9586)

Discussion: The Mayor asked if anyone wished to be heard. No one responded.

Disposition: Adopted. City Engineer Prepare Ordinance

- 363 Set hearing date, 9:30 am, Wednesday, April 10, 1991, to initiate the vacation of SE Sherrett Street between SE 67th and 70th Avenues to consolidate undeveloped Harvey Park property (Resolution)

Disposition: Resolution No. 34821. (Y-5)

- *364 Continue negotiations to purchase one permanent sewer easement and three temporary construction easements for construction of the Linn Park (#39) sanitary sewer system project, begin condemnation proceedings, if necessary, and obtain early possession (Ordinance)

Disposition: Ordinance No. 163938. (Y-5)

Commissioner Gretchen Kafoury

- *365 Allocate \$19,150 in HCD funds for the Derelict Buildings program (Ordinance)

Disposition: Ordinance No. 163939. (Y-5)

At 10:55 a.m., Council recessed.

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 6TH DAY OF MARCH, 1991 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Clark, Presiding; Commissioners Blumenauer, Bogle, Kafoury and Lindberg, 5.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Kathryn Imperati, Senior Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

- 368** Tentatively deny appeal of Barry A. Edwards against decision of the Planning Commission to uphold the Planning Director's interpretation of the zoning code on height, setbacks and stories on a single family dwelling at 264 NW Macleay Blvd. (Findings; Previous Agenda 255)

Disposition: Findings Adopted. (Y-4; Lindberg absent)

- 366** **TIME CERTAIN: 2:00 PM** - Appeal of Corbett/Terwilliger/Lair Hill Neighborhood Association against decision to approve application of GAPO, Inc., for a PUD and Subdivision located at SW Viewpoint Terrace, north of SW Iowa (Hearing; CU 82-90/S 42-90)

Discussion: Cathey Briggs, Planning Bureau, said this is a conditional use for a PUD and major subdivision in the R5 zone. She said the proposal is to develop this five acre, uphill site with 43 dwelling units and 19 townhouse structures. A two-acre common open space area is proposed: portions of SW Pendleton and SW Viewpoint Terrace would be improved and a portion of SW Pendleton would be vacated. Ms. Briggs showed slides of the site and surrounding neighborhood. The Hearings Officer approved the application with 23 conditions. Those relevant to today's appeal include: A) requirement of a final geotechnical report addressing all feasibility and design issues prior to final approval; E) a tree inventory and preservation plan; G) provision of public storm sewer facilities as required; R) a landscape plan for the buffer area between the multi-unit structures and existing residences on SW Corbett. The Hearings Officer approved the requested height variances with three conditions and found that it was feasible to minimize the geotechnical risks associated with slope instability with appropriate conditions. He also found that compatibility with surrounding properties was the most important single consideration in this case and that stair-stepping the downhill units as required by the height variance would make the development more compatible with neighboring properties.

Ms. Briggs said appellants' issues include drainage problems, soil instability, intensified noise and air pollution. They also contend that a large-scale row house development is harmful to residential character of the neighborhood.

Ed Sullivan, Attorney representing Corbett/Terwilliger/Lair Hill Neighborhood Association and individual appellants, summarized the appeal issues. First, he said there is no basis in the geotechnical report to conclude with reasonable certainty that Code sections 33.79.070 and .080 are met and that the site is stable. The Hearings Officer's position that it was feasible to minimize the geotechnical risks has been discredited by the LUBA decision in Bartels vs. City of Portland, which the City has not appealed. Second, it is unlawful to defer a discretionary decision to the final PUD stage where no notice or hearing is provided and there is no opportunity to appeal. Third, the Hearings Officer approved a different proposal than the one submitted by the applicant who was told to submit a new plan to the Planning Bureau later. Again, no opportunity for public review or appeal was provided. He said the appellants also believe the variances are unjustifiable because no practical difficulty or hardship is shown. Mr. Sullivan objected to making the density and open space dependent on the vacation of SW Pendleton. He said the open space, given its slope and proximity to I-5, is unusable. Citing failure of the project to meet Comprehensive Goal 8 and incompatibility with the neighborhood, he asked Council to deny this application and seek a new one that will not require variances.

In regard to the LUBA decision, Commissioner Lindberg asked about the requirement for a hearing at the next stage, when the geotechnical reports are considered.

Kathryn Imperati, Senior Deputy City Attorney, said she does not necessarily agree with Mr. Sullivan about the requirements for discretionary decisions as the law is somewhat unclear. Current cases hold that where you have something that amounts to a discretionary permit, you need to provide a hearing before you make your decision or, if you make an administrative decision, you need to provide notice and an opportunity for appeal. Traditionally, review of a final PUD or subdivision has been an administrative function, a comparison of the final plan with the preliminary plan.

Stephen Janik, Attorney for applicant GAPO, Inc., said his client had originally requested two types of variances, one for the uphill and one for the downhill units. They now wish to withdraw their request for variances for the downhill units.

Mr. Janik said Council, by its R5 zoning of this site and by prior approval of a 44-unit project in 1983, has already expressed its policy judgment about what is appropriate. He said the developers have attempted to

locate the majority of the units on the most level portion of the site to minimize the amount of excavation and fill that would have to be done.

He responded to Mr. Sullivan's statements about the geotechnical reports by noting that a PUD at the preliminary approval stage does not require that all necessary geotechnical information for the next approval phase be furnished at this point. He said the report prepared by Fujitani-Hiltz and Associates is admittedly a preliminary report, which is all the Code calls for now. He noted that the Bureau of Buildings had also concluded that, with good engineering design, the site is suitable for the proposed development. He referred to similar arguments raised about feasibility in Myers vs. the City of Portland in which the Court of Appeals held that all that is necessary at this stage is a showing of feasibility based upon a geotechnical report from a qualified engineer. He said Bartels does not apply as that case involved three geotechnical reports, none of which clearly said the project was feasible.

Mr. Janik disputed assertions that the project was incompatible with the neighborhood, noting the presence of condominiums next door as well as many new rowhouses in the neighborhood. However, he added, compatibility is not the issue. Rather, the test is whether the use will be detrimental to the character and value of the surrounding properties. As for the open space requirements, the project, with 67 percent open space, more than meets the Code requirement of 40 percent. Neighborhood contentions that the project violates Comprehensive Goals 3 and 4 are erroneous, he stated, because the goals are broad statements of policy and not approval criteria for a site-specific conditional use. He concluded by stating that this is a good in-fill project and asked for Council approval.

Individuals testifying in opposition to the project included:

Jeanne Galick, 7005 SW Virginia
Virginia Brown, 5638 SW Corbett
Larry Cavender, 5621 SW Corbett
Mike Houck, 7005 SW Virginia
Craig Mortenson, representing SW Viewpoint Terrace Development
John Gilson, 6012 SW Kelly
Gary McKay, 3419 SW First
John Paape, 5711 SW Corbett
Laurence Lindstrom, 6227 SW Kelly
Barbee Williams, 0224 SW Flower
Mark Butterfield, 8770 SW Mt. View Lane, Tigard
Paul Dillman, 6133 SW Corbett
Philip Avnet, 3717 SW Corbett
Arleen Inukai, 5437 SW Viewpoint Terrace
Judith Marks, 5936 SW Viewpoint Terrace
Stan Amy, owner of Nature's at 5905 SW Corbett
John Bartels, 632 NE Russell

Opponents cited the incompatibility of the development with the neighborhood, noting it was compatible only with the newest construction in the area, which residents have consistently opposed. They also cited ground instability, poor drainage, the need for open space, increased traffic and parking problems, and disproportionate building heights as reasons why the conditional use should be denied.

Mr. Sullivan, in rebuttal, said when you have discretion, you must have notice, opportunity to be heard, and a right to appeal. He said if you leave major issues open, you must provide for a hearing. He said the issue is what kind of development goes on this property, not that it should be in public ownership. He disputed the Hearings Officer's finding that the geotechnical report showed that, with reasonable certainty, the project met the applicable standards.

Commissioner Lindberg asked the City Attorney how one determines that development standards have been met when the geotechnical reports deal only with preliminary feasibility. He asked Mr. Sullivan what alternate development might be allowed on the property.

Mr. Sullivan said the property could be developed under the R5 zoning (high density, single family residential) or as a PUD. His clients believe, however, that jamming as many units as possible and granting 26 variances, is incompatible and not allowable under the PUD conditions.

Mayor Clark asked about the scale and design of the project, noting his objections to a recently built development on Montgomery Drive.

Mr. Janik said that the highest point of the project will be lower than those of the 22 existing condominiums next door.

Commissioner Blumenauer asked for a drawing of the western face.

Mr. Janik said you would never see the development from that perspective because houses exist there now.

Mayor Clark asked if it was correct that there was nothing coming down the slope.

Mr. Janik said that was correct. He said the three or four units on the downhill side with a height of 55 to 75 feet will look large if someone walks right up to them but they will be landscaped to buffer the impact. He also said denied that they are stretching their density by trying to jam in as many units as possible, noting their open space ratio of 67 percent.

Mr. Sullivan said the staff report says that 43 units is the maximum number of allowed.

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In response to a query from Commissioner Lindberg, Ms. Imperati reviewed the PUD development and service standards set forth in the Code which the Hearings Officer must find, with reasonable certainty, will be met. One of the items that must be submitted as part of the preliminary plan application is a preliminary assessment by a geotechnical engineer that addresses soil conditions, storm water runoff, and ground water. It also assesses the project's feasibility, identifying any potential problems and how they might be resolved. The Code does not provide a requirement for any greater detail at this point. She disagreed with Mr. Sullivan's interpretation of the Bartels case. In that case, LUBA found there were a variety of geotechnical reports, none of them adequate to identify how certain potential problems identified on the site might be resolved.

Ms. Briggs said the Hearings Officer held the record over one week for additional geotechnical information before deciding on the feasibility. After a report was submitted by Frank Fujitami, stating that he found the project feasible, the Hearings Officer allowed an additional week for review and rebuttal. She said the Hearings Officer had this information before he rendered his decision.

In response to a question from Commissioner Bogle, Ms. Briggs said before any permit is issued, Uniform Business Code requirements must be met. After feasibility is established during the preliminary process, the detailed geotechnical solutions are presented for review by the Bureau of Buildings to ensure that all requirements and standards are met.

Mayor Clark said he thought he would have to support the Hearings Officer although he is extremely worried about the scale of the project.

Council inquired about the possibility of visiting the site.

Ms. Imperati outlined the guidelines for site visits. She said if Council members go by themselves, they must disclose the time, what they saw, and their impressions. They should also avoid conversation with other people.

Commissioner Lindberg said he was concerned about the compatibility of the project and frustrated because almost never does a consulting engineer find a proposal that is not feasible.

Commissioner Blumenauer suggested that Council retain jurisdiction.

Mayor Clark said builders are not going to build something that will move downhill immediately afterwards.

Commissioner Blumenauer said he does not think Council could come up with a better decision than the people entrusted to do so. However, he

does think there are questions about the standards and said he would like to investigate use of a performance bond. He also asked the applicant if a drawing showing the western view could be provided.

Mayor Clark asked about the 120 days requirement.

Ms. Briggs said applicant would have to agree to a continuance since the 120 day limitation had been passed.

Commissioner Bogle asked Mr. Janik for assurances that nothing in the proposed project would look like the photographs in the record of the SW Montgomery project.

Mr. Janik said the project architect had emphatically said they would not. He said he would be glad to continue this matter one week in order to provide the drawing.

Mr. Sullivan asked if the record was closed.

Mayor Clark said yes, other than for the site review and drawing.

Ms. Imperati reminded them that a site visit en masse would require a public meeting notice.

Mr. Janik said he wanted to make sure that when Council members went to the site, they know exactly where the units will be located on the hill which will be hard for them to do unless somebody helps them. He said perceptions are evidence and if he does not know what theirs are, he cannot deal with them.

Mr. Sullivan said he was worried about their getting a Street of Dreams presentation.

Disposition: Continued to March 13, 1991 at 2:00 p.m.

- 367** Appeal of University of Portland against Hearings Officer's decision to deny application for 5,000 permanent seats at the existing soccer field at 5000 N. Willamette Blvd. (Hearing; CU 104-90)

Discussion: Laurie Wall, Planning Bureau, said the University has requested a conditional use to increase soccer stadium seating from 4,300 temporary seats to 5,000 permanent seats. In April, 1990, the Hearings Officer denied a University request to allow the permanent seating until completion of the Master Plan, citing traffic and parking concerns. A draft Master Plan submitted as part of the current application was found to be incomplete by Planning Bureau staff and the applicant is now working to improve it. In the meantime, the University wishes to proceed with its request for the soccer stadium seating in order to meet NCAA playoff game

regulations and because of available funding. Planning and Transportation Bureau staff approved the use with conditions. However, the Hearings Officer denied the request, finding that it did not meet the conditional use criteria regarding compatability with the neighborhood. He stated that at peak hours, Level F service would occur at the main intersection and N. Willamette and that a better parking demand analysis was needed.

George Fleerage, representing the University of Portland, said in April, 1990 the University got a conditional use to rebuild its soccer field and replace 4,300 temporary seats with 5,000 permanent seats, with a condition that construction of the seating not begin until the Master Plan was approved. This condition was to ensure there would be no significant traffic or parking impacts. Since that time the Planning Bureau has asked the University to broaden the scope of neighborhood participation in the process. This will take more time, perhaps until this fall, and, in the meantime, funds have been made available to build the seats now. He said 5,000 seats are needed in order to meet NCAA requirements regarding the hosting of playoff and championship games. Thus, they have applied to modify the condition in order to begin construction now. He contended that the Hearings Officer was wrong when he denied the use on the basis that they had not shown they have the physical capacity to handle a crowd of more than 1,600.

Gary Katsion, Kittelson & Associates, described a parking and traffic analysis his firm conducted as required by the Master Plan. Among the analysis' basic assumptions are that on-campus students would comprise 20 percent of the attendance at soccer events and that a vehicle occupancy rate of three persons per vehicle would result in a maximum of 1,350 vehicles during a capacity crowd event. Based on their report, they recommend two steps to mitigate traffic problems: 1) eliminate parking on the east side of the main drive to provide both right and left turn lanes for exiting traffic and 2) use manual traffic controls at intersections when games are scheduled.

Mr. Fleerage outlined reasons why Council should overrule the Hearings Officer's requirement that the Master Plan must be totally completed before the additional seating is allowed. He argued that, because average attendance levels are much lower than the number of new seats requested, no adverse impacts will occur prior to completion of the Master Plan. To provide additional assurance, he proposed adding the following conditions: 1) until the Master Plan is approved, major events in the Chiles Center will not be scheduled to coincide with soccer games; 2) the right turn lane onto N. Willamette will be in effect at all Chiles Center and soccer events and; 3) manual traffic control at the main entrance will be used at all events with an expected attendance in excess of 2,500 people.

Laurel Butman, University Park Neighborhood Association Land Use Chair, opposed approval of this use before completion of the Master Plan. She said this piece-meal approach to expansion is contributing to major traffic and parking problems in the neighborhood. She argued that once again, this time with a plea of available funding, the University is asking Council to put aside the requirements of the Master Plan and ignore prior Hearings Officers' findings. She cited neighborhood frustration and resentment over the University's delay.

Dave Soloos, Co-Chair of the University Park Master Plan Steering Committee, noted that Mr. Fleerage, as the Hearings Officer in CU 77-89, required the University to submit a parking and traffic management plan as Condition A in his decision, but that no modification or waiver was ever sought by the University. He disputed Mr. Fleerage's contention that the NCAA requires 5,000 seats, describing a conversation with an NCAA staff person who said there was no such requirement. He referred to CU 3-83, again with Mr. Fleerage as Hearings Officer, where a total of 1,148 parking spaces were required, noting that 8 years later that total has not been reached even though there are now over 100 annual events at the Chiles center alone. He criticized the Kittelson traffic report for its failure to report on traffic at concurrent events and for its assumptions, including assertions that University traffic impacts only a two-block area, that auto occupancy rates would be three persons per vehicle, and that 20 percent of those attending capacity games would be on-campus students. He also contended that average attendance figures were miscalculated and that the study failed to consider environmental and liveability issues.

Individuals testifying in support of the Hearings Officer's decision included:

Leonard Chambers, 4805 N. Willamette Boulevard
Heber Heine, 5801 N. Warren
Irene Hamlin, 5406 N. Willamette Boulevard
Judy Chambers, 4805 N. Willamette Boulevard
Linda Krugel, 29267 N. Willamette Boulevard
Don Johnson, 5226 N. Harvard
Gladys Johnson, 5226 N. Harvard
Woody Krugel, 7226 N. McKenna
Eric Anderson, 4747 N. Butler

Opponents described traffic and parking problems attributable to events being held at the University. They also disputed the University's traffic and parking studies.

Individuals speaking in support of the University of Portland's appeal included:

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George Iliff, 5602 N. Strong, #3
Mindy Allen, 6610 N. Monteith
Bruce Zink, 6625 N. Portsmouth
Paul Hauer, 5287 N. Willamette Boulevard
Janet Penner, 7009 N. Portsmouth
Peter Quan, University of Portland student
Patricia Gaddis, 3423 N. Willamette Boulevard

Mr. Katsion, in rebuttal, said their studies show that only 20-25 percent of traffic on Willamette Boulevard can be attributed to the University

Mr. Fleerage said Coach Charles told him they had been denied games by the NCAA because of inadequate seating. He said the latest count of on-campus parking spaces is 1,120, demonstrating substantial compliance with requirements of a Master Plan. He questioned the Steering Committee's position, noting that the neighborhood association had been asked to oppose the University's application but had declined. Mr. Fleerage also disputed allegations that the University had been foot-dragging on the Master Plan.

Commissioner Bogle said there was a credibility problem between what Mr. Soloos and the University were saying about NCAA rules.

Clive Charles, University of Portland soccer coach, said in 1988 when the University was nationally ranked, they were told their facility was not good enough to play any more games there. At that time, game sites were selected on the basis of who could bring in the biggest gate.

Mr. Soloos asked Council to refer to his memo relating a conversation with a NCAA staffperson who told him there was no such rule.

Commissioner Lindberg asked if the conditions proposed by the University regarding traffic and scheduling were new ones.

Ms. Wall recommended that, if Council granted the appeal, it should also approve both the proposed staff conditions, as noted in a memo to her of March 6, 1991, plus the three proposed today by the University.

Mayor Clark declared that Harry Merlo and Karen Whitman had contacted him about this appeal. He said traffic is a real problem at the University, which will not be solved until the Master Plan is completed and that he was inclined to go along with the Hearings Officer.

Commissioner Blumenauer moved that the appeal be granted with the conditions proposed by the University and with two additional conditions limiting the number of seats that can be used to 4,300 and barring the scheduling of simultaneous events until completion of the Master Plan.

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Commissioner Bogle seconded.

Commissioner Lindberg asked if it was correct to assume that completion of the Master Plan would take care of the parking problems that concern the neighborhood.

Ms. Wall said a major component of the Master Plan will be a traffic and parking management plan.

Mayor Clark urged the University to complete its Master Plan.

Disposition: Appeal granted tentatively with conditions. (Y-5) Applicant prepare findings for March 20, 1991 at 2:00 p.m.

At 5:30 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council

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BUDGET SESSIONS

This week, Council will hold work sessions on the FY 1991-92 Budget on Tuesday, March 5, from 1:30 pm to 5 pm and on Thursday, March 7, from 1:30 pm to 4:30 pm. Regular Council business will be conducted on Wednesday.

A schedule of budget hearings is available from the Office of Finance and Administration, 1120 SW 5th Avenue, Room 1250; 796-5288.