



CITY OF

PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 21ST DAY OF AUGUST, 1996 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners, Hales, Kafoury and Lindberg, 4.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Bill Manlove, Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

On a Y-4 roll call, the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

1389 Reject all bids for Irving Park improvements (Purchasing Report - Bid 2)

Disposition: Accepted.

Mayor Vera Katz

1390 Confirm appointment of Robert Botek and Dale Johnson to the Towing Board of Review (Report)

Disposition: Confirmed.

***1391** Authorize Bonds for Housing Investment Fund (Ordinance)

Disposition: Ordinance No. 170490. (Y-4)

***1392** Pay claim of James West (Ordinance)

Disposition: Ordinance No. 170491. (Y-4)

Commissioner Charlie Hales

***1393** Authorize a contract and provide for payment for the renovation of Clinton Park (Ordinance)

Disposition: Ordinance No. 170492. (Y-4)

***1394** Authorize Intergovernmental Agreement with the City of Milwaukie to have the City of Portland do preliminary engineering work for an 850 lineal foot multi-use trail project (Ordinance)

Disposition: Ordinance No. 170493. (Y-4)

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***1395** Amend contract with Cross-Continent Engineers and provide for payment (Ordinance; amend Contract No. 29950)

Disposition: Ordinance No. 170494. (Y-4)

***1396** Adopt amendments making corrections to the Outer Southeast Community Plan (Ordinance)

Disposition: Ordinance No. 170495. (Y-4)

Commissioner Gretchen Miller Kafoury

***1397** Contract with Portland Habitat for Humanity for \$30,000 to support affordable housing development and provide for payment (Ordinance)

Disposition: Ordinance No. 170496. (Y-4)

***1398** Increase agreement with the Housing Authority of Portland by \$133,268 and provide for payment (Ordinance; amend Contract No. 30325)

Disposition: Ordinance No. 170497. (Y-4)

***1399** Contract with REACH Community Development, Inc. for \$50,000 to support affordable housing development and provide for payment (Ordinance)

Disposition: Ordinance No. 170498. (Y-4)

***1400** Contract with Catholic Charities for \$20,932 to provide the Asian Youth Outreach Project and provide for payment (Ordinance)

Disposition: Ordinance No. 170499. (Y-4)

***1401** Call for bids to furnish FY 1996-97 replacement City vehicles, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 170500. (Y-4)

***1402** Increase contract with US Pacific Builders, Inc. by Change Order for 4th and Yamhill parking garage addition (Ordinance; amend Contract No. 30626)

Disposition: Ordinance No. 170501. (Y-4)

Commissioner Mike Lindberg

1403 Accept completion of the Ramsey Lake stormwater wetland planting and authorize final payment to Pro Landscape (Report; Contract No. 30444)

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Disposition: Accepted.

1404 Accept completion of the NE 67th Avenue sewer reconstruction and authorize final payment to Davidson Utilities, Inc. (Report; Contract No. 30584)

Disposition: Accepted.

***1405** Contract with Waddell Risk and Insurance Services Company to provide insurance consulting services and assist with administration for the Owner Controlled Insurance Program and provide for payment (Ordinance)

Disposition: Ordinance No. 170502. (Y-4)

***1406** Authorize the Purchasing Agent to issue a Purchase Order to serve as a contract with Inframetrics, Inc. for a ThermaCAM System without advertising for bids and provide for payment (Ordinance)

Disposition: Ordinance No. 170503. (Y-4)

REGULAR AGENDA

1388 **TIME CERTAIN: 9:30 AM** - Response of the Bureau of Emergency Communications to the City Attorney's recommendations regarding the 1995 Christmas fire incident (Report introduced by Commissioner Kafoury)

Discussion: Commissioner Kafoury said since Mayor Katz assigned both the Fire Bureau and the Bureau of Emergency Communications (BOEC) to her, the bureaus have been meeting once a month and Jim Marshall has been hired to address the City Attorney's recommendations. The focus has been on two issues: 1) communication; and 2) technological improvements. Progress has been made but this is a continual process.

Fire Chief Robert Wall said it has been helpful to have both bureaus under one Commissioner. He said the bureaus have not only met the intent of the City Attorney's recommendations but have gone beyond that, demonstrating a real spirit of cooperation that is reflected in all areas of emergency response.

Sherrill Whittemore, BOEC Director, said both bureaus are working closely together to improve services and to resolve issues before they become problems. They have identified some areas that need improvement, such as the computer system itself, that were not included in the City Attorney's recommendations. Both bureaus have also agreed to have a liaison present at the Communications Center 24 hours a day.

Jim Marshall, consultant with Commissioner Kafoury's office, reviewed the actions the bureaus have taken in response to the City Attorney's first recommendation to have emergency responders acknowledge receipt of

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transmissions. Some procedures have already been revised while others are still being discussed. The second recommendation, use of location alerts, cannot be implemented now due to the nature of the current CAD system. However, its intent has been successfully addressed and the problem that occurred because a responding unit inadvertently pressed the "arrive" button on the MDT, should not happen again.

Chief Wall said they are confident any mistakes will be quickly corrected. When there is a question about the information being transmitted, there is voice reconfirmation so that everyone knows what has occurred.

Mr. Marshall said part of the problem with relaying information on the MDT is that responders may have to search through several screens. For that reason, a voice announcement is Fire Bureau policy. The fourth recommendation was to modify BOEC duty rotations. In May, 1996, BOEC instituted longer rotation times so that the pod people remain there for four hours. Also, for a six month period a Fire Bureau liaison will be at BOEC 24 hours a day to provide support.

Commissioner Kafoury said this does have a budget impact. The challenge is to first see if this improves things and then determine if it deserves a higher priority ranking than some other activity. It is being covered in the budget for now, however.

Ms. Whittemore said a letter of understanding is being prepared so that everyone in both bureaus knows how this is going to work and there is no confusion about who is doing what.

Mr. Marshall said the final recommendation made by the City Attorney was for cross training and he described the actions taken to increase mutual understanding.

In addition to the City Attorney's recommendations, the bureaus are recommending some steps to improve the technology, particularly on the first MDT screen. They plan to strip down the information on the first page so there is room to update it as new information comes in rather than forcing someone to go through five screens to find it.

Chief Wall said a verbal alert has already been put in the system but they hope to add a visual alert as well when critical new information is received that changes the original dispatch.

Mr. Marshall said through new training procedures they are also trying to find a way to avoid pushing the "on scene" button by mistake, instead of the "en route" button. He noted that when the wrong button is pressed, it automatically changes the chronological record of what happens.

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Ms. Whittemore explained that they believe there is a way to indicate on the screen when an error has been made and then continue with the regular protocols. BOEC would have to make that modification.

Mayor Katz asked about the importance of the "on scene" button.

Mr. Marshall said it stops the chatter once firefighters are at the scene.

Chief Wall said when there are multiple calls and the units have already arrived, callers to 9-1-1 can be told that the units have already arrived. It is critical that this be true.

Mr. Marshall said the technical people believe that proper training is the most effective way to avoid confusion about the buttons. A second recommendation was to add orientation about the Fire Bureau/BOEC operation to the Fire Bureau recruit and trainee classes. Mandatory regular hearing and vision checks for Fire officers and BOEC call takers and dispatchers are also recommended and fire officers now have hearing tests.

Commissioner Lindberg asked about high BOEC turnover.

Ms. Whittemore said they basically have 57 people who will all be fully trained and doing fire dispatch. BOEC is continuing to recruit and expects to have a new class of trainees in early 1997.

Commissioner Lindberg asked how much experience the people on the desks currently have.

Ms. Whittemore said 40 out of the 57 people are fully trained and experienced.

Commissioner Kafoury noted the turnover of those in training is very high.

Ms. Whittemore said it has always been that way. A recent survey indicates that Portland's long-term retention rate is better than the national average, but all 9-1-1 centers have the same problem.

Commissioner Kafoury said they wanted to correct the procedures identified by the City Attorney first but recognize there are other serious issues to deal with.

Ms. Whittemore said they are hoping to put into place some new psychological tests and profiles to help them do a better job of screening applicants. She said they are working on a computer-based training program right now so that people can be tested on their reactions to emergency situations.

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Commissioner Lindberg asked about overtime for those on fire dispatch and whether people were working excessive hours, resulting in degraded performance.

Ms. Whittemore said everyone is working an excessive amount of overtime, not just fire dispatch personnel. She said they have a rotational overtime policy, both for those who volunteer and those who, particularly in the summer, are forced into it. Sometimes people who volunteer are turned down as they need to sleep.

Commissioner Lindberg asked how many hours of overtime the average BOEC employee works.

Ms. Whittemore said she does not know but she can provide that information.

Commissioner Lindberg said a BOEC labor representative recently presented a very bleak picture of morale there. How accurate is this picture and how is management dealing with morale issues?

Ms. Whittemore described some recent morale-building activities, including sending hand-written appreciation notes to all employees, giving people control over their schedules for a day, and recognizing employees verbally at work. These are small things, scoffed at by some, but they do make a difference.

Mr. Marshall said staffing problems exacerbate morale problems so as that issue is tackled, morale should move in the right direction too.

Commissioner Hales said the City Attorney's work and this follow-up put the City in a good position to manage the changes that have to be made so that the two bureaus work as one organization.

Disposition: Accepted. (Y-4)

1407 Accept bid of H & W Emergency Vehicles for furnishing four triple combination pumpers for \$974,578 (Previous Agenda 1351 - Bid 3)

Discussion: Cay Kershner, Clerk of the Council, said the Purchasing Agent had requested another week's delay.

Disposition: Continued to August 28, 1996 at 9:30 a.m.

Commissioner Gretchen Miller Kafoury

1408 Delegate Central City Parking Garage RFP solicitation and selection to Portland Development Commission (Resolution)

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Discussion: David Kish, Director, Bureau of General Services, said six months ago Council adopted both a long term strategic plan for the parking system and a facilities development plan. Three strategies were listed to respond to the increased demand for short term parking. These included building two more floors at the 4th and Yamhill parking garage and restriping the garages to gain about 100 spots. These strategies are already underway. The third strategy, to consider building a new Smart Park garage for retail in conjunction with a private office tower project, is now in a position to move forward as well. This resolution would delegate the RFP solicitation and selection process to the Portland Development Commission (PDC), which hopes to report back to Council in the fall on the results.

Mayor Katz said the availability of parking spaces has always been identified as an important infrastructure need for buildings. If the City can partner with the private sector to make that happen, this could easily be its contribution to that infrastructure.

Mr. Kish said they are now projecting a shortage of between 400 and 600 parking spots over the next year or two, particularly when the final phase of the Rouse project happens.

Sam Oakland, 3446 NW Thurman, 97210, said as Portland grows, the spaces we already have should be utilized for a combination of parking, housing and shopping units. Every surface area is ripe for partnerships between the private sector and the City to create parking structures that are also for people and shops. The City can be rebuilt so people will be able to live downtown without having to use automobiles.

Disposition: Resolution No. 35541. (Y-4)

At 10: 15 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 21ST DAY OF AUGUST, 1996 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Hales, Kafoury and Lindberg, 4.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Ruth Spetter, Senior Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

The Council declared that an emergency existed in order to allow Commissioner Kafoury to view the proceedings on cable television and participate by telephone.

1409 TIME CERTAIN: 2:00 PM - Appeal of Karen Kenny, applicant, against Hearings Officer's decision to deny a 16 unit subdivision and PUD, and appeal of the Crestwood Neighborhood Association against approval of zone change from R10 to R7 at SW 53rd Avenue south of SW Alfred Street (Hearing; 95-00285 PU SU ZC EN)

Discussion: Ruth Spetter, Senior Deputy City Attorney, outlined the procedures to be followed in today's two appeals.

Duncan Brown, Planning Bureau, noted five additions to the record: 1) August 5, 1996 memo from the Bureau of Environmental Services (BES); 2) August 16, 1996 letter from Amanda Fritz; 3) August 16, 1996 letter from Paul Fishman transmitted by John Alland; 4) August 21, 1996 submission by the applicant's attorney; and 5) August 20, 1996 submission by Mike Houck of the Audubon Society.

Mr. Brown described the property and the proposal to build a 16-unit clustered development on this steeply sloped site on SW 53rd Avenue. He said the lots will be located around a temporary cul-de-sac extending from the existing 53rd Avenue right-of-way. The street could potentially be extended to the west to intersect with SW 55th Avenue in the future. He said a stormwater treatment facility will be located to the south of the housing in the environmental zone and common open area. The remainder of the site will be left largely undisturbed except for resource mitigation. Building coverage for the lots exceeds the 35 percent allowed by the base zone, so a Code adjustment is required. Because paving in the front yards will exceed the 40 percent allowed in single-dwelling zones, a second adjustment is also required. A third adjustment to allow parking within 18 feet of the front lot line is needed also. Because 16 lots are proposed, the density exceeds that allowed in the pre-existing R10 base zone, a zone change is necessary. And because over 50 percent of the site is environmentally zoned, a planned unit development is required. He noted the applicable approval criteria.

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Mr. Brown said the Hearings Officer approved the zone change from R10 to R7 but denied the environmental review, the planned unit development, subdivision and related adjustments for two reasons: 1) insufficient information on the size, location and design of the stormwater disposal system to determine the environmental impacts and any necessary mitigation; and 2) inability to determine if the on-street parking was sufficient. She also noted that the driveways must be reduced to the minimum allowed, which would require a curb cut of only 10 feet instead of the 18 and 20 feet proposed by the applicant. Two appeals were filed, one by the Crestwood Neighborhood Association which stated that the transportation system capacity is not able to support the additional 16 lots. They also assert that extending the cul-de-sac to 1,040 feet violates Title 34 requirements. The applicant also appealed, submitting information on the driveway and proposing a condition limiting the driveway width to 10 feet to meet the Hearings Officer's concern. The applicant also submitted information on stormwater detention design and location and has been working with BES to meet its requirements. Mr. Brown cited a memo submitted by Amanda Fritz in response to the new information filed in the applicant's appeal statement. Ms. Fritz contends there is insufficient information about: 1) stormwater passing through the site, as well as that generated within; 2) design details to show how the stormwater detention system is connected to the creek; 3) land suitability to indicate whether the proposed pond land can be kept from sliding into the creek; and 4) water quality impacts on fish habitat downstream. Mr. Brown said a memo from Mr. Fishman reiterates the same concerns about stormwater passing through the site and water quality impacts on fish habitat.

Mr. Brown showed slides of the site and adjacent area and noted that the site had been logged of its saleable timber by the former owner (Gamble) prior to imposition of the environmental zone in 1993. Access to the nearest arterial, Taylors Ferry, is via 53rd Avenue, a paved strip which lacks sidewalks, curbs and gutters normally found in the urban area. However, the Office of Transportation has determined that the street is sufficient to serve the site. About 200-feet north of the site, the right-of-way slopes steeply downwards and this area of the street has not been improved to City standards. As part of this approval, applicant will be required to improve the right-of-way to meet those standards and provide curbs, gutters and sidewalks. In conclusion he noted that the applicant has submitted information intended to overcome the deficiencies identified by the Hearings Officer in her denial. However, Ms. Fritz and Mr. Fishman have raised important issues that need to be addressed and, if they can be resolved, Planning staff can recommend approval with conditions similar to those contained in its staff report.

Commissioner Lindberg asked if the Planning Bureau initially recommended approval and still recommends approval. He asked if the applicant can keep submitting new information during the process.

Mr. Brown said staff initially made a recommendation of approval with

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conditions but the Hearings Officer concluded there was insufficient information about stormwater disposal and parking. He said staff believes the applicant has now submitted information almost sufficient to overcome the Hearings Officers' concerns.

Commissioner Hales said new information can be submitted because this is a de novo hearing.

Mayor Katz said with all the new information, she is wary of making a decision today.

Mike Robinson, 900 SW 5th Avenue, Suite 2300, 97204, attorney representing the applicant, said this proposal requires more than the usual number of applications in order to get a development on the site that provides enough housing and the kind of improvements needed. The zoning map amendment is in conformance with the Comprehensive Plan. He noted that the Planning Bureau recommended approval after a number of changes were made in response to staff concerns. He said the development is sited as far away from Ash Creek as possible and about half the site is in open space. They have agreed to provide a temporary cul-de-sac, an "eyebrow," and have agreed to provide for the extension of SW 53rd to the west should it become available. They have done everything they can to retain the remaining trees on the site. The Hearings Officer's reasons for denial included the driveways, where she thought the widths were too wide. Applicant believes she was wrong but is willing to provide the 10-foot wide driveways and will be able to meet the Code in terms of parking requirements. Regarding the stormwater detention issue, the proposed facility is perfectly located to catch the drainage for the site. The drainage currently coming down the hill will be caught and put through the pond, catching not only the drainage coming off the impervious area on site but also that coming off SW 53rd. The detention pond is located on soil and slope capable of accommodating it. The pond is sized to accommodate standards found in the Environmental Review section -- a 25-year, 24-hour storm event. A pipe, the method preferred by BES, will run from the pond to the creek and will include an oil separator, a baffle and riprap to prevent erosion. Ash Creek can accommodate drainage from the pond.

Tom Sisul, Sisul Engineering, 375 Portland Avenue, Gladstone, OR 97027, described how the pond will handle and release the stormwater flow. He said it was redesigned to meet Hearings Officer and BES requirements and will release water at a peak release rate based upon the pre-existing forested condition and will not exceed pre-developed discharge rates for the 2-, 5-, 10- and 25-year storm events. They are piping upstream flow coming down SW 53rd through the system. The pond will catch those flows but they will not exceed the predevelopment levels. By putting it all through one pipe, the amount of surface area in the environmental zone is reduced.

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Mr. Robinson said the applicant will use only the minimum fill necessary for the lots, roads and area around the stormwater detention pond. He said the more that is left in a natural state, the more the site continues to fulfill its resource value. He said this is the kind of housing project that promotes Police Chief Moose's belief about the importance of having neighborhoods where people sit out on porches and look out for their neighbors. He said that is the kind of project that will happen here, with houses on small lots on an appropriately-designed street. He said this is a very tough site but the easy sites have already been developed. The applicant has satisfied the applicable approval criteria and the Hearings Officer's decision should be reversed. He noted that the Hearings Officer decided that all the criteria for the adjustments had been satisfied but denied them since she had denied the other requests.

Karen Kenny, applicant, 1365 S. Fish Mountain Road, Healdsburg, CA 95448, said the project was designed to try to minimize the environmental impact on the site.

Commissioner Hales asked if the Hearings Officer placed fewer conditions on the proposal because of the denial. He asked about the possible future extension of 53rd Avenue to the west, connecting to SW 55th, and whether a Local Improvement District (LID) had been discussed regarding an extension.

Mr. Robinson said applicant had agreed to waive any remonstrance against a future LID. They believe an LID might be an appropriate method of getting the street improvements beyond their site, if that is what people want.

Commissioner Lindberg asked if his reference to Chief Moose's statement about porches and people being able to see each other means that the houses are being designed to foster these results or is it just a matter of density.

Mr. Robinson said this project does both, as the reduced setbacks and narrower streets will make it easier for people to get to know each other. He said the applicant cannot do a traditional subdivision on this kind of site and cannot do all the necessary street and stormwater improvements if there are not enough units to make it pay.

Mayor Katz noted that the houses will not have porches out in front.

Commissioner Hales asked if applicant had agreed to the 10-foot limit on curb cuts.

Mr. Robinson said yes. The driveways will be 20 feet if serving common areas for the attached units and 10 feet for the single units.

Jere Retzer, President, Crestwood Neighborhood Association, 5115 SW Alfred Street, said this neighborhood is home to a number of environmentally

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sensitive areas, including three headwaters, and they take their stewardship of the natural resources very seriously. They also support increased density where appropriate but are concerned that growth is done right and balanced with protection of the ecosystem. While the applicant has done her best to put forward an environmentally responsible proposal, the current one does not contain sufficient information to ensure protection of the resources adjacent to this property, which contains the headwaters of Ash Creek. He said they oppose approval for two major reasons. First, there is insufficient evidence to conclude that the approval criteria for a PUD or EN have been met. The application fails to consider the stormwater draining through the site and there are no details on how the stormwater from the pond will be delivered to the creek. There is no way of telling if the method will be adequate or to determine if a pond 100 feet up, on an 18 degree slope above the creek, can be adequately supported. Second, as noted by the Hearings Officer, the applicant has not proved that there will be no significant detrimental impact on downstream water quality that would affect fish habitat. He said the applicant fails to consider the amount of stormwater draining through the site, as well as that generated on the site. The Code clearly calls for stormwater facilities to adequately serve both. He pointed to a map indicating a large area draining toward the site that must be handled. Right now a portion of that water comes out in a pipe in the middle of the proposed right-of-way. The applicant has indicated she intends to pipe that into the detention pond and from there into the creek but they have seen no details. Piping the water also eliminates the natural on-site filtration process so the net effect will be an increase in flows into Ash Creek. The applicant's new calculations and BES' review continue to ignore the additional stormwater draining throughout this site. No one has figured out how much the volume might be and this criterion has still not been met. The Code also mandates that facilities must be connected to drainage systems that can accommodate the expected loading. Mr. Retzer said there is no indication in the record of how the stormwater from the pond will be delivered to the creek. While they have been informed that there will be a pipe, the July 30, 1996 Sisul letter to BES refers to the need to discuss further the degree of environmental protection. However, under this review process, without the necessary information and BES review, this cannot be approved. The Hearings Officer also found that land suitability standards were not met and the appeal does not address this deficiency either. The new geotechnical report discusses how to build a pond on an 18 percent slope but does not comment on the stability of the slope between the pond and the creek. It only states that the slopes around the pond will be stable. Common sense dictates that a detention pond not be put 100 feet above a creek on an 18 percent slope. He said they fear that if there is any weakness the whole thing could fall into the creek during a storm.

Mr. Retzer elaborated on applicant's failure to meet the criteria requiring that there be no detrimental impact on water bodies for the migration, rearing or spawning of fish. Appellant states that the criteria do not apply because there are no fish in the headwaters section of Ash Creek. However, fish that do live

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farther down in Fanno Creek need clean, oxygenated water full of animal and plant life. The City has ruled on numerous occasions that water quality and fish-supporting watersheds are an issue, whether a site is in the upper or lower reaches of a stream. Detention ponds have the disadvantage of potential downstream temperature impacts and cutthroat trout living downstream are particularly dependent on cool water temperatures for survival. This site encompasses headwaters which are very important to the overall health of the ecosystem and watershed.

Commissioner Hales asked Mr. Retzer if he could envision any project complying with the base zone requirement that solves these problems.

Mr. Retzer said the applicant really tried hard to make this site meet the criteria but this is a very difficult and perhaps impossible site. If there is a way to handle the water originating offsite, perhaps it can. Changing the amount of density affects the water runoff and impacts, depending on the amount of impervious surface. The developer has done a good job of concentrating the development as far north on the site as possible.

Commissioner Hales said the applicant has testified today that their facility has now been designed to accommodate the upstream and onsite drainage and that they will build an outflow system equal to what the site handled in its prior forested state. Does that meet the City standard?

Mr. Retzer said the question is does their system have to be sized to accommodate the runoff in its logged or pre-logged state. The more conservative approach is to accommodate the runoff as though the forest had regrown. However, they still have not shown calculations about water originating offsite throughout a large portion of the neighborhood.

Commissioner Hales said he thought the applicant said the system was being sized so that the outfall was going to be equal to that of a still forested site.

Mr. Retzer said they have not seen the evidence to indicate that. He said, however, that he has not reviewed the new material submitted by the applicant today.

John Alland, Southwest Neighborhood Information, read portions of a letter from Paul Fishman regarding applicant's appeal sections 3Bb and 3Bc, concerning the environmental effects, specifically water quality. He states that tributary streams such as Ash Creek, including their headwaters, are critical for the survival of fish in Fanno Creek and the Tualatin River. Mr. Fishman asserts that stormwater runoff from off-site will be untreated and undetained, resulting in degraded water quality and increased erosion.

Darien Reece, 10632 SW 55th Ave., 97219, read a letter from Mike Houck of the Audubon Society expressing concern about City policies regarding

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stormwater management in new developments, especially in environmental zones. He states that consideration of stormwater plans and determination of the suitability of land for stormwater outlets should be critical components of tentative plat approvals. The letter concludes by requesting that changes in stormwater management regulations come from the committees currently charged to evaluate them and not be granted on an individual basis, especially in this case, where the Hearings Officer found that the record fails to show how negative impacts on natural resources will be avoided.

Amanda Fritz, 4106 SW Vacuna Street, 97219, said this is a good plan except for stormwater management which simply fails to meet the approval criteria today, as required by the Code. She said the land-use review requires that uses in environmental zones be approved at the tentative plan stage and not later, at the engineering stage. Regarding land suitability, she referred to an August 19 letter from Sisul Engineering which states that the property does not have a shallow, sloping bedrock layer that impedes percolation and causes natural slip planes. However, Sisul only did one 10-foot test pit where the pond is going to be and it is not known where the bedrock is. It just does not make sense to put a pond 100 feet up a hillside. She said applicant's rebuttal to her prior comments states that the Code does not say no net loss. She disagreed, citing 33.430.340 (c) (3). They chose to use the standards in the Code dated 4/14/95 rather than use the later Code which no longer said there had to be no net loss. She also disagreed with applicant's statement that water quality is in compliance with the stormwater quality Boltus guideline manual. That, however, does not show that it has met 33.430 as there is no connection, although there needs to be, between the City standards for stormwater facilities and those within the environmental zones. She noted that the Department of Environmental Quality (DEQ) is very concerned about water quality in the Tualatin watershed. A pond sitting there with algae will decrease the amount of oxygen available for the fish downstream. Also, the Code requires that stormwater draining through the site be accommodated and there is no information about the greater area draining through this site. Finally, no one knows how the water will get from the pond to the creek. If there is a pipe, it has to go through the environmental zone. This is an example of an energy dissipator that is not what they said they were going to use. Nor is there information about how much riprap will be used. She said this is not the kind of development that should be approved without knowing exactly how such facilities in the environmental zones are going to be done.

Tom Miller, President, Southwest Neighborhoods, said the board supports the preservation of key headwaters in the area. He stressed the need to protect natural resources here, while noting that the neighborhood does support higher density in appropriate places, such as the designated town centers.

Commissioner Hales asked staff if there was a definition in Code for headwaters.

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Mr. Brown said no.

Commissioner Hales said like pornography, you know it when you see it.

Ms. Fritz said the DEQ definition is for a flow of no less than five cubic feet per second on average. That is a lot of water.

Mr. Robinson asked that the record be left open for at least seven days with an opportunity to respond to information heard today for the first time.

In rebuttal, Mr. Sisul said the pond is designed to contain the increase in flow from the site. The offsite flow currently running down the 53rd street right-of-way can either be handled by bypassing the subdivision entirely via a surface system or can be tied through the piping system into the detention pond. BES prefers the latter method because there is less intrusion into the environmental zone. The pond is designed to release predevelopment flows plus the flow coming from offsite. He said the riprap shown in the plan is based on BES standards and requirements. The water quality of the offsite flow, particularly in the summer, will be increased as this water passes through the detention system. However, it would not handle detention for the whole neighborhood for a 25-year winter storm. This particular site for the pond was selected in order to allow minimal access for BES and to lessen disturbances close to the creek.

Mr. Robinson said in addition to his request to hold the record open for an additional seven days, he asks for an additional seven days for the final written argument.

Rick Bublitz, 2400 Broadway, Vancouver WA, 98660, replied to Mr. Fishman's letter stating that the existing stormwater outfall is being treated by the current forested slope. He said that is not necessarily true and contended that water will not spread out over the entire site as implied by Mr. Fishman. The information about Ash Creek not being a body for the migration, breeding or feeding of fish was obtained directly from the Columbia River District of the Oregon Department of Fish and Wildlife.

Mr. Bublitz said any temperature increase in the water will be mitigated by inflowing water. Shading the pond will also prevent as much as possible an increase in temperature and when the water is discharged into the channel it will still be mitigated by flowing downstream in contact with the substream. Due to the slope of the receiving water, if the water comes out of the pond in a deoxygenated state, by the time it reaches any fish-rearing bodies it will be oxygenated once again.

Commissioner Hales said there was a question about the structural integrity of the soil with respect to the pond. The pond will be designed, as he understands it, so that the flow from the impervious area on the site is equal

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to the site's forested, predevelopment condition and the storm drainage from offsite that is received on the uphill side of SW 53rd will also pass through. Is that right?

Mr. Bublitz said yes.

Commissioner Hales asked if there is a large storm and a large body of water passes through the system, what assurance is there that the slope will support that much water.

Mr. Bublitz said the pond will have an overflow system but during very high flows, rather than routing all the water directly through the pond, there will be a bypass system just above it.

Mike Schreiber, West Coast Geotech, 6133 Atkinson, West Linn 97066, said he conducted two geotechnical investigations and investigated the soils below the pond which were not covered in the detention pond study although they had been in the first investigation. He said there is a good stiff clay silt layer here that shows no evidence of any slumping, tension cracks or visual signs of instability or movements on the slope. The pond has purposely been set in an area that does not have a lot of slope and will sit on a bench. He said the pond will be in a partial cut and fill section, giving it some balance so there will not be as much weight on any part of the soil. In general there would be between 500-600 pounds of pressure per square foot on the underlying soils in the pond area. That kind of pressure will not cause the pond to end up in the creek or destabilize any slope downstream. They will monitor the pond construction as well to make sure it is constructed as called for in his report. He said when the trees were logged that caused much more saturation in that ground but they still found no movement in the ground soils.

Mayor Katz noted that the Crestwood Neighborhood Association appeal would now be heard.

Jere Retzer, representing the Neighborhood Association, said in granting the zone change the Hearings Officer erred in finding that the traffic services were adequate for the area. The Office of Transportation in its June 1, 1995 response said this was a substandard local street that would be maintained by the City and then in its November 27, 1995 said the City does not maintain the street -- the section of 53rd from Alfred to the applicant's property -- but that it is adequate to handle the volume. Mr. Retzer said the applicant's new street will enter into a 700-foot section maintained by the residents, not the City, which is only 18 feet wide with no pedestrian access or drainage treatment. He said the traffic engineer estimated 112 trips per day resulting from the development. He said this is an average figure and there is a large standard of deviation that is based on 9-1/2 trips per day per household. He said that could range all the way up to 22. He said they definitely believe there will be an impact on the substandard, unmaintained street. Second,

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they object to the Hearings Officer's approval of a 1,040-foot cul-de-sac to serve 30 homes. The standard given in the Code is that a cul-de-sac be less than 400 feet long and not serve more than 18 units. This proposal exceeds the guidelines by a whole lot. Another transportation concern is the turning ability for emergency vehicles and access on the narrow street. Wintertime access, parking and the distance of the site from public transit are other concerns. The bottom line is that from a zoning perspective this is a very poor place to put higher density. He said the City needs some method to address transportation deficiencies when it places more density in out-of-the-way areas, whether it be a Systems Development Charge or some other means.

Commissioner Hales asked if these transportation arguments would remain the same if the property were developed with 12 units, as would be allowed under R10 zoning. Would SW 53rd adequately serve this site with 12 units but not with 16?

Mr. Retzer said 12 units obviously would have less impact than 16. Access would still be a problem, however. It would be better to have 12 units but it is hard to draw the line without seeing the whole plan to see how much impervious area there would be and how the stormwater was handled.

Commissioner Hales asked if there was any problem with queuing farther up SW 53rd. Fire trucks have to get there whether there is one house or 20 so that issue stands independent of density.

Mr. Retzer said he was not aware of any problems with queuing.

Kay Durtschi, 2230 SW Caldew, 97219, noted that this site was logged in March, 1992. She said traffic safety on SW 53rd is a concern as it is a very narrow street with no place to walk or bike. She said the City should look at infrastructure prior to approving such developments. She said an awful lot of traffic is being condensed on one street as there is no cross street anywhere from Taylors Ferry to Alfred and none from Alfred into the cul-de-sac. She said this proposal does not meet Commissioner Hales "orange juice" test as the cul-de-sac is very long, steep and has negative environmental impacts. She said if a garbage truck or mail truck is on the street, no one can get by.

John Alland, 10463 SW 53rd, speaking for residents on the street, said this neighborhood could take eight units on this site under R10 development. They believe if environmental lands are not considered as part of the inventory, one would come up with eight, not 12 units. He said they believe that could probably be done with a different style street. They like the narrow, 18-foot street and want to keep a ditch system on either side to do the biofiltration of the stormwater. There needs to be a policy adjustment here because there were no environmental zones in place when the Comprehensive Plan was adopted in 1980. While it is City policy to upzone wherever called for in the Comprehensive Plan, the City has not been looking at where the

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environmentally sensitive areas are. This particular Conservation zone is the largest one in the Fanno Creek area that is not privately held and part of the private ownership Fanno Creek Plan agreement. Also, there is no street maintenance by the City from Taylors Ferry to the site.

Mr. Robinson, speaking in opposition, said to obtain the zone change, applicant must show two things. First, they must show that public services are adequate, but only to the specific zone-change site. Council has heard testimony about pre-existing off-site deficiencies that the applicant cannot do anything about and is not making worse as this development will be a relatively small traffic generator. Second, adequacy of services is determined by the service bureaus who apply the demand numbers to the actual and proposed services to the site and surrounding area. He said the applicant is improving SW 53rd onsite exactly as the bureaus have requested, with an adequate right-of-way, an "eyebrow" at the western terminus that meets Fire and Police Bureau standards. The grade is 18 percent maximum which both Transportation and the Fire Bureau find acceptable. Regarding the problems on SW 53rd, he said he does not believe it is an inadequate street. It is a local street, not a collector or arterial. If there is a problem with it now, the developer is not solely responsible for that pre-existing condition. They have, however, agreed to waive any remonstrance to an LID here. The solution, if there is a serious road problem beyond the site, is to find a way to fix it, rather than to stop approving things. He said if this is developed at 12 units, ignoring the Comprehensive Plan which says the appropriate zoning is R7, this would only be a small reduction in traffic. The 1995 traffic study shows that during p.m. peak times, this site sends out 11 cars, one every five minutes. If you cut the density in half, this is cut to five cars. He questioned if that would impact people's lives or the capability of the street to handle traffic. He said density can be reduced for other reasons but to do so to mitigate the impact on the streets would not accomplish anything because the impact is so low.

Regarding the cul-de-sac, Mr. Robinson said the standard is not absolute and was written that way to allow cul-de-sacs to serve more units or be longer where appropriate. He said this is not an 1100-foot cul-de-sac but the extension of an existing right-of-way. It can be looked at as eventually becoming a through street, connecting SW 53rd to 55rd, or as an extension off the SW 53rd right-of-way. The portion applicant would build, from the edge of the right of way to the edge of the turnaround is about 250 feet and would serve 16 single family units. He said either way it is looked at, applicant is clearly in compliance with Title 34.

Mr. Robinson said other issues were raised by the appellants that were not in their appeal. He said there is no City requirement that they install a pedestrian or bike path offsite. Onsite they will be providing sidewalks, some connections to the open space offsite and for a pedestrian connection to SW 55th if and when the road goes through. The problem cited with garbage

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trucks is an existing problem which this development will not make worse because the number of cars coming from the site will be so few. Regarding the zoning, he said the Comprehensive Plan adopted by Council is the City's primary planning document and if the City did not want R7 on this site, the appropriate thing would have been to amend the Plan. He said their application is in conformance with the Plan and takes the zoning map to the appropriate density.

Tom Lancaster, Lancaster Engineering, said he did the traffic impact study for this project. The closest capacity problem that it would affect is at 53rd and Taylors Ferry which would remain at Level B. He said 53rd is a substandard street without curbs, gutters or sidewalks but, in terms of capacity and efficiency, it is able to handle existing traffic and any generated by this project. The street is narrow but consistent with the character of the development and the City's skinny street policy.

Mr. Robinson said they reviewed the accident record at the intersection of SW Alfred and 49th, 52nd, 53rd and 55th between January 1990 and December, 1994. They found none. This is not an area with a lot of fast or passby traffic and this project will not change that.

Ms. Kenny said at her preapp conference in February, 1995, neighborhood association representatives had already decided that eight units were appropriate for this site. They still maintain this position although they have presented no particular figures or evidence as to why eight is ideal. However, in her studies of service levels and impact, she found that the difference between eight and 16 has no appreciable impact on the site, in terms of traffic, amount of impervious surface created or the amount of stormwater detention or runoff that would need to be dealt with. She said her experience as a realtor is that with lower density, the tendency is to have larger lots with more driveways and bigger homes. She said she has worked within the guidelines mandated by the City that call for a build-out to approximately 90 percent of the maximum density the site could afford. She also had to arrive at an economic ratio between the number of units that it would provide and the ability to bear the cost of the improvements. Improvements for an eight unit development would push the cost per lot to about \$50,000 per lot. She said their idea was to create affordable homes, in the \$140,000 to \$170,000 price range. Regarding the street, she said opponents argue both that the street is too narrow to accommodate the traffic flow but that, in order to maintain the environmental value, the street should not be widened. Which do they prefer? She said participation in an LID would be appropriate and the problems that exist now have nothing to do with whether this proceeds or not.

Amanda Fritz said she understands the neighborhood's concerns and the street is likely to remain a cul-de-sac for a long time because the adjacent property is privately-owned. However, the zone change does meet the approval criteria. While the application does show how the traffic concerns

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have been mitigated to the extent practical it does not show how the offsite stormwater will be dealt with, the subject of the first appeal. She asked Council to deal with the bigger policy questions by amending the Code and to vote on quasi-judicial proceedings based on the record and on the approval criteria.

In rebuttal, Mr. Retzer said there should be a policy to deal with what is clearly a transportation deficient area. Why should transportation be treated differently? For instance, if a four-inch water main is inadequate, the City would decree that it be made bigger. No one could argue that was a pre-existing problem and then add customers anyway. There needs to be a rational way to deal with a whole series of competing objectives to solve transportation deficiencies, reach growth objectives and protect the environment. In some respects, a narrow street is a good thing in this neighborhood but it is a dilemma. The central issue is putting growth next to an environmentally sensitive area.

Mayor Katz said this is a dilemma, as evidenced by the two-hour hearing.

Commissioner Hales asked about the carrying capacity of Ash Creek for 25-year storms. What happens if a lot of the stormwater does not go into the detention pond but heads down the pipe into Ash Creek.

Sun Noble, BES, said they reviewed the earlier calculations sent in by Sisul but not those submitted today. The ones they reviewed set up the site range but they have not seen the figures on the detention system.

Commissioner Hales said that is another good reason to continue this. He asked if there was a proposed condition as to a Local Improvement District (LID) waiver.

Kevin Hottman, Transportation, said usually when a waiver is requested it is because no frontage improvements are being requested. This applicant is providing a street along all the frontage.

Commissioner Hales asked, if an LID was formed to improve the street connection at some point in the future, would this be described as benefited property.

Mr. Hottman said the Auditor's Officer usually determines the benefits to a property owner.

Commissioner Lindberg asked BES how much time they needed to review and report on this. Other interested parties would then need time to look at it as well.

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Ms. Spetter said at least two weeks, assuming the 120-day period had been waived.

Commissioner Hales said everybody needs to have an opportunity to look at the new information submitted today and provide written testimony about it. There is no need to create an endless dialogue. He suggested closing the hearing but granting a three-week continuance based on information submitted today.

Ms. Spetter said people should try to respond to the information presented today within a week. Then there should be another seven-day period to respond to that.

Commissioner Hales said a total of three weeks should be sufficient for written submissions and the public hearing would not be reopened.

Ms. Fritz asked if the applicant gets to rebut the written response.

Ms. Spetter said that is correct and announced that the hearing is closed.

Commissioner Kafoury said she would like to have BES do an analysis of what the applicant is required to do and what they are offering to do to deal with the runoff. She said it seems like the City is adding additional levels and she is confused.

Mayor Katz asked if she is suggesting that BES take a look at whether the applicant has met the requirements in the Code.

Commissioner Kafoury said it sounds like the applicant is offering to take more of the runoff than required. What is the maximum capacity?

Commissioner Hales said the question is whether the applicant has met or exceeded the storm drainage requirements. The fish issue is contained within that.

Commissioner Lindberg said he would like the City Attorney to put something in writing about the process to be followed when new information comes in, i.e. a new technical report.

Commissioner Hales said the general idea is to close the hearing today, allow another week for the submission of written testimony and a week after that for responses and rebuttal.

Ms. Spetter said that is correct: seven days to submit more evidence and seven more days to respond to everything that came in. Then the record closes.

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Mayor Katz said her sense is that if the stormwater concerns can be met there may be far more support from the neighborhood association than there is today. She said there are a lot of questions raised because of the lack of information. She sympathizes with the neighbors because she has seen sites where City agencies such as BES have given a green light and then major problems have occurred after the development is in place. On the other hand, she does not want to go overboard if the applicant has really met those concerns. There has got to be an opportunity for both sides to review the data and feel some sense of comfort. But right now the neighborhood does not feel it has enough information and that is where BES can assist in making sure the information is supplied and answers the questions raised.

Ms. Spetter said a four weeks' continuance would be best.

Disposition: Continued to September 18, 1996 at 2:00 p.m.

At 4:15 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland


By Cay Kershner
Clerk of the Council