



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 18TH DAY OF SEPTEMBER, 1996 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Hales and Kafoury, 3.

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

1474 TIME CERTAIN: 9:30 AM - Presentation of Pollution Prevention Awards (Introduction by Commissioner Lindberg)

Discussion: Dean Marriott, Director, Bureau of Environmental Services (BES), presented awards, in recognition of National Pollution Prevention Week, to companies and individuals who have worked both to cut pollution and the cost of doing business. He described the criteria for selecting the winners and then presented awards to:

Dan Miller, BES employee
Columbia Knit Company, in partnership with BES Pollution
Prevention Program
Jim Schiller, Portland Parks Bureau
Portland General Electric
BES Stormwater Group and the East Multnomah Soil and Water
Conservation District
Laura O'Keefe, Portland Energy Office

Disposition: Placed on File.

Mike McGuire, Chief Training Officer, Fire Bureau, introduced twelve new firefighters who were sworn in by Deputy Auditor Ed Freeman. Mr. McGuire noted that all had been firefighters or paramedics in other jurisdictions and come to the City with strong records of community

involvement.

Mayor Katz proclaimed the week of September 22-28 as Minority Enterprise Development Week and Grace Collegio described some of the events planned to mark this event.

Michael Rosenberger, Director, Bureau of Water Works, introduced a delegation of officials from Slovakia who then addressed Council.

1475 **TIME CERTAIN: 9:45 AM** - Adopt the SE Ankeny/11th/Sandy Intersection Safety Improvement Project design to improve conditions for safe and convenient bicycling, walking and driving at this intersection (Resolution introduced by Commissioner Hales)

Discussion: Mia Birk, Bicycle Program Coordinator, described the project and said one indication that bike lanes are working is shown by the percentage increase in the number of cyclists using the street once the lanes are in.

Mayor Katz asked if there was any information about the number of accidents.

Ms. Birk said the number appears to remain constant, even though the number of cyclists is increasing.

Roger Geller, Bicycle Program staff, said when there are bike lanes, the behavior of both motorists and bikers is more predictable. When there are no bike lanes, motorists tend to swerve into the other lane when they pass a biker. He said this project completes two missing links in the bike network and will improve the safety of pedestrians and motorists, as well as bikers. He described the project area and the public involvement process, which included four public meetings. Out of that process it became clear that those involved did not favor signaling the intersection but the bureau will monitor the situation closely to see if a signal is warranted in the future.

Doug McCollum, Transportation Engineering, said this will replace the existing four lanes with three lanes, one in each direction with a center refuge lane. A primary goal is to provide access to the industrial area. He described the benefits expected from this change despite diminished through traffic capacity, noting that the bike lanes will provide an additional clear zone for motorists entering 7th Avenue. He said the three-lane cross-section will be safer for pedestrians as they will have only one lane in each direction to cross and can use the center lane as a refuge, if needed. He said of the 245 accidents reported, all were

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potentially correctable with a three-lane configuration. He said they have observed only a minimal increase in traffic congestion and this will be offset by an increase in safety.

Mr. McCollum said the Ankeny/Sandy intersection is currently an onerous intersection in an ocean of asphalt. They plan to tighten it up by building curb extensions and creating cycling and pedestrian havens which allow two-stage crossings. He said staff looked hard at whether signalization was needed but felt that semi-activated signals with 100-second delays would be disregarded if there are gaps in the traffic.

Mike Zokoych, 1111 SE Sandy Blvd., 97214, said he has owned a business on Ankeny Street for 14 years and believes that taking out a traffic lane on Sandy and removing 50 percent of the traffic lanes for 12,000 cars for 20 to 100 bicycles will cause terrible backups and congestion. He said five businesses on Ankeny support a traffic signal and believe it is unrealistic to expect cyclists to go onto raised islands. He said bicycling interests have ramrodded this project through.

Steve Slocum, 1617 NE Couch, said information about the proposed project did not state that lanes will be removed on Sandy. Nor were all the affected people informed. He said a bike lane on Ankeny will not help but only create congestion. He called for the licensing of bicycles and better enforcement of traffic laws. He said bicyclists should also be required to wear helmets and assume the same responsibilities that motorists do.

Sharon Fekety, 5858 SW Riveridge Ln., Portland Wheelman Touring Club, supported the project, noting that this is an important north/south bike route.

Steven Scott, 826 SE 53rd Ave., said he is a regular cycling commuter who supports this project. He believes it will improve the situation for motorists as well as cyclists and pedestrians by slowing down the traffic.

Mark Lipe, 814 NE Liberty, 97211, co-owner of two bike shops on Ankeny, said he supports the project but has two concerns. First, the complexity of traffic is not really reduced. Second, this project does not deal with the increased traffic flowing through the area which cannot be accommodated without significant changes. He said this could produce a quagmire, with bicyclists and pedestrians being used as a scapegoat. He said advantages of the project are that it does channel traffic and provides safer passage for bikers and pedestrians. He said he has submitted some redesigns for the City to consider.

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Rich Cassidy, 1412 NE 46th, 97213, said as a new cycling commuter his key issue is finding a safe route. He said he is still scared to death of this intersection and supports this project as a means for increasing safety here. He said he looks forward to the continuation of bike lanes on Sandy to 7th, to a safe refuge in the center lane and to having speed bumps on Ankeny to slow down speeding cars. As a driver who uses this intersection at 5 p.m., he believes the predicted traffic congestion is somewhat exaggerated.

Paul Roscoe, 1036 SE Sellwood Blvd., 97202, said for too long all efforts have been directed towards the welfare of the automobile to the detriment of other transportation forms. Future generations will applaud any steps taken to improve the network of bicycle lanes.

Rex Burkholder, PO Box 9072, 97207-9072, said a lot of staff and citizen time have gone into this recommendation. This intersection, now a bottleneck, is a crucial link between two bike routes. He said bike projects seem to have to meet a higher standard than others and go through a higher level of public scrutiny. He questioned the need for a simple project like this to have to come to Council for approval.

Keith Liden, 4021 SW 36th Pl., 97221, said there was a lot of public involvement in this project and while it is unfortunate that there is no complete consensus, staff should be congratulated for doing a good job.

Peter Fry, 722 SW 2nd, #330, 97204, representing the Central Eastside Industrial Council (CEIC), said these improvements are driven by bicycle/pedestrian interests and do not take into consideration truck circulation. The CEIC is not opposed to bike lanes but believes the trucks will destroy the curb extensions and the havens. He said the meetings were marketed to bicyclists and pedestrians and represent a myopic agenda.

Curtis Roth, 6937 SW 10th, 97219, said while the number of accidents at this intersection does not indicate biking is dangerous, many bikers feel differently and need the reassurance of lanes and other improvements that legitimize bicycling. He fully supports this improvement.

Victor Blumenthal, President, MacKinnon Tool, 1001 SE Sandy Blvd., owner of a business at the corner of Sandy/Ankeny and 10th, said he supports bicycling and doing something at the intersection. However, the north/south route along Sandy will be the most troublesome and he believes constricting the traffic flow on Sandy will create tremendous backups. He said the intersection at 7th and Sandy, where two lanes will be narrowed into one, needs to be reviewed because there are times when

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this is dangerous and cars do not know what to do. The same thing will happen with the traffic coming down Sandy and on 12th. In essence, the problem is being moved from 7th up to Burnside and Sandy. Something needs to be done to improve safe crossings at the intersection but if the City is not careful, a huge problem will be created.

Eugene Powell, 1313 SE 9th, 97214, area business owner and nearby resident, said there is too much congestion here and more needs to be done to promote alternative transportation. Making it more convenient to drive through this neighborhood is a failed policy. This is a good compromise plan.

Kathe Koretsky, 1542 SE 36th, said she and her family are committed bikers and she finds biking is much safer in Portland now.

Mayor Katz said tension between bikers, motorists and pedestrians is escalating and ways need to be found to make the City a more polite place for all. She said she believes the City is spending more than one percent of the gas tax for bike programs and cannot keep supporting those programs with more general fund dollars. She asked if the bicycling community has discussed fees, licensing or safety requirements, such as helmets.

Mr. Burkholder said a lot of the impoliteness results from congestion. Automobiles take up a lot of space and people get upset when delayed. He said the bicycle community is working to get more funding for traffic safety education. Regarding fees, he noted that most cyclists also own cars and homes and pay taxes. He said Council should support the continuation of Intermodal Surface Transportation Efficiency Act (ISTEA), especially its flexible funding provisions. Making roads safer for bicyclists and pedestrians always comes down to how to accommodate so many cars. Providing options is one answer. As for bicycle licensing, studies have shown that, on the State level, it costs more to administer than one receives in fees.

Ms. Birk said a study done on the regional level also confirmed that a licensing program would not be cost effective.

Mayor Katz asked her to share that information with Council.

Ms. Birk said no general fund money is spent on bike programs. The money all comes from grants and gas tax.

Mayor Katz said the amount of money spent is larger than what is authorized under the one percent gas tax the City is required to spend.

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Ms. Birk said the one percent is a minimum, not a maximum.

Mayor Katz said the point is the City has made a commitment to bicycle and pedestrian programs but Council needs to talk about some additional sharing of costs so that the improvements can be continued and occur a little bit faster.

Commissioner Kafoury said a better way might be to raise auto registration fees.

Mr. Lipe said dollars spent on bicyclists are reflected in a reduced need for road improvements and reduced pollution and health expenses.

Mayor Katz said no one would argue that but when the City is putting \$4,000,000 of general fund dollars into the Office of Transportation it has to look at ways to increase revenues so these programs can be enhanced at a much faster rate.

Commissioner Hales said a lot of community interests were weighted in reaching these recommendations. In the past a number of streets in Southeast, such as Hawthorne, were made into car streets. Now the City is trying to achieve a better balance. This project is a good balance and will lower confusion and dangerous situations for all.

Commissioner Kafoury remembered working on the Burnside/Sandy traffic intersection issue in 1975 and noted that the City still has not figured out how to make that really work. This is a small piece that will help the flow of all transportation modes.

Mayor Katz said whatever can be done to slow the flow of traffic is a benefit. She said this needs to be monitored carefully and people need to be quick to say if this is not working. Perhaps a signal will be needed. She said she is tired of impolite activity on the part of all modes of transportation.

Disposition: Resolution No. 35546. (Y-3)

REGULAR AGENDA

1476 Accept bid of Vancouver Paving Co. for Irving Park improvement for \$199,300 (Purchasing Report - Re-bid 2)

Disposition: Accepted; prepare contract. (Y-3)

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1477 Accept bid of A.G.G. Enterprises for \$71,760, Waste Management of Oregon for \$108,493, and Metropolitan Disposal & Recycling for \$56,190, for refuse hauling services for Parks and Recreation for a total estimated annual amount of \$236,443 (Purchasing Report - Bid 18-A)

Disposition: Accepted; prepare contract. (Y-3)

1478 Accept bid of Waste Management of Oregon for \$28,671, and Metropolitan Disposal & Recycling for \$61,711, for refuse hauling services for a total estimated annual amount of \$90,382 (Purchasing Report - Bid 19-A)

Disposition: Accepted; prepare contract. (Y-3)

1479 Accept bid of Moore Excavation, Inc. for PIR sanitary sewer improvements for the Bureau of Environmental Services for \$298,943 (Purchasing Report - Bid 21)

Disposition: Accepted; prepare contract. (Y-3)

1480 Accept bid of Brundidge Construction for Brookside wetland and stream enhancement for \$1,896,678 (Purchasing Report - Re-bid 226)

Disposition: Accepted; prepare contract. (Y-3)

1481 Vacate certain portions of unused street remnants surrounding the Rose Quarter, under certain conditions (Ordinance by Order of Council; C-9898)

Disposition: Passed to Second Reading September 25, 1996 at 9:30 a.m.

Mayor Vera Katz

1482 Confirm reappointment of Charlie Sax to the Portland Design Commission (Report)

Disposition: Confirmed. (Y-3)

1483 Confirm appointment of John Pingree and Dale Rasmussen to the Hospital Facilities Authority (Report)

Disposition: Confirmed. (Y-3)

1484 Recommend organizations eligible to participate in the City's 1996 Charitable Campaign (Resolution)

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Disposition: Resolution No. 35547. (Y-3)

Commissioner Charlie Hales

1485 Set hearing date, 9:30 a.m., Wednesday, October 16, 1996, to vacate a portion of SE Cora Street and SE 84th Avenue (Report; C-9910)

Disposition: Adopted. (Y-3)

1486 Set hearing date, 9:30 a.m., Wednesday, October 16, 1996, to vacate N Taft Avenue north of N Junction Street (Report; C-9914)

Disposition: Adopted. (Y-3)

1487 Amend resolution adopting Portland International Raceway Task Force recommendations (Resolution; amend Resolution No. 34626)

Disposition: Resolution No. 35548. (Y-3)

Commissioner Gretchen Miller Kafoury

1488 Accept Smart Park Garage Awnings project as substantially complete, authorize release of balance of contract funds, including retainage except for \$500, and authorize payments (Report; Contract No. 29893)

Disposition: Accepted.

1489 Amend code to increase plumbing permit fees effective November 1, 1996 (Ordinance; amend Code Title 25)

Discussion: Commissioner Kafoury moved to amend [C] (3) to increase the proposed fee from \$50 to \$58 and amend [D] (5) to decrease the proposed fee from \$62 to \$58. Commissioner Hales seconded and the motion carried.

Denise Kleim, Bureau of Buildings, said the fee increases are built into the current budget.

Disposition: Passed to Second Reading as amended September 25, 1996 at 9:30 a.m.

1490 Amend code to increase electrical permit fees effective November 1, 1996 (Ordinance; amend Code Title 26)

Disposition: Passed to Second Reading September 25, 1996 at 9:30 a.m.

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Commissioner Mike Lindberg

1491 Accept completion of the North Portland sewer extension No. 1 and authorize final payment to JLS, Inc. (Report; Contract No 30540)

Disposition: Accepted. (Y-3)

1492 Accept completion of the Wheeler Basin Phase 2, Unit 3A sewer reconstruction and authorize final payment to Brundidge Construction, Inc. (Report; Contract No. 30732)

Disposition: Accepted. (Y-3)

1493 Authorize addendum to Memorandum of Understanding with the US EPA extending provisions of the EPA Green Lights agreement an additional two years (Second Reading Agenda 1457)

Disposition: Ordinance No. 170536. (Y-3)

City Auditor Barbara Clark

1494 Cancel assessment liens on property sold by the Multnomah County Sheriff for collection of delinquent property taxes (Ordinance)

Disposition: Passed to Second Reading September 25, 1996 at 9:30 a.m.

1495 Assess property for sewer connection contracts processed through the Private Plumbing Loan Program for the period ending September 10, 1996 (Hearing; Ordinance; P0019)

Disposition: Passed to Second Reading September 25, 1996 at 9:30 a.m.

1496 Assess property for sidewalk repair by the Bureau of Maintenance for billing processed through August 16, 1996 (Hearing; Ordinance; Y1011)

Disposition: Passed to Second Reading September 25, 1996 at 9:30 a.m.

1497 Assess property for sewer system development contracts of the Mid-County Sewer Project for the period ending August 16, 1996 and non Mid-County for the period ending August 16, 1996 (Hearing; Ordinance; Z0637, Z0638)

Disposition: Passed to Second Reading September 25, 1996 at 9:30 a.m.

At 11:30 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 18TH DAY OF SEPTEMBER, 1996 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Hales and Kafoury, 3.

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

Commissioner Charlie Hales

1500 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 zoning change from R10 to R7 at SW 53rd Avenue south of SW Alfred Street (Previous Agenda 1409; 95-00285 PU SU ZC EN)

Discussion: Cay Kershner, Clerk of the Council, said this item needed to be continued to allow time for responses to memos from the Bureau of Environmental Services staff which were not filed with the Auditor's Office by the deadline and, therefore, may not have been available to all parties.

Disposition: Continued to October 3, 1996 at 2:00 p.m.

1498 **TIME CERTAIN: 2:00 PM** - Hear appeal #96-12 as the Police Internal Investigations Auditing Committee (PIIAC) per City Code 3.21.085(4)(d) (Report introduced by Mayor Katz)

Discussion: Richard Koenig, appellant in case #96-12, said the Police Bureau failed to take appropriate action after he asked it to cite Judge Paula Kurshner for official misconduct for failure to award custody of a child to a father although he had been granted a restraining order against his ex-wife. He said a police officer, in giving him advice, was practicing law without a license and failing to do his duty by taking a police report.

Commissioner Kafoury asked what the basic complaint is.

Mr. Koenig said he is appealing the decision of the PIIAC Citizen Advisors to uphold Internal Affairs Division's (IAD) decision not to investigate his complaint. He said the officer engaged in felony coercion by threatening a person to relinquish a right (to make a citizen's arrest).

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He said he was intimidated, particularly after Police called his sister and said they were concerned about his health. He said apparently the police had information which led them to view him suspiciously.

Lisa Botsko, PIIAC staff person, said Mr. Koenig's complaint about Police actions to Internal Affairs was three-pronged: 1) failure to arrest Judge Kurshner; 2) an improper call to his sister; and 3) felony coercion from a police lieutenant who told him that if he detained the judge it could be considered kidnapping. She said the Advisors felt IAD's decision not to take the complaint was proper as judicial misconduct is better addressed through judicial review and the election process. The District Attorney's office also declined to arrest Judge Kurshner. The police lieutenant's attempt to dissuade Mr. Koenig from making a citizen's arrest was viewed as similar to telling citizens where they cannot park. The Advisors also felt that the police decision to do a background check was appropriate.

C. W. Jensen, Captain, Police Internal Affairs Division, said although he was not in charge of Internal Affairs at the time, the decision to investigate and make sure the judge was protected was proper.

Mayor Katz asked him to comment on the charge that one officer dealt with Mr. Koenig in a threatening way.

Captain Jensen said he does not see as misconduct an officer's dissuading someone from unlawful action.

Mr. Koenig said the officer told him he would suffer the consequences if he arrested the judge as it would be considered kidnapping. He said the statutes regarding citizen arrests state that a citizen can make an arrest in good faith if he sees someone acting illegally.

Mayor Katz said the real issue is whether the Advisors agreed with his contention that this was police misconduct. They did not.

Captain Jensen said the police officer was trying to tell Mr. Koenig that if he grabbed the judge he would get in trouble.

Mr. Koenig said it was wrong for IAD to say it would not investigate and for the Citizen Advisors to agree as not all the facts were on the table. He said he expects the rules to be followed or consequences will occur. Just because a citizen has a history of being irate, the Police have no right to divulge that.

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Commissioner Hales moved to uphold the PIIAC Advisor's decision.

Disposition: Appeal denied. (Y-3)

***1499 TIME CERTAIN: 2:15 PM** - Amend the Comprehensive Plan and change the zone of property at NE 33rd Avenue, south of NE Killingsworth Street, from R5ah (Residential) and CN1 (Commercial) to CSdh (Commercial), remove the Buffer overlay zone from a portion of the property and add the Design Review zone to the entire site (Ordinance introduced by Commissioner Hales; LUR 95-00589 CP ZC AD)

Discussion: Ruth Spetter, Senior Deputy City Attorney, outlined the procedures to be followed.

Susan McKinney, Planning Bureau staff, described the Comprehensive Plan Map and zoning amendments requested by applicant in order to redevelop the site with a new neighborhood grocery store with approximately 137 parking spaces. She said the applicant, United Grocers, has requested a zone change to CSdh for the residential portion and a change from the current commercial portion, CN1, because it limits development to 5,000 square feet and places a cap on the number of parking spaces to about 40. She said the Hearings Officer recommended denial but offered an alternative recommendation which will allow development of the site with a grocery store. Some of the issues raised include replacement of housing, vacation of Emerson Street, removal of the buffer zone and application of the design zone.

Ms. McKinney showed slides of the existing vacant site and non-conforming parking lot south of Emerson. There is also a proposal to allow access to the grocery store by an easement through an undeveloped lot. She reviewed the Hearings Officer's zoning recommendation, noting two residential lots north of Emerson that are currently R5. These are the subject of applicant's request for a Comprehensive Plan amendment from residential to commercial. The rest of the site is currently zoned CN1 and to go from CN1 to CN2 does not require a Comprehensive Plan amendment, only an amendment to the zoning map. Along 34th there is a section designated with a buffer zone to provide protection for residential uses. The Hearings Officer has recommended that the entire site be designated Urban Commercial with a corresponding zone of Commercial Storefront. She found that designation much more supportive of the relevant approval criteria. Of significant importance is the designation of NE 33rd and Killingsworth by the Transportation Element as major transit streets as it specifically states that auto-oriented uses may not be located along major transit streets unless they are also designated as major traffic streets. In this case, they are

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designated neighborhood collectors. The requested maps show a continuation of the buffer zone along 34th to the south of Emerson, with a break. The Hearings Officer's recommendation removes that buffer zone and Design Review has instead been applied to the site.

Ms. McKinney noted usually the City does not consider specific site plans in determining the appropriateness of Comprehensive Plan amendments but in this case some important nuances had to be addressed. This resulted in the Hearings Officer's decision to remove the buffer and add the Design Zone but those recommendations would apply to just about any development proposal at this site. As part of its plan, the applicant will eventually present a proposal to vacate Emerson Street, although he has been told that this vacation is unlikely to meet City policies, particularly the connectivity policy. Because the site plan involves development over Emerson Street and eliminates any pedestrian access because the buffer zone currently does not allow it, applicant has proposed a pedestrian corridor from 34th to 33rd at the north end of the building. That is why there is a break in the buffer zone. However, if Emerson is not vacated, applicant will have to redesign the site and the break in the buffer may no longer apply. To remove that would require a Type III amendment. In this particular case, the buffer zone regulations could be problematic as they require a 10-foot wide landscaped buffer with hedge or masonry wall with no access. Since the length of this property is 600 feet, this would not be safe or compatible with the neighborhood. To deal with these problems, the Hearings Officer recommends removal of the buffer zone and application of the Design Zone. Finally, the proposed building would require an adjustment. The Hearings officer recommended approval if Council decides to approve the CN2 zoning. Otherwise, it would not be a necessary adjustment.

Ms. McKinney said the proposal cannot be approved without a provision for the replacement of six lost housing units. The applicant has reached an agreement with HOST Development to purchase rights of credit toward housing units as part of the Johnswood subdivision in North Portland. If that subdivision is not approved, United Grocers will need to meet that requirement in some other way and the Hearings Officer recommends that approval of the proposal not be final until that or some other housing replacement agreement is final.

Ms. McKinney reviewed the other conditions recommended by the Hearings Officer, including prohibition of vehicular access from 34th Avenue. If Emerson is vacated in the future, pedestrian and bicycle access to the site must be provided from NE 34th. Vehicular access from Killingsworth would be permitted from a permanent easement only, rather than the month-to-month easement the applicant proposes. She

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said while the CS zoning designation is not perfect for this site. it is a lot better than CN2 zoning as leaving it zoned CN1 practically means no new development will occur there because of the 5,000 square-foot limitation. Staff believes the continuing store vacancy here is a significant barrier to redevelopment and safety in the area. A grocery store of this scale would provide part of the necessary foundation for the area's revitalization and meet Metro 2040 goals. She listed the applicable approval criteria.

Roger Staver, 6433 SE Lake Road, Real Estate Development Manager, United Grocers, said when they took over the property in 1993 they were unaware that it had been rezoned from commercial to residential as part of the Albina Community Plan. The Plan also added over 8,000 residential lots to the neighborhood, making it difficult to meet the no net loss housing rule. They have, however, now reached an agreement with HOST to meet that requirement. He said they had many meetings about their plan with the Neighborhood Association and believe they now have its support. He said while they did not get the zoning they asked for, they have been told by the City they got what they wanted. They will not know that for sure until it is tested but are willing to proceed with the conditions imposed.

Lance Stout, Planning Consultant with Commercial/Industrial Design, 5200 SW Macadam, said they still have misgivings about the CS zoning designation but are willing to try to make it work.

J.C. Kezak, Vice Chair, Concordia Neighborhood Association, 5243 NE 29th, 97211, said 95 percent of the neighbors want the grocery store back, particularly older people who have nowhere else to go. She said other development is now occurring nearby, making this vacant lot a real blot on the neighborhood. While some residents on 34th Street oppose it, overall the neighborhood is very much in favor.

Steve Makinster, 5326 NE 34th, 97211, said he and other residents on 34th want the store too but oppose this particular plan as they believe it is too big and, if Emerson Street is not vacated, as seems likely, this plan will have to be completely redone. He also objected to putting a wall right on the sidewalk, supposedly to encourage a more pedestrian-friendly situation. He said applicant can put the loading dock either on 33rd, towards Killingsworth, or on 34th. A loading dock on a side street (34th) is not neighborhood-friendly and they oppose having one only 60 feet from a family's front door. The dock and the size of the store are likely to reduce property values on 34th. He said they would like to be included in any redesign process, as appears likely. The neighborhood does want a store but it should not be one that is injurious to those on

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34th Street. He asked for denial but added that they will be satisfied if the recommendations of the Hearings Officer are followed.

Sue Chase, 5225 NE 34th, 97211, questioned the appropriateness of acting on the Hearings Officer's recommendation to zone this Urban Commercial without proper hearings. In addition, the Storefront Commercial zoning, which is recommended does not include a parking requirement even though traffic studies indicate that the store proposed by United Grocers would generate an additional 350 vehicles per weekday peak hours, reflecting a high peak rate of 2300 vehicles. She questioned where these vehicles will park. She disagreed with the Transportation staff report indicating there would be no significant change in level of service for the Killingsworth and NE 33rd intersection and that local streets could absorb any increase in traffic. She called for verification through another traffic study. Citing the four conditions listed by staff, she said it is inappropriate to approve the change in the land use before these conditions are first met.

Mayor Katz asked about the process, particularly the vacation of Emerson Street and the housing requirement. She said it is apparent some neighbors do not know what this is going to look like.

Commissioner Hales said this proposal is for a zone change and Comprehensive Plan amendment. The design of the store will be approved through the Design Review process.

Mayor Katz said neighbors can be involved in that process. She asked about the vacation of Emerson.

Ms. McKinney said a certain percentage of abutting property owners would need to approve it. It goes through the Planning Commission and must be recommended for approval by City agencies. From the beginning, the applicant has been told that approval of the vacation of Emerson would be very difficult.

Commissioner Hales asked if the development is completely dependent upon the vacation of Emerson. He supports the recommendation but does not plan to support the vacation as it would undermine a perfectly good neighborhood street grid. He asked what other Council members thought.

Commissioner Kafoury said Council has been pretty consistent in its support for connectivity.

Mr. Stout said they believe there are a lot of good reasons to proceed with

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the street vacation and are close to having enough signatures to file the petition. They do not know if it will be successful but believe it is worth the effort and would like to talk about its merits in a separate forum. Redevelopment of the site will not necessarily die if the street vacation fails but this will be a much better project if the street area is included. However, there are other ways the store could be built to a lesser degree without the street vacation. He said the traffic issues raised by Ms. Chase were addressed in the traffic study done by Kim Engineering. The conclusion reached by both the Office of Transportation and their consultants was that even with full redevelopment the traffic impacts on the circulation system would be at an acceptable level.

Mayor Katz asked about placement of the loading dock.

Mr. Stout said many of those issues have already been addressed but will be aired out again in the Design Review process.

Commissioner Kafoury asked for feedback about the replacement housing policy. She asked Council to consider allowing those who need to meet no net loss housing requirements to contribute to the Housing Investment Fund and then let the Portland Development Commission (PDC) determine how the money would be allocated.

Commissioner Hales said he would like to create some kind of escape hatch for the housing component because if the option in the Hearings Officer's recommendation falls through, the applicant and neighborhood could be placed in a difficult position if everything else is ready to go.

Commissioner Kafoury said a lot of commercial developers are not home builders and it gets very complicated for them. Perhaps the recommendation could reflect a change.

Mayor Katz said if Council wants to provide alternatives, the Code would need to be changed.

Ms. McKinney says one of the options listed in the approval criteria is "any other means" to accomplish the goal. The language is there but this proposal needs to have something that fulfills that.

Mayor Katz said she likes Commissioner Kafoury's idea.

Commissioner Kafoury said if it already says by "any other means" then perhaps a statement about the Housing Investment Fund is not needed.

Commissioner Hales said one option, if Council approves this, is to attach

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another section to the housing condition and state that if this receiving site for the housing units is not available, the applicant may negotiate with the PDC for a contribution to the Housing Investment Fund.

Ms. Spetter said the current language is quite broad. She said she is not sure whether "by any other means" refers to actual other housing or a donation.

Commissioner Kafoury said it has been housing before.

Ms. McKinney said a previous applicant proposed to purchase credits towards housing units already rezoned and built. Staff and Council told them that did not work as the units were already there. The whole point is to create housing that would not necessarily have been there for any other reason.

Mayor Katz asked if HOST would have built those six additional units anyway?

Mr. Stout said they looked at a number of housing alternatives, even looking for sites in the neighborhood that could be upzoned to increase the density. They could not find any that worked. The Code implies that the increased housing has to be real units coming on line, which is why they focused on HOST. He supported having some other tool to create the housing as that could greatly facilitate the redevelopment of commercial areas.

Mayor Katz asked Ms. Spetter to craft that.

Commissioner Kafoury said she thinks the HOST project would have been built anyway so she does not know why that qualifies as replacement housing.

Commissioner Hales said Council may not want to be this flexible in the future but on this particular application he is content to let this arrangement go forward. But if something goes awry, then the applicant is stuck.

Mayor Katz and Commissioner Kafoury said they are not sure they are comfortable with the HOST provision as they believe these units would have been built anyway and do not represent additional units.

Commissioner Hales said at this point it is not reasonable for Council to raise that hurdle.

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Ms. Spetter said as the ordinance reads now this approval is not effective until the HOST matter is finally decided on appeal as high up as it might go. She asked if that was Council's intention as those appeals could go on for years.

Commissioner Hales said perhaps the words "final local review" should be used instead of "appellate review." He said if this is approved, applicant should be able to go ahead with Design Review and not be jeopardized by some long, troubled process.

Ms. Spetter said if they want to go forward while that is on appeal, a statement should be included indicating that the City has no control over the outcome of the appeals.

Commissioner Hales said perhaps Council could craft some other mechanism to allow them to meet the housing obligations that would not hold them up if the HOST project is denied or appealed.

Mayor Katz said she would prefer not tying this project to HOST at all as it does not give the City additional housing units.

Mr. Stout said the Code says that one method of meeting the replacement housing criteria is through a rezoning to increase density. It is housing potential that they are trying to recapture. HOST is in a rezoning process which, if approved, will increase housing potential. United Grocers viewed it as trading off potential.

Commissioner Hales said that is right as they are upzoning, resulting in a net increase in housing units.

Mr. Stout said they were concerned about getting locked into just the HOST application and suggested that the Hearings Officer add the language "through some other means." He said they are accepting the risk that HOST may or may not be successful but would appreciate having the language regarding court appeals modified to end with the City's process.

Commissioner Hales moved to tentatively uphold the Hearings Officer's recommendations and asked staff to prepare modified conditions that: 1) would make it clear that the no net housing loss requirement is deemed satisfied at the conclusion of all local reviews; and 2) create a means to allow applicant to meet the requirement if the HOST proposal is not approved, particularly by a contribution to the Housing Investment Fund.

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Commissioner Kafoury said they need to think through how much that would be per unit.

Commissioner Hales said he thought a condition could be crafted that did not include dollar amounts or anything too specific.

Commissioner Kafoury said she would like to follow up quickly with a policy.

Mayor Katz said she is nervous about tying one project to another and where, even with a rezone, the units would have been built anyway. She said the City is not getting any additional units from this replacement housing.

Commissioner Kafoury seconded Commissioner Hales' motion.

Ms. McKinney said she is not sure she agrees with Mayor Katz. She said this has been connected with the HOST proposal from early on. She asked if Council wanted the new language to be more than "by any other means" but less than specific details.

Commissioner Hales said yes. He said parts of Northeast Portland have been abandoned by grocery stores and now, because this neighborhood is getting healthier, people are investing here again. There is also an applicant willing to work out the details with the neighborhood. He said applicant is welcome to pursue the street vacation but this Council has been very firm about maintaining the street network where it exists and building it where it does not. There are plenty examples of good storefront retail development in the last few years, such as Nature's on Division, that really fit the neighborhoods. The need to meet some footprint for a suburban store is an argument that will go nowhere with him, or probably anyone else on Council. He urged them to design something that fits here, not Beaverton.

Commissioner Kafoury said the parking issue seems to be haunting the City because people, especially in the suburban jurisdictions, want to build maximum parking buildout for Christmas shoppers. Yet a number of stores with far below the usual parking spaces seem to be doing very well. While this corner may not be considered traditionally pedestrian-oriented, things could change dramatically and people will change their behavior. She said she thinks the zoning recommended here is creative and will work. And now, with the Housing Fund, the City may be able to do some things that take that load off developers.

Mayor Katz said the Thriftway at NW 21st and Glisan is another

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example of a successful neighborhood store with a small parking lot where people walk.

Disposition: Tentatively uphold Hearings Officer's decision with modified condition; continued to October 2, 1996 at 2:00 p.m. (Y-3)

At 3:40 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 19TH DAY OF SEPTEMBER, 1996 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Hales Kafoury and Lindberg, 3.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Linda Meng, Senior Deputy City Attorney; and Officer Chuck Wade, Sergeant at Arms.

1501 TIME CERTAIN: 2:00 PM - Amend Multnomah County - City of Portland Urban Planning Area Agreement (Ordinance introduced by Commissioner Hales)

Discussion: Bob Glascock, Planning Bureau staff, said this is a Planning Commission recommendation on a governance issue, not a land-use matter. The amendment provides a framework for future interactions between the City and the Port of Portland regarding the transition of planning and zoning responsibilities for West Hayden Island from Multnomah County to the City for West Hayden Island. He said in 1979 the two governments entered into an urban planning agreement in order to divide responsibilities and provide for an orderly transition and efficient services in those areas that would eventually be annexed into the City. In 1983, Metro brought West Hayden Island within the Urban Growth Boundary, recognizing the regional need for a marine industrial expansion area in the metropolitan area. In 1994, the Port acquired West Hayden Island and approached the City regarding collaborative planning for its long-term development. Today's amendment would enable a smooth transition from the County to the City for land-use decision making. It is needed because the Island does not neatly convert into the normal zoning designations. The City has discussed delaying the annexation in order to make some improvements so that when it comes into Portland the revenue base would be higher. The Port is proceeding with plans for deciding how to develop in a phased manner and, if nothing is done now, it will approach the County with a proposal for industrial zoning. At annexation they would have to go through the same process with the City and would like to avoid going through two such procedures. This amendment provides a one-stop process.

Commissioner Kafoury said for 10 years she has been trying to get the Multnomah County and City Planning bureaus consolidated.

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Commissioner Hales said he has seen no interest from Multnomah County in consolidating redundant services.

Mr. Glascock said the final reason for this amendment is that the Island now has an undifferentiated environmental overlay zone and upon annexation an environmental study will be needed to decide the level of protection. This framework would allow the Port to apply to the Hearings Officer for a pattern of City zoning that includes Comprehensive Plan designations based on the overlay zones. The City has provided to the Port a natural resources inventory as a foundation for deciding what levels of environmental protection are appropriate.

Jim Laubenthal, Project Development Manager, Port of Portland, said their objective is to eventually develop marine facilities and the land use action that will come before the Hearings Officer will also come before Council. This is the only site in the region that can accommodate the kind of marine activity they see happening and the kind of growth projected by Metro. It has good access to transportation and labor. Their Master Plan, now almost complete, focuses primarily on access issues because they will need a new bridge from the Rivergate area to serve most of the new development. The Plan will allow them to move into two new phases as they develop over a 20- to 30-year period. They will apply to the City for the zoning and will also initiate an environmental impact statement process. Following application of City zoning, they hope to do a Natural Resources Management Plan.

Commissioner Kafoury asked about the bridge and Fire Bureau access to the Island.

Mr. Laubenthal said one issue they have been discussing with the neighborhood is whether the bridge should connect with the main part of the island. One pitfall to that might be an increase in through-traffic from people going from Vancouver to the Rivergate area. However, additional Fire Bureau access is envisioned there. Other issues include the dock facilities and interaction with juvenile fish. Development is probably two or more years away.

Mayor Katz asked him to discuss the infrastructure needs they wish the City to provide after annexation.

Mr. Laubenthal said all the traditional utilities, such as water and sewer, as well as road access, are feasible. He said the traffic system is the most challenging because of the expense. The Port understands that with an annexation agreement, the Port will essentially act as if it were in the City but take formal action later when the facilities are on board.

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The first phase will be a grain and rail facility but the larger scale impacts will occur later as container development occurs.

Mr. Glascock said the Multnomah County Planning Commission has recommended to the County Board that this amendment be adopted.

Larry Hollibaugh, 8000 N. Oswego, stressed the very negative potential impact of the proposed bridge on truck traffic in St. Johns. One idea is another bridge across the peninsula to Highway 30.

Kathryn Rich Daniels, 515 NE Tomahawk Island Dr., Chair, Hayden Island Neighborhood Network, said they look forward to resolving the transportation and environmental issues as this proceeds. She said they are happy to be in Portland.

Disposition: Passed to Second Reading September 25, 1996 at 2:00 p.m.

REGULAR AGENDA

Commissioner Charlie Hales

- *1502** Amend the Comprehensive Plan Map and change the zone of property between N Columbia Boulevard and Bank Street, Barr Street and Oswego Avenue from OS (Open Space) and R5 (Residential) to R2 (Residential) (Previous Agenda 1464; LUR 96-00234 CP ZC SU)

Discussion: Mayor Katz said at the last hearing, because of a slight error in notification, Council agreed to extend the hearing to allow citizens who did not get a chance to testify before to testify today. Testimony only would be taken today and Council will make its tentative decision on October 2, when Commissioner Lindberg will be present.

Linda Meng, Senior Deputy City Attorney, outlined the procedures to be followed in testifying and in making a possible appeal to the Land Use Board of Appeals (LUBA).

Commissioner Kafoury said she checked with the City Attorney and found there is no policy prohibiting Commissioners' staff members from being on community boards. She said the key is announcing that fact. Ms. Meng concurred.

Mayor Katz noted provision of a definition of those Portland neighborhoods designated as distressed areas, as she had requested. A memo from Duncan Brown responding to earlier Council questions is also available. She guaranteed that Council would not be making its decision

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behind closed doors. Regarding uses allowed under the Open Space designation, she noted that agriculture is allowed as an outright use while retail sales and service related to Open Space use, commercial outdoor recreation, basic utilities, community services, parks and open areas, schools, mining, radio and tv facilities and rail lines and utility corridors are all allowed under special limitations or as a conditional use. Mayor Katz said she also asked whether a proposal had been approved by the St. Johns Neighborhood Association (SJNA) that involved R5 zoning. The answer is that the original HOST proposal was for a development virtually identical to the one before Council but proposed as a Planned Unit Development in the R5 zone. To provide additional land to allow it to be considered under the R5 zone, the applicant proposed that part of Pier Park to the west be included as Open Space. The Bureau of Parks did not support that and it is also not possible to meet PUD requirements regarding common ownership of open space by the property owners within the PUD, not by the general public. HOST then withdrew that application and resubmitted a conventional subdivision proposal that includes a Comprehensive Plan amendment to R2. According to testimony before the Hearings Officer, the SJNA did review and approve the original PUD which is functionally identical to the proposed subdivision. Another question was whether HOST applied for property tax exemptions related to the distressed area designation. St. Johns as well as 19 other full or partial neighborhoods is considered a distressed area. To encourage new housing, 10-year, limited property tax exemptions can be given to qualifying homes and the HOST project, as well as any other new housing project in St. Johns, could be eligible for these.

Duncan Brown, Planning Bureau, listed the applicable approval criteria.

Arnold Rochlin, PO Box 83675, 97283, said this is the wrong process for a large tract development. The approval standard States that the proposed zone must equally or better meets the overall purpose of the Comprehensive Plan on balance. Every zone better meets some important goals than others and all you do to balance it is to put your thumb on the scale in the right place. The Hearings Officer's report is an embarrassment. R2 is a multi-dwelling zone allowing two units per 4,000 square feet but in this case R2 is approved with a condition allowing only single dwellings on each 4,000 square-foot lot. The Hearings Officer states the evidence does not support a multi-dwelling zone but then repeatedly states that the R2 standard is met only with the single-family dwelling condition. In some cases she compares R2 to R5 and states that Goal 5 is better met because the number of dwellings could be doubled with R2. But she has then added a condition not allowing that doubling. The single-dwelling condition is meaningless

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because once R2 is approved, any developer can get the condition removed. If a revised subdivision proposal conforms to the R2 zone and Titles 33 and 34, by law it must be approved and then the condition is gone. Also, there has never been a condition on a Zoning Map change before. Once that precedent is broken, no one can rely on any zoning map and people must check to see if any conditions are attached to the zoning that might prevent them from expanding a building or changing a use. He said Council must base its decision on the suitability of this property for R2 development, not because Council wants it. There is good reason for new development but it must be done through an honorable legislative process, not as an exercise of lawless power. There are other defects, specifically Policy 6.6, 6.11 and 6.12, which are violated by having no direct bicycle or pedestrian connection to Columbia Boulevard, a major transit street. The nearest connection to Columbia is 700 feet east of the subdivision. Lot 104 is unlawful as it cannot be redivided because it is only 60 feet deep and there is an 80 foot minimum. The road in front of it is only 16 feet wide and would need to be widened, taking at least 10 feet or more from the property.

Commissioner Hales asked staff about the pedestrian/bicycle connections, noting that Columbia Boulevard is referred to in the Hearings Officer's report as a transit street but there is no pedestrian connection in the site plan. He also asked if the City had ever conditioned a zone change request before and what happened subsequently. Would the condition be likely to disappear?

Mayor Katz asked staff to respond to Mr. Rochlin's assertions.

Austin Brown, 9846 N. Syracuse, 97203, said the park should remain as it is. This proposal will add too much traffic, overload the schools and increase taxes. Exchanging parks for housing sets a bad precedent.

Jerry Mason, real estate broker, 8040 SW Valley View Court, 97225, said he had never seen this property used as a park but associates it instead with the conduct of rather spurious activities. He said the apartment house owners to the north consider it a detriment and have had to take out higher liability insurance as a result. He said this proposal will broaden the tax base and allow more people to use Pier Park.

Lewis Marcus, Cathedral Park Neighborhood Association, said 100 percent of the Neighborhood Association is opposed to this. The neighborhood would rather explore other possibilities and options which could compete with the HOST proposal. Speaking as an individual, Mr. Marcus said that perhaps Council should consider selling all its park land to provide more housing.

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Christine Helmer, 7237 N. Kellogg, said she has the official SJNA meeting minutes which spell out who was approached by HOST and when and what the SJNA officially stated. She said Council should not sell Johnswood Park and the school land to developers. This development is not necessary to achieve Metro's density goals and the goals should not be achieved by giving up green space and lands withheld for schools. SJNA has asked the Planning Bureau to help them develop a community plan to replace the 1979 Comprehensive Growth Plan under which it currently operates. Building on the many infill lots available in St. Johns would more evenly spread new housing throughout the community. She said the community itself should be allowed to tackle the density goals set for it. Regarding affordability, she said over half the houses listed for sale in North Portland are at, or lower, than the projected prices of the HOST homes.

Mayor Katz asked her to share some of the history of HOST's involvement with the SJNA.

Ms. Helmer said the Board is responsible to the general membership and must have its decisions ratified by it. HOST originally approached the general membership in March, 1993 to speak about a development on the Steinfeld property. Neighbors opposed this and no action was taken. The next notation in the minutes refers to a motion, made at a board meeting, to send a letter of support to HOST. This was never taken to the general membership meeting. She said a motion to oppose the HOST project was later brought before the general membership and passed overwhelmingly.

Ray Hyde, 1584 SE Lexington, 97202, opposed giving school district property away when the district has no idea how many students are going to be in the neighborhood in the near future. It seems illogical to sell it now and then buy a replacement later at a much higher price. He said this area, like Sellwood, should infill by rehabbing some of the older homes.

Commissioner Kafoury said she too would like an answer from the School District about its growth projections.

Marlys Laver, property manager for Guardian Management, 4380 SW Macadam, #300, said she has supervised the St. Johnswood apartments, a housing facility for low income families, for two years. She supported the project as it will lessen the number of security problems caused by gang members and drug dealers who congregate in the open areas nearby. She said there is a great need for the kind of housing HOST proposes.

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Jim Brown, 1005 N. Farragut, 97217, said because of heavy truck traffic, the housing that exists there now (St. Johnswood apartments) should never have been put there in the first place. He opposed giving away public park property.

Lou Sutton, 8718 N. Swenson, 97203, opposed the proposal as he feels the project will degrade his neighborhood. He said the HOST homes will not have garages and the area needs nicer homes. No one in the community wants the park land taken but would like to see the school property nicely developed.

Willa Larsen, 6827 N. Powers, 97203, said she is one member of the SJNA who initially approved the proposal after HOST pulled out of the Steinfeld deal. The rezoning involved in the current proposal was never discussed with the neighborhood and she did not realize the school and park land would be gone. She now opposes this project.

Sherry Dahlen, 6702 N. Syracuse, 97203, opposed the sale of school property, citing the need for more educational opportunities in North Portland, whose residents have the lowest educational level in the City. She said the medium income level of current residents is \$21,000 and they cannot buy a home based on 80 percent of that. The HOST property acts as a buffer and needs to be left alone.

Mark White, 6626 N. Borthwick, 97213, opposed. He said it is inappropriate to put housing on park land when other developable areas are available. North Portland residents want more parks and believe they deserve as much as the rest of the City.

Melinda Wilde, attorney and President of Lincoln Loan Company, said Commissioner Miller Kafoury should withdraw because of improper ex parte contacts with Erik Sten, a member of the HOST Board of Directors. She said the City failed to study the impact of the sale of this property on its inventory of open spaces. She said if one accepts the argument that North Portland has a surplus of park space then what about the west side where Forest Park so overwhelms any other parks. She suggested cutting Forest Park in half and dedicating that half to affordable housing. She said people are drawn to Portland because of its open spaces and because of the dedication of its citizens to the open spaces. If one simply says developing this land serves more Comprehensive Goals than the one Open Space goal, open spaces will lose every time because they do not bring economic development, provide affordable housing or economical job stability. But they do provide livability and this proposal violates the Comprehensive Planning goal regarding preserving open spaces within urban areas. In addition, she does not believe statements

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that this zone change will contribute to economic development are supported by evidence in the record.

Thomas Wilde, 3826 N. Longview, said Commissioner Kafoury's involvement here is a very serious conflict of interest, which he will get corrected when he begins his term as a state legislator. He said she has contributed to the political campaign of person running for City Council, as has Ted Gilbert.

Commissioner Kafoury asked the City Attorney for a clarification of the conflict of interest statutes.

Mr. Wilde said by the end of his term in the Legislature it will be a conflict of interest, whether Commissioner Kafoury feels it's a conflict of interest now or not. He asked whether it was true that tax abatements are available for this development, asserting that Mr. Gilbert had claimed earlier that they were not.

Mayor Katz said she was the one, not Mr. Gilbert, who identified the potential for that area.

Mr. Wilde said Mr. Gilbert, however, has stated that St. Johns has more than enough parks but parks do not seem to be disappearing from Southwest or Northwest. He said he is going to stick up for his district and will fight rezoning that would allow a parole office and a health clinic.

Commissioner Hales asked him to address the criteria.

Mayor Katz noted that the zoning for those facilities is the existing zoning and the City had nothing to do with siting them there.

Mr. Wilde said the State goal for Open Space is to allow it to stay Open Space and not develop it.

Commissioner Hales said statements that the City is not selling surplus park land in Southwest Portland or anywhere else but North Portland are not relevant and not true. The Parks Bureau did sell surplus property in Southwest Portland last year. He said Council has to stick to the criteria, one of which is the Open Space standard. That has to be weighed against the others.

Mr. Wilde asked what kind of environmental impact studies have been done in terms of sewage flow.

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Commissioner Hales said it is in the record and he could testify about it.

Mr. Wilde said he was done.

Diane Willman, 10226 N. James, opposed selling school and park land for homes. She asked why the development has to be so dense and agreed with others who testified that these new homes will be worth more than most of those already existing in St. Johns. Infill should happen first and then open space will be even more important.

Anthony Jenkins, 81 N. Ainsworth, supported the project. More affordable housing is desperately needed and these developments have not hurt the neighborhoods where they have been built. He said North Portland also has an abundance of parks.

Rosemary Seminara, 8433 N. Olympia, said all the maps indicate this area as a park, including the Bureau of Parks and Recreation booklet. She said it is up to the public to decide what to do with space it owns. She said Commissioner Kafoury and Commissioner Hales announced their support for this project two years ago and, while she knows of Commissioner Kafoury's support for housing, she cannot understand Commissioner Hales' failure to show reverence for this park space. She said declaring this as surplus space was sneaky and this decision should involve citizens.

Peter Giese, Jordan Kirk and Heather Bronfman, students from the Environmental Middle School, said they believe a compromise should be reached, possibly through a redesign of the HOST project, that would preserve more of the trees and natural spaces in Johnswood Park.

Charlotte Gallagher, U.S. Bank and HOST Board member, said these will be very appealing houses and are critically needed. U.S. Bank continues to support HOST projects because of their mission and the positive results accomplished in other neighborhoods with the addition of new owner-occupied housing. She said she came away from visits to the property with the feeling that this was vacant space, rather than park land.

Jerianne O'Neill, N. Charleston Ave., said the majority of residents in St. Johns are low income while the low-income jobs are being created in the suburbs, not in the nearby Rivergate area. Adding new low-income housing will result in extra traffic. The current market trend in St. Johns is the conversion of rental to owner-occupied homes and there is no need to start sub-dividing park land to do the same thing. Green spaces should be maximized, not sacrificed. She also opposed holding private negotiations on the sale of public land.

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Ted Gilbert, 1818 NE Martin Luther King Blvd., said in his opinion this property is not a park and was acquired only in case a school was built on the adjacent property. Nothing has been done on the site since the housing development that once occupied it earlier was torn down. He said the issue of this land being a park did not arise until after the Hearings Officer's decision although opponents raised many other legitimate issues. Apparently some people believe the word park will garner more support in opposition than simply opposing growth. He said HOST believes that, among informed citizens, those opposed would not be in the majority. Supporters include neighbors, St. Johns business owners, former SJNA board members, the Metro Executive and a naturalist for the Audubon Society. He called for Council's endorsement. Regarding the students' testimony, he said he would be happy to redesign some of the project to preserve more trees.

Mayor Katz asked if those who opposed the project based on the use of open space had raised other land-use and housing issues at the Hearings Officer level. She asked what those arguments were.

Mr. Gilbert said the issues included opposition to more density and traffic. Some wanted larger lots and homes and others worried about increased crime. A whole array of concerns was raised and parks were not mentioned.

Mayor Katz said she would like to read that portion of the record to get a flavor of the other issues. Commissioner Kafoury asked if there was any tabulation as to how many concerned each issue.

Duncan Brown said no. A large number were form letters.

Lisa Cobb, 2624 SE Kelly, 97202, said parks should be used only as a last resort for housing development and suggested that vacant lots in North Portland be used first. She said Council should consider including this particular proposal a moratorium on park swaps and citizens should help develop criteria under which parks may be used other than for recreation.

Commissioner Hales said the Bureau does have plans to develop a new policy that would provide a basis for making decisions in these kind of proposals.

Joyce McKinney, 9555 N. Polk, supported the project and said she has been involved since HOST presented the proposal to the neighborhood during the early planning phases. A neighborhood committee was formed to work with Mr. Gilbert and his associates, who implemented

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many of their suggestions into the plan. Suggestions included off-street parking, a berm off Columbia Blvd., a variety of home and lot sizes and lot sizes close to 4,000 square feet. She said they did not want a common area because no one would be in charge and asked that area to become part of the lot sizes. A few St. Johns residents believe that HOST will build on 2,000 square-foot lots if there is a rezone but HOST has offered to sign an agreement with the SJNA to retain the lot sizes in the original design. HOST worked hard to involve the neighborhood and many of those now opposed have only been involved with the neighborhood association for the last five months. She said this space is not needed to ensure there is Open Space in St. Johns as there are many parks already.

Mayor Katz asked if the membership voted on the proposal.

Ms. McKinney said a core group of about 20 were involved in neighborhood issues until other things came up recently and more people decided they should be involved

Angie Coleman, 10226 N. Charleston, 97203, called for preservation of the open space.

Stella Rossi, 3710 NE 147th, 97230, said this should have been put up for public bid in a more open process than this, which is akin to condemnation. She opposed the loss of public property and a park and said St. Johns already has an abundance of affordable housing. She suggested that HOST buy and convert existing houses into duplexes.

Dennis Keepes, speaking on his own behalf, said public park property should not be sold without a needs study and a competitive process. He noted recent passage of the Metro ballot measure to spend millions of dollars to obtain more parks and open space and said Council should run this proposal by its constituents. He said withholding information about the appraised value and sales price of the property sets a terrible precedent. He requested reconsideration of this action.

Mayor Katz asked if he was suggesting that Council deal with the issue of the surplus land before it deals with this zone change.

Mr. Keepes said they go together. There is a requirement for a study of open space and recreational needs to make the Comprehensive Map change. There should also be a study on the record to enable the Council to declare the property surplus.

Paul Richmond, PO Box 454, 97207, opposed this proposal. He asked

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why the City allowed the demolition of a block of low cost housing in order to build the Justice Center. He said there is no regular forum for citizens to have real input and questioned the growth figures being used as the basis for this project. He said most of the growth figures were determined when there was an economic downturn in California and more recent studies show the region will not see anything like the projected growth still being predicted by Metro. He said HOST projects cost far more than those done by independent contractors and he would prefer that the concentration be on fixer-uppers. He said it looks like there are sweetheart deals going on here.

Teresa Ratliff, 10122 N. Allegheny, 97203, said she has been happy to see the City invite more community involvement over the years. While the HOST project is a good one, she is concerned, however, about the overall effect of increased numbers of kids and traffic and the loss of open space.

Rose Marie Opp, 11135 SE Yamhill, 97211, said the issue is the park, not the housing. The park belongs to citizens, not the politicians, and to use it for housing would set a dangerous precedent. She said only eight percent of the City's green space is left in public ownership and that land belongs to the students who spoke today. She noted a letter from Commissioner Hales stating that while beautiful, historic parks are not for sale, he would be open to partnerships that benefit citizens as a whole and work for fiscally sound solutions. She said this park was purchased for \$35,000 and questioned how much the City will ask for in the future to replace these lands. She disagreed with Mr. Gilbert, who said no one testified about the park sale issue at the Hearings Officer's hearing. She said she was there and did speak about it.

Mayor Katz said that is why she wants to scan those letters.

In rebuttal, Tim Ramis, attorney representing HOST, said the testimony has fallen under two themes: 1) aggressive personal attacks on HOST, staff and, in some cases, Council members; and 2) housing, open space and habitat. He said the record speaks against any conspiracy theory as HOST worked for two years directly with neighborhood association leadership and fully disclosed the nature of the project, the zoning and the design. HOST made no application until the elected board of the SJNA agreed with the design and pursued no land-use hearing until neighborhood representatives agreed with the zoning vehicle. In March, 1996, new neighborhood leadership was elected and Mr. Gilbert has made many attempts since then to meet directly with the full membership of the association. The leadership has not been cooperative in allowing him to do that. Therefore, it is not credible to attack Mr.

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Gilbert and HOST on the theory that he has not met with the full membership.

Mr. Ramis said the "bait and switch" argument that HOST presented one zoning argument and then came back with another in order to get multi-family housing is also in error. He said the letter from the SJNA about the agreement speaks to design and that was the compromise agreed to in 1994. The issue of zoning was left to be determined later. At the preapplication conference, to which the neighborhood was invited, it became clear that the original PUD approach was flawed. HOST did not proceed then until the neighborhood agreed with the zoning vehicle now being proposed in this application. On the open space/habitat debate, certain facts have risen to the surface. First, the land has not been developed as a park and, two, the Bureau has no plans to spend money to make it a park absent a school development. Three, the School district has decided its land is surplus and, four, even the Audubon Society says the site does not have high wildlife habitat values. These facts support, on balance, the Hearings Officer's decision. He said it is Council's responsibility to do that balancing. Finally, they request that the language under Condition A which prohibits phasing be removed. It is inconsistent with the Code and prior language in the Hearings Officer's opinion. In imposing conditions, HOST wants to be compatible with the community but also wants to keep costs down because the objective is affordable housing.

Commissioner Kafoury noted that the questions are to be held over until next week.

Commissioner Hales said he would like to know what happened about the pedestrian connection to Columbia during the design negotiation with the neighborhood and at the hearing held before the Hearings Officer.

Commissioner Kafoury said she would like to know about the trees and what other options might exist for saving them.

Mayor Katz said she would like to know why the PUD recommendation would not work. She asked staff to explain the policy and criteria used to determine surplus park land.

Susan Hathaway-Marxer, Parks Bureau staff, said Council determines what is surplus and there are no formal criteria. She noted the bureau declared as surplus and sold two pieces last year related to housing which they brought to Council. She said there is virtually no surplus property list at the Parks Bureau.

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Mayor Katz said she wanted to know how such sales were determined and if the normal sequence is to consider a zone change before asking Council to declare property surplus.

Commissioner Hales said he does not know if there has ever been a similar case.

Mr. Brown said this is the first one he has seen but knows of no real reason to take one before the other. Ultimately, the deedholder has to agree to any conditions of approval so whether the City sells or retains the property has nothing to do with the land-use action.

Commissioner Hales asked staff to check the records regarding the 1980 acquisition of Sellwood Riverfront Park and its exchange for a long-term lease now occupied by the Macadam Bay Moorage.

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

At 4:50 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council