



CITY OF  
**PORTLAND, OREGON**

**OFFICIAL  
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 23RD DAY OF JULY, 1997 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Hales, Kafoury and Sten, 5.

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

Agenda No. 1108 was pulled from Consent. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

**CONSENT AGENDA - NO DISCUSSION**

- 1107** Cash investment balances May 29 through June 30, 1997 (Report; Treasurer)  
**Disposition:** Placed on File.
- 1109** Accept bid of Pacific Cascade Controls, Inc. for energy management and control system for \$123,669 (Purchasing Report - Bid 222)  
**Disposition:** Accepted; prepare contract.
- 1110** Accept bid of S-2 Contractors, Inc. for North Portland sanitary sewer extension #3 for \$186,907 (Purchasing Report - Bid 98002)  
**Disposition:** Accepted; prepare contract.
- 1111** Accept bid of Andersen Pacific Contractors, Inc. for W Burnside Street at NW Hermosa Blvd. slide repair project for \$167,420 (Purchasing Report - Bid 98003)  
**Disposition:** Accepted; prepare contract.
- 1112** Vacate a certain portion of NW Reed Street east of NW 21st Avenue, under certain conditions (Second Reading Agenda 1074; C-9928)  
**Disposition:** Ordinance No. 171402. (Y-5)

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**Mayor Vera Katz**

- 1113** Confirm reappointment of Lisa McQuarrie to the Adjustment Committee (Report)  
**Disposition:** Confirmed.
- \*1114** Pay claim of Teresa Taylor (Ordinance)  
**Disposition:** Ordinance No. 171403. (Y-5)
- \*1115** Pay claim of Maxine Fowlkes (Ordinance)  
**Disposition:** Ordinance No. 171404. (Y-5)
- \*1116** Pay claim of Lloyd Boyer (Ordinance)  
**Disposition:** Ordinance No. 171405. (Y-5)
- \*1117** Pay claim of Donald Kindred (Ordinance)  
**Disposition:** Ordinance No. 171406. (Y-5)

**Commissioner Jim Francesconi**

- 1118** Accept contract with Berning Construction for Progress Downs Golf Course improvements as substantially complete and authorize final payment with release of retainage (Report; Contract No. 31205)  
**Disposition:** Accepted.

**Commissioner Charlie Hales**

- 1119** Set hearing date, 9:30 a.m., Wednesday, August 20, 1997, to vacate a portion of NW 111th Avenue east of NW St. Helens Road (Report; C-9927)  
**Disposition:** Adopted.
- 1120** Accept contract with CMJ Construction for improvements to Community Music Center as substantially complete and authorize final payment with release of retainage (Report; Contract No. 30805)  
**Disposition:** Accepted.
- 1121** Declare the purpose and intention of the City to construct street and storm sewer improvements in the SE 48th Avenue, SE Mitchell to SE Raymond Streets, Local Improvement District (Resolution; C-9906)

**Disposition:** Resolution No. 35630. (Y-5)

- \*1122** Contract with Pacific Cascade Controls for materials and labor to provide energy management and control systems for three community centers for \$123,669 and provide for payment (Ordinance)

**Disposition:** Ordinance No. 171407. (Y-5)

**Commissioner Gretchen Miller Kafoury**

- \*1123** Contract with Multnomah County Legal Aid Services for \$37,147 of Community Development Block Grant funds for Fair Housing Enforcement and provide for payment (Ordinance)

**Disposition:** Ordinance No. 171408. (Y-5)

- \*1124** Contract with Fair Housing Council for \$25,595 for Fair Housing Enforcement services and provide for payment (Ordinance)

**Disposition:** Ordinance No. 171409. (Y-5)

- \*1125** Contract with Portland Housing Center, Inc. for \$139,990 to provide housing services and provide for payment (Ordinance)

**Disposition:** Ordinance No. 171410. (Y-5)

- \*1126** Agreement with Portland Public Schools for \$18,868 for the TLC-TnT Program and provide for payment (Ordinance)

**Disposition:** Ordinance No. 171411. (Y-5)

**Commissioner Erik Sten**

- 1127** Accept completion of the Taggart Basin CSO sump project, Unit 2-3, Phase II, Project No. 6060, and authorize final payment to Brundidge Construction, Inc. (Report; Contract No. 31116)

**Disposition:** Accepted.

- 1128** Accept completion of the SW 19th and Burnside sewer reconstruction, Project No. 5340, and authorize final payment to Insituform West, Inc. (Report; Contract No. 31141)

**Disposition:** Accepted.

- \*1129** Authorize a contract and provide for payment for the Oak Creek sanitary sewer protection project, Project No. 6044 (Ordinance)

**Disposition:** Ordinance No. 171412. (Y-5)

- \*1130** Authorize a contract with the lowest responsible bidder for the Tryon Creek Wastewater Treatment Plant water systems upgrade for the Bureau of Environmental Services and provide for payment (Ordinance)

**Disposition:** Ordinance No. 171413. (Y-5)

- \*1131** Authorize Interagency Agreement with the Tualatin Hills Park and Recreation District to build the Fanno Basin pressure line in the Oregon Electric Railway path right-of-way (Ordinance)

**Disposition:** Ordinance No. 171414. (Y-5)

- \*1132** Grant a temporary, revocable permit to GST Telecom Oregon, Inc. and establish terms and conditions (Ordinance)

**Disposition:** Ordinance No. 171415. (Y-5)

- \*1133** Approve an increase in funds for Purchase Orders issued to Kiewit Pacific and Landslide Technology for construction and consultant services, respectively (Ordinance; amend PO Nos. 1020478 and 1020489)

**Disposition:** Ordinance No. 171416. (Y-5)

- 1134** Contract with Campbell DeLong Resources, Inc. in an amount not to exceed \$110,000 to assist in the administration and analysis of the Customer Profile and Analysis Study (Second Reading Agenda 1086)

**Disposition:** Ordinance No. 171417. (Y-5)

### REGULAR AGENDA

- 1108** Accept bid of S-2 Contractors, Inc. for Inverness Force main Section D for the Bureau of Environmental Services for \$2,708,500 (Purchasing Report - Rebid 214)

**Disposition:** Continued to July 30, 1997 at 9:30 a.m.

- 1101** **TIME CERTAIN: 9:30 AM** - Accept report on Implementation of Fair Contracting and Employment Strategy (Report introduced by Mayor Katz)

**Discussion:** Sue Klobertanz, Bureau of Purchasing, displayed a flow chart to show the implementation process and programs involved. She reviewed 14 priority items, many of which have been completed. Regarding priority 4, she

noted that two additional compliance officers are being hired and the Bureau is very excited about its increased ability to achieve a higher level of compliance. It will return to Council August 20, 1997 to introduce the sheltered market program.

**Disposition:** Accepted.

- 1102** Accept report on duplication of City services for Minority/Women/Emerging Small Businesses (Report introduced by Mayor Katz)

**Discussion:** Ms. Klobertanz said the Dotten report revealed duplication in construction contracting services.

Kathleen Dotten, Dotten & Associates, said while they found no direct duplication for construction contracting services, they recommend establishing a communication process to avoid future duplication. She said Purchasing and BES have have made many changes in the last six months to eliminate duplication.

**Disposition:** Accepted.

- \*1103** Revise Portland City Code relating to Equal Employment Opportunity Contractors (Ordinance introduced by Mayor Katz; amend Code Chapter 3.100)

**Discussion:** Jim Van Dyke, Deputy City Attorney, said this is basically a housekeeping measure, changing the Code to reflect current practices. He said two new items include expanding coverage to include subcontractors, not just primes, and to have the City review the work force of companies granted non-construction contracts. At the same time he noted that minority/female participation has increased from 4.8 percent to 23.3 percent in the past year.

**Disposition:** Ordinance No. 171418. (Y-5)

- \*1104** Authorize contract with Pinnell-Busch, Inc. to provide technical assistance program and intergovernmental agreements with Multnomah County and Tri-Met for funding (Ordinance introduced by Mayor Katz)

**Discussion:** Ms. Klobertanz said Pinnell-Busch will provide professional training for staff and classes are scheduled to begin at Portland State University this fall.

Commissioner Francesconi asked for a breakdown of the Equal Employment Opportunity (EEO) firms, which show an increase from 220 to 440.

Ms. Klobertanz said that is the number of certified firms.

Commissioner Francesconi said workforce models are needed and also the capacity of community groups needs to be developed, perhaps using the successful Minneapolis model. He asked about the role of community groups in moving people into construction work, if these efforts are being integrated with those of

the Workforce board, and what is happening on the State and suburban levels.

Ms. Klobertanz said an organization has been formed that is trying to determine the role of community groups in moving people into construction work. She said some hoped-for bills, including one for sheltered markets, did not pass at the Legislature and very little is being done in the suburban areas to deal with these issues.

Commissioner Francesconi asked how the bureaus are doing.

Ms. Klobertanz said they are doing the best they can with the tools now in place and Purchasing is very pleased with its progress to date.

Commissioner Francesconi asked how the candidate for compliance officer responded to the Black Mens Coalition's recommendations for compliance.

Ms. Klobertanz said the candidate has extensive compliance office experience and the City for the first time will have sufficient staff to do this work.

Madelyn Wessel, Chief Deputy City Attorney, said an amendment is needed to replace Exhibit B.

Commissioner Kafoury moved the amendment. Commissioner Hales seconded and the motion carried.

Ms. Wessel said they are delighted to have pulled together a cooperative program with Tri Met and Multnomah County.

Commissioner Kafoury said she hopes they can do more community coordination and asked if there had been any generic emphasis on capacity building.

Ms. Wessel said sheltered markets and technical support are the main components of capacity building. She said a very big chunk of the construction management programs will be available to contractors from the very inception of bid preparation and project start-up.

Commissioner Francesconi said all kinds of tools are needed to get everyone into the work force, including education, and to avoid the move towards a resegregated society, which is what is happening with the weakening of affirmative action programs.

**Disposition:** Ordinance No. 171419 as amended. (Y-5)

1105

**TIME CERTAIN: 10:00 AM** - Authorize the Mayor and Auditor to sign Agreement for Development between the City of Portland and Hoyt Street Properties, LLC, regarding contingent commitments for development in the River District (Ordinance introduced by Mayor Katz)

**Discussion:** David Knowles, Director, Planning Bureau, said 2-1/2 years ago Council authorized negotiations to proceed in the River District. He said today they believe they have met and exceeded the goals set out then. He noted that of the 240 acres in the River District, 34 acres are owned by Hoyt Street Properties (HSP). A set of regulatory rules applies to the entire district, including a Master Plan adopted about four years ago in two phases that gives this developer certain development rights. In 1989, the developers received permission for basic development on these 34 acres, primarily for commercial, retail and office uses, not residential. They were asked to identify a central feature for the district and returned in 1992, again with the idea that the most desirable use was office and light industrial use. Today the owners of this property could build, without further review, a combination of office and retail uses with only 268 housing units. Their current development approvals have some connectivity requirements, including street dedications through some of the blocks, but no central point is identified. The new agreement will change that, continuing the connectivity and creating an extension of the Park Blocks. The Comprehensive Plan document that frames development here is the River District plan which calls for a central park feature, a Central City Streetcar route and an opening to the River. Mr. Knowles said it is against that plan that this agreement has been measured and he believes this agreement meets all the objectives laid out in the plan, providing for connectivity that citizens stressed was so important. To further reflect that concern, the document was amended last week to ensure that connectivity will continue to occur across NW Kearney and Marshall, the two blocks being dedicated as park blocks, as well as the other superblocks.

Mr. Knowles said this agreement is very important to meeting the City's regional objectives and will get the City ten times as much density as currently allowed and provide a broad range of housing types. He said in the context of the River District Plan, this is a very good deal for the City.

Larry Dully, Development Director, Portland Development Commission (PDC), summarized the agreement, including the most recent clarifications and modifications. He said HSP has been a very patient developer, working with a very involved citizenry and a united negotiating team. He said the agreement makes housing the principle use for HSP properties and increases the minimum densities from 15 to 87 units per acre. If the Central City Streetcar is constructed by the City, minimum density will increase to 109 units per acre. If the City builds the Tanner Creek project, the density will increase another 20 units per acre. HSP will donate land for three Tanner Creek park blocks and grant the City an option to acquire four acres for the water feature/open space project. HSP is responsible for meeting the Council's River District affordable housing implementation strategy and is obligated to seek private as well as public funds to do so. If HSP falls behind, the City can purchase up to three half blocks of property. HSP is also dedicating all land for local streets at no public expense (15 percent) and will build all streets, sidewalks and utilities fronting its property and

then turn them over to the City. The agreement also calls for HSP to contribute \$700,000 towards the Central City Streetcar and \$121,000 towards design of the Lovejoy ramp project.

Mr. Dully also reviewed clarifications and modifications regarding: 1) the size of Tanner Creek park blocks; 2) public participation in the Master Plan amendment process; 3) pedestrian access ways through the Kearney and Marshall Street super blocks; 4) commitment to construction of at least 15 percent of all rental units and 10 percent of all sales units at a size of 700 square feet or less; and 5) establishment of specific affordable housing goals regardless of the performance of the River District as a whole. The goal for HSP is 3,017 units of which 1,056 is the goal for low and moderate-income units. A technical clarification is needed for Table D.2.

Michele Haynes, Housing Director, PDC, said a number of people have noticed that some of the columns in that table do not add up. She said they are not supposed to as the chart is intended merely to illustrate specific goals for 15 percent of the total number of units to be affordable at 50 percent of median household income or lower and 20 percent to be affordable between 51 and 80 percent of median income. The Pearl Court project, developed on land sold to provide affordable housing, is included in the total number of affordable units that would be produced under this agreement.

Mr. Dully said the final clarification has to do with successors and assignees.

Madelyn Wessel, Chief Deputy City Attorney, said the amendment called for on Page 47 moves to exempt only D, E and F of Section 5 dealing with housing density, rather than all of Section 5 as proposed now. Those are the components of the obligation that require HSP to deed certain property to the City if affordable housing is not developed through the process specified in the agreement. It does not mean that HSP does not have those obligations but it does mean that portions of the property that might be transferred to others would not carry that particular obligation with them.

Commissioner Kafoury moved the amendments to Page 47. Commissioner Hales seconded and, hearing no objections, the Mayor so ordered.

Ken Rust, City Debt Manager, said an update of an earlier analysis on return of investment confirms its findings that the City's investments are financially feasible and would provide positive returns, ranging from nine to 12 percent over eight years. He did note several items of caution. One is the City's ability to deliver police, fire and parks services at the average cost levels used in that analysis. If the General Fund is responsible for any service cost increases, that would reduce the return also. The second part of their analysis involved use of a model prepared by Eric Hovey, who did a block-by-block analysis of development alternatives, to see whether or not the deal would be too "rich" for the developer and to understand the development options and what it would cost to build



density. The report did find that the return to the developer is reduced as density increases, therefore justifying the City's public investments to encourage density. They have updated the analysis and also met with housing advocates with different assumptions. Some, but not all, of their assumptions have been incorporated. Mr. Rust said the update found that the returns have increased somewhat but he believes a 10 percent rate of return, up from five percent a year ago, is not too rich considering the nature of the development. The public investment also seems a worthwhile exchange given the overall economics of the plan. He said the model they used spans a capital range of 44 years.

Commissioner Sten asked Mr. Rust what their assumption was about whether the developer would take advantage of the 10-year property tax abatement in the Central City.

Eric Hovey, consultant, said the analysis assumes the availability of limited tax abatement for the apartments, not the condominiums.

Commissioner Francesconi asked why density costs money.

Mr. Rust said the requirements to add density are more expensive and the financing of soft costs are more complicated. They found that going from 40 units per acre up to 80 definitely costs more and sacrifices return.

Mr. Hovey said as the density increases, the cost of construction on a per square foot basis increases and is not matched by the increase in the revenue side. The reasons vary but range from greater complexity in providing parking and mechanical systems to a lower efficiency factor in terms of the total proportion of the building in rentable use.

Commissioner Francesconi asked about the mix between apartments and condominiums.

Mr. Hovey said their assumption was that over time there will be a 50/50 mix, reflecting a desire to maintain a significant affordable component, the rental units, as well as providing the developer a mix as a hedge against changing market conditions. He said predicting the condominium market is difficult as, even though it is very strong now, it has been very cyclical historically. This is a model dealing with a large area of land that is not going to be developed overnight so a long-term view must be taken.

Commissioner Francesconi asked what has been built in the River District in the last two years and what the developer plans to build.

Bruce Allen, PDC, said since 1994 when the River District Housing Implementation Plan was adopted, about 1,300 units have been built, one third of

them condos. The developer indicates that he plans about one-third of his units to be condominiums also. PDC put that at 50 percent in its analysis even though that is somewhat beyond what the market is currently producing.

Commissioner Kafoury asked about the density for current builds.

Mr. Allen said roughly about 40 units per acre but he is unsure.

Commissioner Sten said the HSP model assumes there will be no property taxes without infrastructure improvements.

Mr. Hovey said offering no limited property tax abatement on the apartment component of the project would significantly dampen the effect on the rate of return.

Commissioner Sten said he is trying to figure out what would happen if that was not factored in. What is the typical property tax.

Mr. Rust said if you are in the 50/50 mix between rental and sale units, the range drops substantially. That was the biggest factor in determining what the right return is and when you see the range swinging as much as it is you have probably captured the envelope of what the returns will be. The question then is how reasonable that is. A return in the ten percent range with that mix does not seem unreasonable given all the other assumptions built into the model.

Mr. Hovey said the rate of return investors/developers would expect depends on the risk/reward relationship and typically the range would be 15 percent or better. On very safe projects, they might consider returns that are less than that. This particular project has some strong risk elements because it takes place over a multi-year build out period. In this case, the rates of return are brought down to around 10 percent by the apartments. However, if they only build condominiums there is the risk of oversaturating the market or being caught in an economic downturn.

Mayor Katz asked PDC to provide information on the range of return rates to the developers on some recent projects.

Mr. Rust said no return on investment analysis was done on the Belmont Dairy project. PDC did conduct them, however, for Airport Way and several larger projects to understand the ramifications for infrastructure investments.

Homer Williams, HSP, said this is a good agreement for both HSP and the City but it is important to move forward after 2-1/2 years and show everyone what can be done here. Commissioner Kafoury is concerned about the 80 to 120 units of density per acre and HSP is committed to achieving that. He said they will try to sell units without parking and encourage people to get rid of their cars. They also plan to aggressively move on issues of affordability.

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Joe Weston, Portland developer and HSP financial participant, said as a blue-collar housing developer he always thought housing, not office space, was the best use of this property. He has never seen such an involved Memorandum of Understanding in his life but based on that has committed to a \$30 million project. He believes some level of trust has to be assumed by both parties rather than tinkering over this until doomsday.

Commissioner Francesconi asked him what he would build when it comes to condominiums and apartments.

Mr. Weston said the market will dictate that although he believes the majority, 60 to 65 percent, should be affordable rental units. This will depend on the market and will be done project by project.

Mr. Williams said they are looking at both half and full block developments for rentals. To stretch the envelope they will try to build housing without parking as that is one way to save on the cost for both the builder and renter. But it is very important to have the infrastructure in place, including the trolley, streets and parks, so people are able to get around.

Commissioner Francesconi asked if HSP would be able to provide 15 to 20 percent of the units without parking places if the City does the public infrastructure and people respond positively to not having a car.

Mr. Weston said yes but this is new territory. Lenders expect to have 1:1 parking and this project does not fit the normal profile.

Mr. Williams said they will be doing some unorthodox things here.

Commissioner Sten said he thinks the City is on the right track and needs to get moving on this. He also believes the ability to build affordable housing is absolutely linked to the health of the market as this allows people to do innovative projects that provide affordable housing. He thus will support the Lovejoy ramp removal but is not comfortable tying the infrastructure improvements to higher density. He is not convinced these density numbers are rooted in fact for the streetcar, the park and the basin. He is not sure locking in 109 units in exchange for the streetcar, for instance, is a fair trade as he is not sure that many could not be built regardless of the streetcar. His other concern is that to the extent the City is creating economic value, the sum total of it goes to density. He would like to see some of that economic benefit tied into blue collar housing. He said setting certain density targets in an uncertain environment for years down the road bothers him.

Mr. Williams said they are already exceeding the density level they talked about having when infrastructure is done. They are curious about what they can do and how they can increase that with a lesser parking ratio and smaller units. The market will also tell them such things as whether a 20-story tower with 400 units is feasible, although they are not ready for that. Basically, the idea is to continue

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to push the envelope and provide a broad cross section of diverse housing. He said they are committed to doing this.

Commissioner Sten said his feeling is that HSP will push the envelope on density while the City will push on infrastructure and he would like more assurance that some of that infrastructure will in fact produce blue-collar housing. He is not nervous about locking in what the City will do next year but is nervous about locking in what it does five years from now.

Commissioner Francesconi said if the City funds the streetcar, he will look at what is actually built and how much is affordable. He realizes the streetcar will serve more than the River District but he needs to see that blue collar people live there who will benefit from it.

Mr. Williams said every time HSP does a building it will get a report card and future collective decisions can be made on the basis of the results.

Mayor Katz said pink and white collar workers also take public transportation.

Supporters of the agreement included:

Roger Breezely, key participant in formation of the River District  
Roger Shiels, Project Manager, River District Steering Committee, speaking  
for the chair, Robert Ames  
Neilson Abeel, Pearl District Neighborhood Association  
Mike Powell, owner, Powell's Books, 7 NW 9th, 97209  
John Carroll, Chair, Citizens Advisory Committee, Central City Streetcar  
Carol Smith-Larson, River District Steering Committee and Pearl District  
Neighborhood Association

Supporters said it is time to move ahead with the 20-year project and this agreement is a good one. They noted the many reviews that have already been done by the Steering Committee and that this agreement affects only 35 acres in a 250-acre area. Supporters said there is no guarantee the market will stay hot and the more prescriptive the plan is, the less ability the developer has to change as new opportunities arise.

Two people testified in support, but with reservations.

Tom Mohr, 555 NW Park Avenue, said more requirements for pedestrian access and easements are needed.

Pamela Alegria, Willamette Pedestrian Coalition, said they are pleased that east/west pedestrian connections are called for within the alignments of the vacated areas of NW Kearney and Marshall. They prefer the 200 x 200 feet blocks

but believe the design elements will determine the quality of the pedestrian environment. One nagging question that remains is whether there is a difference between "will" and "shall" as used in the agreement.

The following persons testified in favor of placing more emphasis on affordable housing and less on density. They stressed the need for housing advocates to be involved from the beginning of such projects.

Rich Hangartner, 301 SW Lincoln, 97201  
Will White, Community Development Network, (CDN)  
Karen Voiss, CDN  
Tasha Harman, CDN

The affordable housing advocates called for creation of five income categories instead of the three currently included and for a wider spectrum of housing sizes, including more three and four bedroom units. They testified to the need for Citywide and regional standards as well as inclusionary zoning here and in all new development so that Portland does not have to carry the whole burden of providing affordable housing.

Commissioner Francesconi pointed out that Portland is doing far more than its fair share compared to suburban areas and said the question is how much burden can be placed on one developer.

Commissioner Sten said there is no economic benefit in this project to housing, only density. This does not create a nickel for affordable housing. He said it is cheaper to build four bedrooms out in the neighborhoods and subsidies will never be high enough to accomplish that here.

Commissioner Francesconi asked about imposing inclusionary zoning on one property at a time.

Ms. Harman said a set of targets should be set for every individual land owner in the River District and there should be Citywide standards so those pieces do not have to be negotiated with individual land owners. Waiting for a regional policy will result in a lot of lost opportunities to create moderate rate housing.

Commissioner Francesconi said he will propose inclusionary zoning in the regional framework plan within the next several months. He asked why the suburbs will not just continue to let the City do everything.

Ms. Harman said other communities are now under the same pressures that Portland is and a consensus is building for regional standards.

Commissioner Francesconi asked about the use of linkage payments to get money for affordable housing. He does not think it can be done just in the City but possibly could be regionwide.

Ms. Harman said housing advocates have focused on other models as the linkage examples they have seen so far exclusively deal with downtown development, which will not work here.

Mayor Katz said the City is looking at inclusionary zoning but needs to know where it has worked to determine if it is a viable option for the region or the City alone.

Garry Papers, Chair, American Institute of Architects Urban Design Committee, said they have been monitoring plans for the District for over four years to ensure that a balanced neighborhood results. This private-led process has been far from exemplary and should not become a model for future projects. The amendment review does not include Planning or Design Commission responses or call for a public hearing, unless appealed. They believe the development agreement is inconsistent with the approved development plan and vision and with existing Master Plan criteria. They predict the district will develop in one-dimensional surges based on market trends and that essential public services will lag behind, getting misplaced, leftover sites at inflated prices. The negotiating team only got half the area for parks and open space shown on the Vision Plan, five instead of nine acres. As a result, the area will be parks deficient, effectively selecting out families with children and seniors who require recreation spaces. He urged that at least nine acres of the 35 be reserved, particularly one block south of Lovejoy, until the Parks plan is completed in February, 1998. He said the three most recently completed projects range in density from two condo projects with 100 to 120 units per acre and a rental project that is 200 units per acre. The superblocks, which directly contradict City design guidelines, are out-of-scale and will hinder pedestrian connectivity.

Commissioner Francesconi noted that if the developer/owner dedicates four more acres, he has less ability to do affordable housing. The question then is whether there are more recreational opportunities within the developer's property or is there other City property nearby that can be used.

Mr. Papers said more open space does not mean less density. All height and FAR controls are off the table so buildings could be slightly taller to make up the density. The developer need not give the City the property, just agree not to build on the best park site that the City may want to buy later.

Mayor Katz said a whole waterfront site has been planned for park and recreational purposes.

Mr. Papers said the Parks study group should have a broader range of options than this agreement locks them into.

Commissioner Sten asked him if he was contending that the district is already building at roughly the density that the City is trading its future infrastructure for.

Mr. Papers said yes, the most recent projects are 120 to 200 units per acre.

John Feit, AIA Urban Design Committee, said a clear, understandable Master Plan is needed to ensure a cohesive district which provides neighborhood services, schools and parks, and the ability to live here with all the amenities automobile-free. None of these qualities are guaranteed in this agreement. Trusting one's civic life to the free market seems rarely, if ever, to be concerned with good urban form in livable cities. He said the agreement should either be rejected for lack of specificity or accepted with the understanding that a strong Master Plan will be developed. Past policy may not work under the high pressure situation the City is now experiencing.

Susan Emmons, Northwest Pilot Project, described the desperate need to find housing for the City's lowest income population, including in the River District. She decried the loss of 324 low-income units since last July.

Commissioner Francesconi asked if, with enough subsidy, housing for those at zero to 30 percent of median income could be provided in the River District.

Ms. Emmons said yes, although usually they build for 50 percent of median income. For 30 percent or less, you get fewer units because the subsidy is so high.

Ralph Austin, Innovative Housing, said he believes the rate of return assumptions in the Hovey study are incorrect. The study's density assumptions should not be accepted either.

Denny West, Housing Authority of Portland (HAP), described some ways that HAP is planning to subsidize housing for people below 30 percent of median income. He supported the agreement as it allows time for learning and for change to deal with the housing situation. He said five years ago, everyone assumed one would get density.

Janice Frater, Housing and Community Development Commission (HCDC), said specific unit goals for affordable housing is a critical addition and HCDC is pleased to see an attempt to define them in the agreement. She cited specific concerns about the agreement. In Section V.A.4 on Page 22, she suggested changing the wording stating that HSP's ability to meet affordable housing goals "will be subject to the availability of public financial assistance ..." to "can be subject." HCDC believes the City should maintain flexibility in where and how scarce subsidy dollars are expended. For instance, if inclusionary zoning is adopted within the next 15 years, it should impact undeveloped land under this agreement. To say HSP's ability to meet all affordability goals will be tied to the availability of public subsidies, severely and unnecessarily ties the City's hands. In Section V.C.3 on page 23 she said a stronger incentive is needed to encourage the developer to build affordable housing. HCDC proposes language which states that if the City must become the developer of affordable housing, the land will be identified at the beginning of each review period and be available for purchase at



its original cost plus the cost of any street improvements. HCDC also questions sections of the agreement that give HSP credit for affordable housing that never gets built or gives them credit for affordable housing built by others on property outside that covered by this agreement (V.D.1). She also suggested striking the wording in Section V.G. which draws a direct correlation between housing being 700 square feet or less and being affordable to low and moderate income households. HCDC believes that is a dangerous assumption without further study and review. In addition, it does not believe a development agreement is the place to set new policy. She said HCDC recommends that an independent party be designated as the monitoring agency for the affordable housing goals in the agreement and offers to serve in that capacity. This would appropriately separate monitoring responsibilities from implementation activities.

Shelley Lorenzen, League of Women Voters, said the League is very dissatisfied with this agreement as it does not believe the citizens are getting benefits commensurate with the \$140 million the City proposes to spend in the River District. She said the City cites as one justification the grossly inadequate OTEK Return on Investment analysis indicating the expenditure would generate an acceptable return. However, less than 10 percent of the monies to be spent in the District are included on the investment side of the ledger. Furthermore, every tax dollar and job generated in the River District was included on the return side without analyzing whether they would be generated even without the investment. In addition, the Hovey Study which purportedly shows the developer will make less money building more units is also inaccurate. What the numbers really show is that the developer makes more money, not less, building at higher densities. While it does cost more and the return on investment goes down, overall the developer still makes a whole lot more money building at higher density. The City argues that even if the developer is better off building at higher densities, it cannot be sure this will always be the case and this agreement will commit the developer to building at these densities in good and bad times. However, this is untrue as there is a loophole on Page 26 which allows the developer to avoid the density obligation if it cannot be achieved on a "commercially reasonable basis due to adverse market conditions at the time." If nothing else, Council should eliminate this language. The weakest justification for this agreement is that the City spends money on projects all the time without getting anything in return. The League only wants what was promised in the River District Vision Plan which calls for a mixed income neighborhood with the open space spelled out in the Parks and Recreation Needs Assessment, not what is called for by the outdated Office Park Master Plan currently in place. She said the City could rezone the land if that is the only way to achieve the vision but, at the very least, the City should reserve and buy the land it will need for parks and other public amenities now, not later. The League also believes that under this agreement precisely the people the City should want to live here, those who make 80 to 120 percent of median income, will not be able to find housing they can afford.

Dana Brown, Community Alliance of Tenants, said they are not confident this agreement will provide housing for people at the lowest income levels. She called



for the specific targeting of those in the zero to 30 percent median income, ensuring permanent affordability and focusing subsidies on the very lowest income groups.

Art Lewellan, no address stated, said he is not necessarily opposed to the superblock idea as the streetcar may reduce the need for cars. He said the streetcar extension should go to Johns Landing, not the Oregon Health Science University.

James Posey, National Association of Minority Contractors of Oregon, said there is a lack of particulars in this agreement about the use of minority contractors and the hiring of low-income people. He said there was a lack of coordination between the Housing and Community Development Commission, PDC and Purchasing.

Rose Marie Opp, Southeast Portland resident, objected to subsidizing this development with up to \$140 million in public monies. She added that there is not enough open space to accommodate the projected 5,000 new residents.

Mayor Katz asked the negotiating team to respond to the issues raised, including the difference between the use of "will" and "shall" in the contracts and the park space.

Ms. Wessel said "will" and "shall" are basically interchangeable in legal terms. Regarding language referred to as a major loophole (Page 26, Section b-1), she said the point is that both parties must decide that they want to get into a discussion about varying density requirements based on market conditions or other factors. The City is one of those parties and can decide if it wants to do that; there is nothing in the provision that could force the City to reduce density.

John Sewell, Bureau of Parks and Recreation, said the agreement has been adjusted to add open space provisions that the Parks Bureau supports. The amount of land set aside for parks and open space in the larger River District area will be addressed later.

Commissioner Hales asked Mr. Sewell if there was enough flexibility in the agreement to allow Tanner Creek to be daylighted elsewhere if Council determines it is not possible to meet the parks and recreation needs of the residents in a 130-foot wide park and still daylight the Creek there too.

Mr. Sewell said there is some flexibility concerning the variability of use.

Commissioner Hales said if the Parks Study concludes that residents need more space to recreate more than they need a daylighted creek, he wants the City to be able to make that choice.

Mr. Dully said the reference to Tanner Creek improvements (Page 7, B-1), states that the Tanner Creek park improvements and water feature project will be

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undertaken in a manner generally within the River District Vision Plan but the parties acknowledge that the actual design, size, location and levels of improvement may vary significantly from the current Vision Plan in order to be consistent with the City's significant need for housing.

Commissioner Francesconi proposed an amendment to insert HCDC as the agency monitoring compliance of the affordability goals.

Commissioner Kafoury said she would like to just put it on the record that Council wanted additional monitoring of housing affordability by HCDC.

Bruce Allen, PDC, said he prepared the language at the request of Commissioner Francesconi and it should be added to Page 3 of the resolution, following the list of responsibilities assigned to PDC. The amendment would state that PDC and HCDC together would be responsible for monitoring HSP's compliance with the housing affordability goals.

Commissioner Kafoury seconded the amendment and, hearing no objection, the Mayor so ordered.

Commissioner Hales said a lot of passionate concern has been expressed about affordable housing and the City has wrangled for months over just one component of this district. However, in doing so it may lose sight of the main question -- will this be a good neighborhood and a good addition to the City. Secondary questions include: 1) will there be enough parks; 2) will streets connect; and 3) can people get downtown without driving. Affordable housing is another one of those secondary questions. He said most of the testimony today has focused on five pages of a 50-page agreement. Affordable housing is important but much less time has been spent determining where the parks will be, or how many of the 35 acres the City owns should be park. He said it is crazy that the level of detail on the City's own property is so much less than on Mr. Williams'. Also, the location of the school is yet unknown and while the School District has \$1 million set aside to buy property here, it has not yet been spent. He hopes as much attention can be paid to some of these issues as to affordable housing. The bigger picture is that 31,061 housing units have been built outside the City in the suburbs during the 2-1/2 years the City has been negotiating this agreement. It is time to provide an alternative to that sprawl and the River District is one way to do that. He said it is time for Council to take action and focus on the big picture of making this a livable City.

Commissioner Francesconi said he has grown increasingly concerned about the fragility of the City and how to keep downtown vital. He does not agree that affordable housing is a secondary issue, rather the trick is to integrate all these things at once. He also does not want to see a splitting apart of the public and private sectors at such a critical time. The first question is what is in the City's overall best interest, not just that of the developer, the neighborhoods, the business community or affordable housing advocates. The second question is how

to leverage public/private sector investments to make this work. The third is how to pass decisions that encourage private development but at the same time allow for changes in past policy or to reflect a dramatic change in conditions. He will support this agreement despite three major concerns: 1) insufficient parks and open space; 2) whether there are enough teeth in the affordable housing provisions; and 3) whether the market has changed so dramatically that the emphasis should be shifted from density to housing affordability.

Commissioner Francesconi said he will vote for the agreement because of the opportunity it provides for a new and vital neighborhood with market rate housing near downtown. With 35 percent of current downtown residents below the poverty level, the City cannot continue to have a vital downtown unless there are people with market rate incomes to support businesses. There also have to be places where people do not need to drive. He noted that the City does not own this land and Mr. Williams is free to do other things which would not be as beneficial to the vitality of downtown as this agreement. This is a good deal for the City and taxpayers, one that will allow the tax base to grow and allow more affordable housing here as well as in other parts of the City. In his review of the financial analysis, he found the rate of return to the developers is not unreasonable. He said Portland should not abandon its density goals when it is reaching only 18 percent of its targeted Metro goal of 27 percent and the City needs to be consistent in what it tells all neighborhoods about density goals. He said a regional fair share policy is needed quickly so the City does not continue to increase its share while the suburbs do not, throwing off the needed balance. Commissioner Francesconi said this project points the way for a better process for the North Macadam and other future projects. These include putting the Parks Bureau at the table from the beginning and discussing policy issues first, such as housing affordability and density, before the negotiating team enters the picture. Housing advocates also need to participate on the team. A public education campaign about regional housing and the cost of density is also needed, as well as more citizen input. The business community needs to help with such programs as employee-assisted housing and it could also step up so that not everything is put on the backs of residential property tax payers. Finally, community advocates should work on a regional fair-share housing policy and spend some energy on wealth creation, not just low-income housing.

Commissioner Kafoury said she too will support the agreement. Her question all along has been whether the City is getting a good deal from its public investment and noted that the only commitment the City has made to date is to remove the Lovejoy ramp. All long range agreements are constantly evolving, including the Council's shift over the last five years to placing much more emphasis on affordable housing. She said she would still like to have five categories, however. The community's sophistication about affordable housing issues has also dramatically increased. She agreed with Commissioner Francesconi that the process can be improved for future projects.

Commissioner Sten said he is enthusiastic about the River District vision and the

specific goals as well as the fact that this is being developed by in-state owners. He also supports taking the Lovejoy ramp down but will still vote no next week. He said affordable housing is the primary issue for him and drives whether he is willing to put in infrastructure. While he still believes infrastructure is necessary, he is not convinced by the current numbers that getting 122 units per acre is enough. He said he is ready to move on removal of the Lovejoy ramp, see what happens, and then negotiate from there. The City could get a worse deal but he strongly believes the City will get a better one after Mr. Williams has tested things out. Council has decided this particular set of agreements is the only way to move the River District forward. He does not agree, believing the City can move forward in a variety of ways. Three years ago it was clearly not possible to build housing at this density. Today it is but he is not ready to lock the City into 122 as a satisfactory number. He noted that the run-away economy that has made the density more possible has also made housing much less affordable. Before the City agrees to this level of economic benefit, some should go directly to 80 to 100 percent of median income housing rather than simply density.

Mayor Katz said she wants the public to feel comfortable that this is a good proposition for the potential public expenditures for infrastructure. She noted that signing this agreement does not commit the City to any public expenditure of dollars. Rather this is what the City is going to get the moment Mr. Williams signs the agreement. Instead of 15 units per acre density, the City will get 87. There will also be a donation of three park blocks, approval for the City to acquire four acres for a water feature, a commitment to meet affordable housing goals, dedication of over six acres for public streets, which the developer will pay for and then turn over to the City. This will all come with no expenditure of public dollars. However, if the City does begin to invest public dollars and builds the streetcar, the density will increase from 87 to 109 units per acre and the developer will pay \$700,000 towards its development. She also noted that the streetcar, estimated to cost \$40 million, will pass through only 14 percent of this property. She said if the Lovejoy ramp is removed, this will also benefit the 50 acres owned by the City, PDC and the Port. Tanner Creek, a \$53 million project, runs all the way from the Zoo to the River and the issue is whether the Creek will be daylighted at this particular part of the River District. Daylighting is estimated at \$700,000. The point is that the investments that directly benefit the property owner are substantially less than \$140 million. She said this agreement removes pressure to expand the Urban Growth Boundary and for higher density on other neighborhoods. She said density supports the streetcar and public transit. The River District supports the vision of the Central City Plan and this will improve Council's legacy for the generations to come. She noted Senator Hatfield's support for this vision and his help in obtaining about \$18 million in federal funds. Building public/private partnerships has made Portland the successful place it is and this partnership is larger than anything else the City has done. Not all social ills will be solved with this agreement. Affordability is clearly a challenge as is transportation but there has always been controversy about major projects, including the transit mall, light rail and use of the Mt. Hood freeway money. Finally, if the City had sufficient jobs, the need to subsidize so much affordable

housing would not be so great. Jobs are a critical part of keeping the City vital and the City should look at its policies to make sure the entire City population benefits from a strong economy. She said the City's problems are much more complex than 25 years ago when the Central City Plan was adopted and the same level of funding is not available. She plans to vote aye.

**Disposition:** Passed to Second Reading July 30, 1997 at 9:30 a.m. as amended. (Y-5)

- 1106** Approve the process for undertaking the River District Planning and Feasibility study for Parks and Open Space and direct the respective City Bureaus to undertake certain other activities related to implementing the Agreement for Development with Hoyt Street Properties, LLC (Resolution introduced by Mayor Katz)

**Disposition:** Continued as amended to July 30, 1997 at 9:30 a.m.

Council recessed for ten minutes at 2:00 p.m and then reconvened to hear the items remaining on the 9:30 a.m. and 2:00 p.m. calendars. Pete Kasting, Senior Deputy City Attorney, replaced Mr. Walters.

**Mayor Vera Katz**

- \*1135** Pay claim of Leonid Kernazhitsky (Ordinance)

**Discussion:** Commissioner Kafoury recommended settling this case, which Council has been concerned about for some time.

**Disposition:** Ordinance No. 171420. (Y-5)

**Commissioner Charlie Hales**

- 1136** Consider vacating a portion of NW Macleay Boulevard west of NW Warrenton Terrace at the request of Roger Whitaker and Judy Bouchard-Parent (Hearing; Report; C-9933)

**Disposition:** Approved; City Engineer prepare ordinance. (Y-5)

- 1137** Consolidate regulations regarding nuisance, housing and dangerous building code enforcement and increase penalties (Ordinance; amend Code Title 29 and Code Chapters 3.30, 14.20, 18.02, 18.03, 22.05, 22.06, 24.10, 24.55, 24.80, 28.03 and 33.445)

**Discussion:** Commissioner Hales said this ordinance is about property owners' responsibilities, specifically about those who do not meet them.

Jo Zettler, Residential Inspections Manager, Bureau of Buildings, showed slides to

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illustrate some of the problems this Code addresses. She said this ordinance consolidates regulations enforced in the neighborhood inspections section of the Bureau of Buildings. It also rewrites the nuisance code to make it more understandable, and in some cases, raises the penalties. There are no other changes except for a doubling of the fees after one year.

Commissioner Kafoury suggested shortening the period to six months.

Ms. Zettler said the idea was to give property owners time to make major improvements.

Commissioner Francesconi noted the cost to taxpayers. Buildings has a budget of \$2.5 million and yet enforcement fees bring in only about \$600,000.

Matthew Conroy, Community Alliance of Tenants (CAT), said his group supports this but, in addition to doubling the fines in six months, they would like to red tag properties that do not comply. He said the number one issue for tenants is repairs and stronger enforcement measures are needed for violators.

Mayor Katz asked if property owners can raise rents if they make improvements as long as this is not retaliatory.

Anita Rodgers, CAT, said their three amendment requests are: 1) double Code violations after six months; 2) post buildings until all violations are corrected; and 3) implement a Bureau of Buildings education program for tenants.

Ms. Zettler said the doubling of fines within six months is up to Council. The new Code regulations do call for posting when the original violation occurs although no time limit is specified. CAT wants it to be posted the entire time of the violation, which is difficult to enforce.

Commissioner Hales said he agrees with doubling fines within six months but would like to readdress the posting issue.

Ms. Zettler said she would like to talk to the building inspectors about the practicality of doing what has been proposed.

Commissioner Francesconi said the Bureau should talk to OSHA about red tagging for violations as they have severe penalties for those who remove tags. He noted that the average time for repair on multi-family units is 3-1/2 months.

Commissioner Kafoury moved to amend the ordinance to double the fines for violations after six months, not one year.

Commissioner Hales seconded and the motion carried. (Y-5)

**Disposition:** Passed to Second Reading as amended July 30, 1997 at 9:30 a.m.

- \*1138** Authorize the Purchasing Agent to negotiate a contract with Duncan Industries for electronic parking meter mechanisms and meter housings for the Lloyd Meter District without advertising for bids and provide for payment (Ordinance)

**Disposition:** Continued to July 30, 1997 at 9:30 a.m.

Mayor Katz left the meeting and Commissioner Kafoury assumed the Presidency of the Council.

**Commissioner Gretchen Miller Kafoury**

- 1139** Adjust FY 1997-98 Adopted Budget to increase the Regional Arts and Culture Commission Special Appropriation in the amount of \$15,000 (Ordinance)

**Disposition:** Passed to Second Reading July 30, 1997 at 9:30 a.m.

- \*1140** Agreement with Special Advocates for Elders Foundation for the assignment and supervision of two City employees currently assigned to the Portland/Multnomah Commission on Aging (Ordinance)

**Discussion:** Becky Wehrli, Commission on Aging, said this is part of the Commission's move to establish a non-profit organization to take on the work of the current Commission. In 1996 Council approved the transition and this \$44,000 budget item is tied to staff funding.

Estill Deitz, Commission on Aging, said there is great support from members for this transition as they hope it will enable them to reach more seniors.

Commissioner Francesconi asked if the Commission represents more than just disabled and frail seniors.

Ms. Wehrli said the Commission has felt a strong need to serve low-income groups and those with disabilities. The members feel, however, that the private organization will speak for a much broader spectrum.

**Disposition:** Ordinance No. 171421. (Y-4)

- \*1141** Agreement for services for five years with the provision of a five year renewal, with the Special Advocates for Elders Foundation for overseeing all matters relating to aging issues, services and programs for the City of Portland (Ordinance)

**Disposition:** Ordinance No. 171422. (Y-4)

- \*1142** Transition agreement with Special Advocates for Elders Foundation to transfer Portland Multnomah Commission on Aging services, assets and contracts between the City and the Special Advocates for Elders Foundation (Ordinance)



**Disposition:** Ordinance No. 171423. (Y-4)

- \*1143 Intergovernmental Agreement with Multnomah County designating the Special Advocate for Elders Foundation as the official advisory agency on aging issues and terminating the City of Portland and Multnomah County Intergovernmental Agreement which created the Portland Multnomah Commission on Aging (Ordinance)

**Disposition:** Ordinance No. 171424. (Y-4)

**City Auditor Barbara Clark**

- 1144 Assess property for sidewalk repair by the Bureau of Maintenance for billing processed through June 10, 1997 (Second Reading Agenda 1096; Y1019)

**Disposition:** Ordinance No. 171425. (Y-4)

- 1145 Assess property for sewer system development contracts for the period ending June 10, 1997 for the mid-county sewer project and non mid-county area (Second Reading Agenda 1097; Z0660, Z0663, Z0664)

**Discussion:** Cay Kershner, Clerk of the Council, said the Auditor's Office has proposed an amendment in order to remove one account.

Commissioner Hales moved the amendment to remove the one property. Commissioner Sten seconded and Commissioner Kafoury, acting as President of Council, so ordered.

**Disposition:** Passed to Second Reading as amended July 30, 1997 at 9:30 a.m.

- 1146 **TIME CERTAIN: 2:00 PM** - Appeal of Centennial Neighborhood Association against Hearings Officer's decision to approve application of Orvalee Farris and Lee R. Buckley, for a major land division and zone change in compliance with the Comprehensive Plan, for a seven lot subdivision at 14512 SE Center at 148th Avenue (Hearing; 97-00272 SU ZC)

**Discussion:** Pete Kasting, Senior Deputy City Attorney, outlined the procedures for holding an on-the-record review.

Council members declared no conflicts of interest or ex parte contacts.

Bob Haley, Planning Bureau, said the applicants requested this change from R7 to R5 which is in compliance with the Comprehensive Plan in order to build a seven-lot subdivision. He noted the approval criteria. He said the basis of the Centennial Neighborhood Association appeal is whether the R5 designation should be on the Comprehensive Plan map rather than this particular subdivision. However, the basis for making a decision is whether: 1) the zoning change is in



compliance with the Code; and 2) adequate services are available to the development. Mr. Haley said there seems to have been an unfortunate misunderstanding between Centennial Neighborhood Association and the Planning staff who worked on the Outer Southeast Community about the intent or agreement reached as part of that plan. He said, however, the R5 designation shows clearly on the Comprehensive Plan Map and the staff and Hearings Officer's findings clearly show that the approval criteria are met for both the zone change in compliance and Title 34 land division regulations. Staff continues to recommend that the Hearings Officer's decision be upheld.

Commissioner Kafoury asked if there is any mechanism available to dismiss an appeal.

Mr. Haley said appellants are required to state which criteria are violated and there has been some discussion about how much discretionary judgment staff has when an appeal is filed. It is up to Council to decide what is a frivolous appeal. He noted that a similar appeal was heard in February for property just down the street. A memo is attached from Planning Director David Knowles outlining his understanding of the process.

Commissioner Hales noted that he will be presenting those to Council next week.

Commissioner Francesconi asked if there are any sanctions for frivolous appeals.

Pete Kasting, Senior Deputy City Attorney, said no.

Commissioner Kafoury said Council could at least consider not having the City pick up the fee for the neighborhood associations if they do not meet a certain threshold of integrity.

Jim Worthington, Land-use Chair, Centennial Neighborhood Association (CNA), said if next week's planned meeting had been held earlier, perhaps this appeal would not have had to take place.

Louise Cody, representing CNA, said they oppose the zone change from R5 because the Planning Bureau, in violation of its agreement with the Centennial Neighborhood, placed the Comprehensive Plan designation on the map prematurely, before December, 2005 and before the 10 year trigger went off permitting its application. The Comprehensive Plan designations were only to be applied if Centennial did not meet its housing quota of 1,000 units. Staff told the Hearings Officer and Council that Centennial misunderstood how the trigger would work and when the Comprehensive Plan designation would be placed on the map but the neighborhood's case is based directly on the staff-written intent contained in the recommended Outer Southeast Amendment Request Report. Ms. Cody cited this and other Planning Bureau materials to support her contention that the Bureau did not negotiate in good faith, leading to a serious credibility gap. The main issue is when the Comp Plan designation should be applied to the

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sites and zoning map. After adoption of the Plan in January, 1996, the zones and the A-overlay were applied to the sites on the Zoning Map as agreed. However, the Comprehensive Plan designations were then misapplied to the sites 10 years early. The neighborhood believes waiting to apply this designation when the trigger goes off is very important because developers should not have access to the higher density zones immediately. The Albina Plan, on which Centennial relied, states that developers can apply for zone changes but "the higher density Comprehensive Plan designations will not be available to developers until the light rail facility is assured." Staff simply ignored the Amendment Report, written and agreed to by them, and implemented exactly the opposite.

Mr. Worthington said this development was approved earlier in 1995 as a cluster subdivision in an R7. He said this developer actually intends to go R5 and then make all the lots R4 by clustering the development. The result will be small lots right next to Powell Butte Park. He said Centennial is one neighborhood that needs some relief from this kind of density, especially so far from the nearest transit.

Lee Buckley, applicant, said they have met the approval criteria for both the zone change and sub-division. Staff and the Hearings Officer support it and the applicant concurs with all the conditions.

Mr. Worthington said Mr. Buckley did not explain that in 1995 the developers came in with a proposal for four lots along Gladstone Street. That was approved but there was no follow through and the neighborhood is looking into that.

Ms. Cody said Council must examine how this zoning got on the map because if it is incorrect this is crucial to whether a land-use appeal is granted. Centennial does not feel their appeal is frivolous or that sanctions are required to prevent them from appealing what they consider to be illegal zoning.

Commissioner Francesconi asked if Centennial will continue to appeal such applications.

Ms. Cody said they were told Council would address this as a policy issue. Until that happens, they are in the position of continually appealing such cases.

Mr. Worthington said appealing is the only avenue they have until this matter is settled.

Commissioner Kafoury asked them if the matter would be settled once Council makes a determination.

Mr. Worthington said that would be up to the whole neighborhood association as they may wish to go to LUBA.

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Commissioner Francesconi said a policy decision by Council is the right way to go with this.

**Disposition:** Appeal denied. (Y-4)

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

**BARBARA CLARK**  
Auditor of the City of Portland

*Cay Kershner*

By **Cay Kershner**  
Clerk of the Council