



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 8TH DAY OF OCTOBER, 1997 AT 9:30 A.M.

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

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

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

CONSENT AGENDA - NO DISCUSSION

- 1524** Cash investment balances August 21 through September 17, 1997 (Report; Treasurer)

Disposition: Placed on file.

- 1525** Accept bid of Andersen Pacific Contractors, Inc. for SW Terwilliger Blvd. slide repair projects 1 and 2 for \$223,775 (Purchasing Report - Bid 98035)

Disposition: Accepted; prepare contract.

- 1526** Vacate certain portions of SE Tacoma Street, SE 24th and 25th Avenues, under certain conditions (Ordinance by Order of Council; C-9905)

Disposition: Passed to Second Reading October 15, 1997 at 9:30 a.m.

- 1527** Vacate certain portions of an alleyway in Block 35, Irvington Park Addition, under certain conditions (Ordinance by Order of Council; C-9936 and C-9938)

Disposition: Passed to Second Reading October 15, 1997 at 9:30 a.m.

- 1528** Vacate a certain portion of SW Jefferson Street west of SW 18th Avenue, under certain conditions (Second Reading Agenda 1486; C-9930)

Disposition: Ordinance No. 171650. (Y-4)

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Mayor Vera Katz

***1529** Pay claim of estate of Clinton Scott Harney (Ordinance)

Disposition: Ordinance No. 171651. (Y-4)

***1530** Authorize contract with Ralph Anderson and Associates for conducting a classification and compensation study of information technology positions (Ordinance)

Disposition: Ordinance No. 171652. (Y-4)

***1531** Contract with Pharmaceutical Care Network for the FY 1997-98 Plan Year (Ordinance)

Disposition: Ordinance No. 171653. (Y-4)

1532 Authorize Water System Revenue Bonds, 1997 Series A (Second Reading Agenda 1487)

Disposition: Ordinance No. 171654. (Y-4)

Commissioner Jim Francesconi

1533 Change City Code provisions relating to Urban Forestry Commission (Second Reading Agenda 1494; amend Code Section 20.40.030)

Disposition: Ordinance No. 171655. (Y-4)

Commissioner Charlie Hales

1534 Accept contract with K-2 Construction for roadway stabilization at 1440 SW Broadway Drive as complete and release final payment (Report; Contract No. 31003)

Disposition: Accepted.

1535 Set hearing date, 9:30 a.m., Wednesday, November 5, 1997, to vacate a portion of SE Mt. Scott Boulevard, east of I-205 and west of SE 98th Avenue (Report; C-9934)

Disposition: Accepted.

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1536 Approve two agreements with Tri-Met to authorize the Bureau of Maintenance to sell Tri-Met tickets, passes and transportation guides to its employees and to establish an experimental annual pass program (Ordinance)

Disposition: Passed to Second Reading October 15, 1997 at 9:30 a.m.

***1537** Apply to the International Council for Local Environmental Initiatives for a grant in the amount of \$44,000 to implement the Neighborhood Bicycle Parking Enhancement Project (Ordinance)

Disposition: Ordinance No. 171656. (Y-4)

***1538** Contract with Thompson Vaivoda & Associates for an amount not to exceed \$487,815 to provide architectural design services for Mt. Scott Park and Community Center improvements (Ordinance)

Disposition: Ordinance No. 171657. (Y-4)

Commissioner Gretchen Miller Kafoury

***1539** Contract with the Housing Authority of Portland for the implementation of activities under the HOME Investment Partnership Program in the amount of \$430,244 and provide for payment (Ordinance)

Disposition: Ordinance No. 171658. (Y-4)

***1540** Contract with the Housing Authority of Portland for \$235,508 for staffing to develop facilities for the homeless and special needs populations and provide for payment (Ordinance)

Disposition: Ordinance No. 171659. (Y-4)

***1541** Contract with Sabin Community Development Corporation for \$36,000 to undertake revitalization activities on NE Alberta and provide for payment (Ordinance)

Disposition: Ordinance No. 171660. (Y-4)

***1542** Contract with the Multnomah County Department of Community and Family Services for \$60,000 for the Sewer-On-Site program and provide for payment (Ordinance)

Disposition: Ordinance No. 171661. (Y-4)

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Commissioner Erik Sten

1543 Accept completion of the NE 29th Avenue, Mason to Skidmore, Project No. 5341, and authorize final payment to Alliance Corporation (Report; Contract No. 31191)

Disposition: Accepted.

*1544 Authorize an application to the International Council for Local Environmental Initiatives for their 1997-98 Transportation Solutions Grant Program (Ordinance)

Disposition: Ordinance No. 171662. (Y-4)

*1545 Contract with the Oregon Office of Energy for \$40,000 to implement portions of the Rebuild America Program (Ordinance)

Disposition: Ordinance No. 171663. (Y-4)

*1546 Authorize the continuance of negotiations for the purchase of a permanent sewer easement and temporary construction easements required for construction of the Fairfield sanitary sewer project, authorize the City Attorney to commence condemnation proceedings and authorize the City Attorney to obtain early possession (Ordinance)

Disposition: Ordinance No. 171664. (Y-4)

*1547 Authorize the Chief Engineer, Bureau of Environmental Services, to execute a sewer easement from the City of Portland over a portion of vacated SW 63rd Avenue between SW Shattuck Road and Vermont Street (Ordinance)

Disposition: Ordinance No. 171665. (Y-4)

*1548 Authorize purchase of easements required for the Columbia Slough consolidation conduit (Ordinance)

Disposition: Ordinance No. 171666. (Y-4)

1549 Amend City Code to implement an administrative review procedure for sewer connection charges (Ordinance; amend Chapter 17.36)

Disposition: Passed to Second Reading October 15, 1997 at 9:30 a.m.

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REGULAR AGENDA

1522 **TIME CERTAIN: 9:30 AM** - Present Safety Recognition Awards
(Presentation introduced by Mayor Katz)

Discussion: Barbara Aguon, Risk Management, said the City has seen a significant reduction in the number of Workers Compensation claims since formation of safety committees in the bureaus as well as increased productivity due to the emphasis on ergonomics.

Safety Recognition awards were presented to the Bureau of Environmental Services (Wastewater Treatment Group), the Maintenance Bureau and the Bureau of General Services for their outstanding efforts in the Partnership in Prevention program. Awards were also presented to those bureaus which showed the most ergonomic improvement and to those with the most effective Safety Committees.

Mayor Katz expressed Council's appreciation for the efforts made by Risk Management and the bureaus to enhance work place safety. She noted that Risk had selected those bureaus that were truly interested in dealing with evident safety issues. She suggested that Risk now move on to work with other bureaus that have safety issues, such as Police, Fire and Parks.

Disposition: Placed on File.

*1523 **TIME CERTAIN: 10:00 AM** - Accept a grant and loan package from the Oregon Economic Development Department Waste/Wastewater Financing Program in the amount of \$1 million for FY 97-98 for Brookside Wetland and Stream Enhancement project (Ordinance introduced by Mayor Katz)

Discussion: Commissioner Sten said receiving this grant is obviously good news and will help enhance the environment in Outer Southeast.

Commissioner Francesconi said residents in Outer Southeast are very excited about this although some challenges remain.

Mayor Katz said she is happy that this project will also create recreational resources in Outer Southeast, which is park deficient.

Disposition: Ordinance No. 171667. (Y-4)

1550 Accept bid of Triad Mechanical for Columbia Boulevard Wastewater Treatment Plant wet weather facility chlorination improvements for \$2,208,906 (Previous Agenda 1485 - Bid 98034)

Discussion: Cay Kershner, Clerk of the Council, said the Purchasing Agent

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had requested another week's continuance.

Disposition: Continued to October 15, 1997 at 9:30 a.m.

Commissioner Jim Francesconi

***1551** Amend Liquor License Recommendations Regulation (Ordinance; amend Code Chapter 7.18)

Discussion: Commissioner Francesconi said after the debate over recommending a liquor license for a laundromat, he asked the License Bureau to make a recommendation about non-traditional liquor outlets.

Gary McGrew, Bureau of Licenses, said society offers many opportunities for people to consume alcohol in traditional outlets. However, when society is saturated with the sale and service of alcohol, there are often negative impacts on families and neighborhoods. When alcohol can be purchased by the drink in non-traditional outlets such as laundromats, society may be reaching that saturation point. This has become more of an issue since the advent of State-authorized video poker games and the requirement that outlets with these devices must be licensed to sell alcohol. He noted recent Council consideration of a liquor license application for Laundryland which was sought in order to qualify for video poker games. Council forwarded an unfavorable recommendation to the OLCC but the OLCC commissioners approved the license, having no legal basis for denial. The liquor/video poker issue was discussed in a meeting in the Mayor's office attended by key representatives of the lottery and liquor commissions and the City Council. At that meeting, the License Bureau was asked to petition the OLCC to initiate rule making to address the issue of inappropriate liquor establishments and the proliferation of liquor outlets in Portland neighborhoods, all exacerbated by the provision that video poker locations have liquor licenses. That petition was submitted to the OLCC and in June, 1997 the Commissioners voted to initiate rule-making per that request.

Mr. McGrew said in August, 1997, Council said it would forward a favorable recommendation for Single Sox Deli only on condition that the applicants agreed to completely separate the laundry from the deli with a wall or partition. Following that action, the License Bureau recommended that the OLCC Rules and Policy manager delay setting up an advisory committee until there has been time to evaluate Council's action. He noted the current criteria on which Council makes its recommendations, related to location, area and applicant's background. Commissioner Francesconi directed staff to draft a Code amendment incorporating language from the proposed laundromat rule, creating a new basis to make unfavorable recommendations on inappropriate outlets in the future.

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Frank Craddock, Chair, Binford Condominium Association, said the "Mayor's wall" is still not up in the Single Sox deli. He supported passage of this ordinance.

Mr. McGrew said Single Sox has not returned to Council for approval because the wall is not up yet.

Mike Sanderson, License Bureau, said the wall has created new problems and the applicant is looking at alternatives, such as partitions, and may make a counter proposal that will come back to Council.

Carol Stone, Regional Drug Initiative (RDI), said RDI wholeheartedly supports this. A survey conducted by RDI in 1995 indicated that the vast majority of residents favor increased limitations on alcohol availability. RDI developed a set of guiding principles for alcohol availability after hearing so often from neighborhoods of their increasing concern about the availability of alcohol to minors. RDI also hears from many teenagers who would like to have more alcohol-free activities available. Expanding the number of outlets, particularly non-traditional ones, will simply allow greater accessibility to minors.

Commissioner Sten questioned whether the City's morals will be detrimentally affected if a laundromat wants to have a deli next to it so someone can buy a sandwich and a beer while people wash their clothes. He is not convinced the City has a major problem if an upscale, adult beauty salon wants to sell a glass of wine to someone who gets a hair cut.

Ms. Stone said she agrees with the language in the ordinance which says there are already plenty of opportunities to purchase alcohol and she, for one, does not need a glass of wine when she gets her hair cut. The vast majority of those surveyed stated that there is already plenty of availability and would like it limited even more.

Commissioner Sten said generally rights should be restricted only when they harm someone else and he does not believe the City has shown, in the vast majority of cases, harm to somebody else. He said he is not comfortable sending a message that you can never have a glass of wine at any business not directly in the hospitality business.

Ms. Stone said she can imagine, however, a member of RDI's youth coalition saying he/she would like to be able to go to the barbershop without seeing people consuming alcohol on the premises.

Commissioner Sten said he does not think a blanket prohibition is going to work but this gives the City the criteria to look at each case.

Commissioner Hales said this is not a blanket prohibition.

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Commissioner Francesconi said he believes this is a neighborhood livability issue. He said if you create margins of profit in alcohol which then leads to gambling, other small businesses that do not want to sell alcohol are penalized. Allowing alcohol sales in non-traditional outlets forces a trend towards alcohol and gambling to supplement profits in a tough, small business environment. This ordinance sends a signal to young people that there are businesses where margins of profit in alcohol and gambling are not needed.

Commissioner Sten said he thinks it is immoral for the State to be in the gambling business but he does not think it is immoral for people to have a glass of wine when they get their hair cut. He does not think that it sends a mixed message to youth, because they are smarter than that.

Disposition: Ordinance No. 171668. (Y-4)

- *1552** Agreement with Rotary Club of Portland; Portland Rotary Charitable Trust; District 5100, Rotary International; and Friends of the Children's Museum for raising funds for renovation of OMSI museum site in Washington Park for relocation of the Children's Museum (Previous Agenda 1513)

Discussion: Mayor Katz noted that an amendment had been distributed.

Commissioner Francesconi moved to amend the ordinance by replacing the agreement originally filed. Commissioner Hales seconded and, hearing no objections, the Mayor so ordered.

Disposition: Ordinance No. 171669 as amended. (Y-4).

Commissioner Charlie Hales

- 1553** Consider vacating a portion of NE Holman Street south of NE Airport Way at the request of Chris Taylor (Hearing; Report; C-9932)

Disposition: Approved; City Engineer prepare ordinance. (Y-4)

At 10:40 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 8TH DAY OF OCTOBER, 1997 AT 2:00 P.M.

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

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

1554 TIME CERTAIN: 2:00 PM - Amend Chapter 33.205 Accessory Rental Units and related provisions of the Portland Zoning Code (Ordinance introduced by Commissioner Hales; amend Title 33)

Discussion: Deborah Stein, Planning Bureau, said these amendments reflect input from the Portland Planning Commission and other interested parties. They also reflect the City's efforts to comply with the Metro Functional Plan by creating new housing opportunities without significant impacts on the livability of existing neighborhoods. These amendments also respond to changing family sizes and smaller households.

Jim Claypool, Planning Bureau, showed slides to demonstrate existing granny flats and garage apartments. He said the City is seeing very few new legal accessory units -- less than 10 a year. These amendments will allow accessory units in the range of 400 to 1,000 square feet and are seen as causing only minor neighborhood transitions. He recapped the City's policy and objectives and noted that the Bureau did five case studies to point out design issues and help set standards. Among the objectives are compatibility to existing development, increased opportunities to increase the housing stock, and responding to economic and development needs. Existing regulations allow for internal units only, with no add-ons or garage conversions, and call for a home to have 1,400 square feet after conversion. He explained the parking standard and the owner occupancy issue.

Rick Michaelson, Portland Planning Commission, said owner occupancy was the biggest issue the Commission faced as it tried to gauge the effect of these regulations on neighborhood stability and meeting the goal of increased home ownership.

Rick Holt, Portland Planning Commission member and developer, said he is very biased towards allowing accessory units in all new homes as it encourages effective utilization of land. However, with greater density one needs greater design standards. He said affordable housing needs to be integrated into existing neighborhoods in a reasonable way and these regulations will do that.

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Citing his Fairview Village development as an example, Mr. Holt said the size of the unit should relate to lot size, not house size.

Mayor Katz asked about standards.

Mr. Michaelson said the best strategy they came up with was to call for the accessory units to look like the existing house and the rest of the neighborhood. The hope is that the added unit will look like it was built with the house.

Mr. Holt said he would like to see very prescriptive design control. The other extreme is to approve units on a case by case basis which would take extensive staff time. He said the regulations can be modified if need be.

Mr. Michaelson said ideally there would be prescriptive design standards for every neighborhood but the City does not have the staff to prepare different zoning Codes for different areas of the City. The best thing they can do is to have the new unit look like what is currently there.

Commissioner Francesconi he is proposing an evaluation process in 2-1/2 years to determine the effect of these regulations. He said the current ratio of renter to home ownership is 47 to 53 and fears that if there is no owner occupancy requirement the City will see 60 to 70 percent of its housing stock become accessory housing. He said Kenton is a prime candidate for this.

Ms. Stein said they have found the utilization rate to be very low even in jurisdictions where the rules are quite lenient.

Commissioner Francesconi asked what other jurisdictions are doing.

Mr. Claypool said staff reviewed about six jurisdictions. Only Gresham is not requiring owner/occupancy in the original unit. He said in 1995, only .59 percent of permits were for accessory units and there was half that in 1996. Metro has projected that with the new regulations, the number would rise to 1.8 percent, or about 120 to 140 new units per year.

Mr. Michaelson noted, however, that rowhouses took a while to catch on but now there are far more than were ever expected. As a real estate investor himself, he plans to take advantage of these new regulations every chance he can. The downside to this is that certain areas will shift away from home ownership.

Council members discussed with Mr. Michaelson and Mr. Holt various aspects of the regulations dealing with detached units versus garages, construction costs, financing, and height restrictions. Mr. Holt said a new unit would cost approximately \$18,000 while a retrofit would be \$33,000.

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Commissioner Sten said the number one cry he hears is displacement of renters because of home ownership. When the City is spending \$50,000 to \$60,000 per unit on subsidizing low income apartments, it seems foolish not to take steps to provide low income housing with hardly any subsidy. He said economics have changed dramatically since the Albina Plan was adopted and now the problem is affordable housing. He said he believes the Planning Commission reaction is outdated.

Mr. Michaelson said the Planning Commission is probably more interested in promoting stable neighborhoods. Many neighborhoods do not want to encourage absentee owners.

Commissioner Sten said he does not see how the City can rationalize spending millions on low cost housing and then prevent people from building these units.

Mr. Michaelson the policy has always been geared towards encouraging accessory units to owner-occupied homes.

Commissioner Francesconi asked if there is a way to treat neighborhoods differently depending on their status and if one can promote home ownership on the accessory units.

Commissioner Hales said Council should be careful about making the Code any more complicated than it already is.

Deborah Howe, Portland State University, Urban Studies Department, strongly supported the regulations, noting that more than two-thirds of households have only one or two people. She said her research has led her to believe this is the least expensive way to add units and that a high proportion of those who create them are middle-aged people who need less space.

Commissioner Hales asked if she had done any research on the sociological effects on a neighborhood of adding accessory units.

Ms. Howe said she has seen very few done even under more liberal regulations than the City is considering. She said the City should be more concerned about the illegal ones that are fire hazards.

Steve Weiss, 2727 SE 16th, 97202, supported the proposed regulations and said owner occupancy should not be required.

Mayor Katz asked whether non-profit homeowners could be exempted from owner occupancy regulations.

Deborah Zecil, 2034 N. Killingsworth, 97217, opposed the regulations as she believes it will be too difficult for the City to enforce the standards.

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Mr. Michaelson said enforcement is the real issue.

Jim Gardner, 2930 SW 2nd, 97201, supported the regulations. He said the design standards will address people's concerns, as how these units will look is the fundamental issue. He said Council should not be side-tracked by the owner occupancy requirement, which would be an enforcement nightmare. He said landlords and renters should not be treated as second-class citizens and if there is fear about a change in the ratio of home ownership to rentals then an evaluation is worthwhile. He said this probably will never be a problem in many neighborhoods.

Steve Borcharding, Community Development Network, 1626 SE 16th, 97214, spoke in support. He said he has seen a lot of illegal units which the Network would like to see made legal. He said accessory dwelling units are a tool that can help people into home ownership as the extra unit provides a way of subsidizing their mortgage.

Gordon Trapp, Maplewood Neighborhood Association, 6825 SW 63rd, 97219, said Maplewood objects to building detached dwelling units on substandard parcels of land. He said the City should look at the relationship of these additions to the existing infrastructure, including the size of utilities, additional stormwater runoff and on-street parking problems. He said building units over garages can lead to increased fire danger and carbon monoxide poisoning.

Dick Bogue, President, Laurelhurst Neighborhood Association, 1139 NE Imperial Ave., 97232, said there is already an existing problem in Laurelhurst with additional parking and in a survey the neighborhood did last year 83 percent stated they did not want to go from single to multiple dwelling units. With over 100 corner lots in the neighborhood, they fear what will happen if they can all be converted to duplexes. He said stable neighborhoods have made Portland what it is and should not be undermined.

George Zifcak, 15151 NE Clackamas, 97230, said he tried to design a five-lot subdivision with accessory units over garages but then found they needed so many separate electrical outlets and fire safety features that they did not pencil out. He said this is a tremendous opportunity for affordable housing but it needs to be easy to do.

Matt Kirkpatrick, Rose Commercial Development, 5515 SE Malden, 97206, strongly supported this as a valuable tool to increase affordable single and family housing units, particularly as new buildable lots are very hard to come by. He said non-profit groups like Rose would be very accountable to the community for their units, even if not owner-occupied.

Carl Kiss, 3522 SW Oak, 97214, said less dense neighborhoods have a greater ability to shoulder density than Laurelhurst, which is the second densest

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neighborhood on the east side and as an historic district should be given special consideration.

Corinne Weber, representing the Maplewood and Hayhurst Neighborhood Associations, 6245 SW 39th, 97221, said they oppose the idea of detached units as they fear the visual impact could destroy the look and scale of the neighborhoods. She said at a time when retaining open space is becoming more important, the City is destroying it in its own backyards. She said additional units should be built within the confines of existing houses and she also believes detached units are too expensive to build to be affordable.

David Ellis, attorney, 3531 SW Boundary, 97221, opposed the owner occupancy requirement. He said he has clients with illegal units that could be made legal if this passes. If a neighborhood is already 70 percent rentals, adding accessory units may allow purchase.

Teri Duffy, 2615 NE 20th, 97212, said instead of useless garages, the City would be better off with affordable housing. She said the amount of public subsidy to build the MLK project was astronomical and called for a further look at ownership issues.

Mayor Katz said she hears a lot of complaints about out-of-state absentee landlords who are a drain on the resources of the Bureau of Buildings and put the neighborhoods at a terrible loss about what to do.

Ms. Duffy said only about five percent of landlords do not do a good job and the City should get harder and tougher on them. Tenants need more affordable units and if the private market is given the tools to provide them, it will.

John Charles, Cascade Policy Institute, 813 SW Alder, #310, 97205, said accessory dwelling units are a good idea, harnessing self-interest to serve the public interest. He opposed the owner occupancy requirement.

Mayor Katz asked how you would hold an absentee landlord accountable.

Mr. Charles said the City would go after them with stricter enforcement.

Betty Walker, Sabin Neighborhood Association, 3124 NE 17th, 97212, said the concern in Sabin, which has a ratio of 60 percent rental to 40 percent home ownership, is lowered home ownership as they believe the total number of rentals affects the stability of schools, traffic and infrastructure. She said these regulations will force infills.

Scott Pratt, 3545 SE Ankeny, 97214, said Council should consider what effect this will have in 40 to 50 years. Most conversions will be in larger houses with higher rents so that financing costs can be recovered sooner. This could

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actually decrease the number of housing choices and give people fewer chances for single family ownership. He said the number of cars on the street and the maintenance of homes are other concerns.

Anton Vetterlein, Homestead Neighborhood Association, 430 SW Hamilton, 97201, said Homestead supports this if the owner occupancy regulation is retained. He said it can be enforced on a complaint basis and non-profits could be exempted. He said he sees no problem with detached housing but the Southwest area is still trying to recover from having higher density forced on it.

Ken Swan, realtor, 3225 NE 28th Ave., 97212, strongly supported this. He said he has never sold owner-occupied property that then converted to rental. Instead the trend is to see renters convert back to home ownership. This will increase the options for first time home owners whenever a rental unit is added.

Nan Koerner, Southwest Hills League, 2650 SW Davenport Ln., 97201, said they support the owner occupancy requirement and the Sunset provision. At a minimum the neighborhood should receive notice of new accessory units to ensure that they have received City permits. She said currently there are many illegal units and even with the new Code they are unsure these will not continue to be illegal. She said neighbors are the best enforcers and they want those who do not have permits to be fined.

Louise Cody, Centennial Neighborhood Association, 1515 SE 151st Ave., 97233, said Centennial has voted three times not to support this. The Code rewrite does not recognize Albina and Outer Southeast community plans. She said speculators will abound without the home occupancy requirement and Code enforcement is often slow.

Peter Fry, 2153 SW Main, #104, 97205, supported this as a conservative approach to furthering City policies.

T. J. Browning, 3545 SE Ankeny, 97214, said more time is needed as this divisive process only began in April and the neighborhoods were unable to involve people over the summer. Not just board members, but all neighbors need to be polled on this. She said this trashes much of the work done through neighborhood plans and citizen involvement.

Dr. Paula Froh, 3368 NE Multnomah, 97232, questioned why more density should be added to already dense areas and called for keeping livable neighborhoods livable.

Martie Sucec, Multnomah Neighborhood Association, 7005 SW 34th, 97219, said more time should be taken with this. She said an on-foot neighborhood survey of Multnomah found there were more than 50 percent rentals. She said they oppose detached units and the lack of an owner-occupancy requirement

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because absentee landlords are a key problem. She also questioned how one could have an accessory unit on an R2 lot intended for rowhouses.

Michael Roche, 3920 SW 40th, 97219, also called for more review and said the process of designing infill design standards, which has just begun, should be completed first. He said the ordinance exempts the City from Section 8 notification and appeals. He too questioned allowing accessory units in R2 and R5 zones. He said instead of the six foot setbacks, Council should approve 10 foot setbacks, which is what the community wants. He also questioned what effect these units will have on Local Improvement Districts and waivers.

Charlotte Uris, Irvington Neighborhood Association, 2526 NE 10th, 97212, called for a continued hearing because of the inadequate, speeded-up process. Some neighborhoods want detached housing, others do not. Generally, Irvington supports internal units but not detached and not without owner occupancy. She said Irvington had these discussions a few years ago when the Albina Plan was approved but the compromises made then on the A-overlay and design are now being changed and eliminated by these regulations.

Matt Carter, Beaumont Wilshire Neighborhood Association, 2922 NE 44th, 97213, said they vigorously oppose relaxing owner occupancy requirements. The data in support of dropping that requirement needs a closer look. He said much of the neighborhood is older housing stock requiring high maintenance and too many renters will destabilize the area.

Jim Worthington, 3232 SE 153rd, 97233, said this changes single-family zoning to multiple throughout the City. He opposed automatically allowing duplexes on corner lots and expressed concern about height restrictions on non-detached units. He said he is against detached units and does not think one could add an owner occupancy requirement later.

Betsy Madigan, Piedmont Neighborhood Association, 37 NE Morgan, advocated for landlord training, which Piedmont effectively used with the help of the Police Bureau. She opposed the elimination of the owner occupancy requirement because of the need to have ready access to property owners.

Commissioner Sten said this would also screen out professional landlords and create a whole new class of landlords. Is training the difference between good and bad landlords and should non-profits be exempt?

Ms. Madigan said non-profits could be exempt because they are accessible and accountable.

Mayor Katz asked Council members to outline their issues.

Commissioner Hales said he is concerned about coordination with Building

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Codes and how difficult it will be to actually build these units to Code. He said he would like to check into design requirements in historic districts, how this will work in R2.5 zones, the Title 8 exemption and whether landlord training should be required.

Commissioner Francesconi said his issues include: interim guidelines, treating Community Development Corporations differently from neighbors, and the lengthening of home ownership time. He said he would like a breakdown by neighborhood of rental to owner ratios.

Mayor Katz said her issues include height restrictions on detached units, the legality of exempting non-profits and requiring home ownership for existing but not new buildings, interim guidelines, the impact on A-overlay zones, enforcement and the expected effect on corner lots. She said she would like to know if rental units do turn into home ownership and if people have that right after conversion. Also, if this only produces 120 units per year, is it worth all the furor it is causing in the community.

Commissioner Sten said he generally supports this as the cheapest way to add affordable housing units with the least impact. He said he would like feedback from the neighborhoods as one way or another there will be more rentals.

Mr. Michaelson said the Planning Commission will soon hold a hearing on the interim design guidelines. No testimony about corner lots was offered at the hearing on these regulations and if people feel strongly the Commission would like to hear.

Council decided to continue this to an evening in November when all members would be present.

Disposition: Continued to December 3, 1997 at 2:00 p.m.

At 4:55 p.m., Council recessed.

OCTOBER 9, 1997

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 9TH DAY OF OCTOBER, 1997 AT 2:00 P.M.

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

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

1555 **TIME CERTAIN: 2:00 PM** - Appeal of Lifegate Baptist Church, applicant, against Hearings Officer's decision to deny a conditional use with design review and adjustments in order to expand the existing facilities at 208 SE 148th Avenue (Hearing; 97-00553 CU DZ AD)

Discussion: Nan Stark, Planning Bureau, said this concerns a request for a conditional use to allow for a 5,200 square foot expansion of the Lifegate Baptist Church and an expansion of the parking lot from 34 to 65 spaces. The church is in the RH high density multi-dwelling zone in the Gateway Plan District and the proposal thus requires design review. Ms. Stark showed slides of the site. Three adjustments have also been requested. Two are to the Gateway Plan District regulations: 1) increase the number of parking spaces from the maximum 38 to 64; and 2) allow parking between the building and street for four spaces only. The third adjustment is to increase the building setback along the transit street to 100 feet, rather than meet the requirement that the front entrance be 15 feet from the street.

The staff and Hearings Officer denied the conditional use and design review request because it did not meet the guidelines of the Plan District or for development along transit streets which calls for pedestrian-oriented buildings close to the street with parking behind. While this is an expansion, staff believes there are many other design options for complying with the transit street and Gateway Plan District regulations. The church appealed the staff decision because they believe the building is designed to allow handicapped access. The Hearings Officer denied the appeal as she felt other options were available that would result in both handicapped access and pedestrian orientation.

Ms. Stark said the primary issue in this case is the Transportation Planning Rule policy which seeks to achieve non-auto oriented development on transit streets and near light-rail stations.

Susan Feldman, Planning Bureau, said the Hearings Officer found that two of the requested adjustments to the Gateway Plan District -- an increase in parking spaces and allowing parking between the street and building -- were

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not necessary. The Hearings Officer took the purpose statement in the Gateway Plan as a regulation although the Planning Bureau, in administering the Code, uses that statement only when there is confusion or a lack of clarity in the regulations. Staff does not believe there is confusion in the regulations regarding number of parking spaces. There is no minimum number of parking spaces and the maximum for non-residential uses may not exceed 150 percent of the minimum required. The other regulation concerns location of the motor vehicle parking. Because staff believes these regulations are clear, it requests that Council, whether or not it upholds or denies the appeal, process these two adjustments. This in essence is an interpretation to the Code, which staff believes is needed. She said staff is currently preparing a Code amendment to make it clear that the regulations in this section are to ensure that new development and additions to existing development are oriented towards transit.

Ms. Stark said the issue is the Transportation Planning Rule policy that has been incorporated into the Code dealing with the transit street setback. The intent of that regulation is to encourage people to use alternate modes of transit.

Ms. Feldman said there is no objection to the expansion of the church itself, just to its design and the location of the parking.

Commissioner Francesconi asked if there were exceptions for churches as opposed to businesses.

Ms. Stark said the regulation applies to all non-residential development, which includes churches.

Ms. Feldman said institutions, mostly hospitals and colleges, were heavily involved in reviewing the Transportation Rule regulations when they were developed.

Ms. Stark read the approval criteria into the record.

Jimmy Gleason, representing Lifegate Baptist Church, said the record does not support the decision. He said, because it seemed to be so controversial, the church had indicated back in May that it was willing to relocate the four parking spaces proposed for the front of the new addition to another place on the property. The house will remain so they would like to retain one parking space at the residence. Regarding total parking spaces, the Planning Bureau recommendation for on-street parking is insupportable. He said at the north edge of the property is a fire plug and no one should park in front of it, although people using the adjacent apartment house frequently do so. The total space in front of the church will not allow more than 12 on-street parking spaces. Spaces in the parking lot were planned for average, not peak, attendance and it

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was determined that 65 parking spaces would be adequate for an average attendance of 160. During peak attendance the available on-street parking would be used. Regarding the building setback, he said this is not a new building but an addition which has been designed to tie into the existing structure to meet ADA requirements and to provide a practical access for the disabled into the fellowship hall. Relocating the building to the front of the lot, as proposed by the Planning Bureau, would result in a series of twisting corridors and corners to get into the fellowship hall. For safety reasons, the church has proposed a raised walkway from the street to the main entrance so there would be a definite difference between the driveway level and the sidewalk. They propose to have a drop off at the front door, which they believe is essential for emergency vehicle access, the elderly, handicapped and the safety of children being dropped off. This will allow drivers to drop off people without backing up and turning around. In addition, the Hearings Officer proposed that the church provide an easement and walkway south of the building which the church believes would constitute a "taking" and would increase the potential for vandalism due to the unlighted and unpatrolled walkway. He asked that Council grant their request for a setback, that they not be allowed to have parking in front of the building but would be granted the requested 65 parking spaces, most of which will be on the south side of the building and not readily visible from the street.

Commissioner Hales asked what walkway they were objecting to.

Mr. Gleason said one of the conditions was that the church provide a public easement and build a sidewalk from the front door of the church along the south side of the building to the back fence line. Essentially, that is a walkway to nowhere until someone develops the property to the east. It would eventually get to SE 151st.

Commissioner Hales asked if the four parking spaces in front of the new building were moved but the new building was left where proposed, would that not provide a lot of vehicle circulation through the area between the building and the street, even if there were no parking spaces. The church is not proposing to eliminate the connection between the parking lots on the south and the west so there would still be vehicle traffic.

Mr. Gleason said the vehicle traffic would provide the drop off at the front door.

Ms. Stark said the condition regarding the easement was recommended by Transportation Planning in order to meet the Transportation Element. Because the conditional use was denied, it was not an actual condition of approval. However, it is recommended if it is approved.

Commissioner Francesconi asked if the church could live with Council approval of an additional 12 parking spaces behind the building, and an adjustment from

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38 to 50 parking spaces, which is offered as one option in the report.

Mr. Gleason said the church is allowed 38 spaces based on the square footage of the sanctuary. It could live with the 50 but would probably be back later to request an increase as the church grows. He said the 65 requested spaces is for an anticipated average attendance of 160. Currently they use 41 for average attendance and they estimate the church will increase to approximately 80 percent of capacity (160 attendees) and then not grow much more. He said 85 percent of those attending either carpool or take mass transit and the church encourages the use of mass transit even though Sunday transit service is limited.

Commissioner Francesconi asked if Council had the authority to grant 12 parking spaces if the church agreed to put it behind the church building.

Ms. Stark said Transportation Engineering found 65 spaces to be excessive but 50 would be reasonable. That is where the number came from.

Mr. Gleason said Transportation Engineering found there were 18 on-street parking spaces, which he believes would be very difficult to find.

Jerry Clark, pastor, Lifegate Baptist church, said when the Outer Southeast Plan was being discussed, he testified before Council, asking whether the high-density residential designation would preclude the church from building there or would someone else determine the "highest and best use" of the property. While he understands that staff is not denying their right to build there, it is saying it has to be built their way. When they build in phases, each phase is married to the pre-existing buildings. The church believes the building design is just as much a part of "the highest and best use" as is the use of the land. Regarding the easement, it would essentially divide the church's property in half.

Commissioner Hales said the intent of the rules is to get buildings closer to the streets and put parking somewhere else. He asked why the design of the current building makes it so difficult to build the expansion on the west of the property, where the parking lot is now, rather than on the south or some other side.

Mr. Gleason described the existing building, which is designed as a "T", and its connections and outlined some of the difficulties that would be involved in changing the design while still meeting their desire to have a single north/south and a single east/west hallway. He said with the current design, virtually all parking will be behind the house, not in front of the building or next to the street.

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Mr. Clark said the new building is designed so that choir members can use the entrance to get to the podium area of the new sanctuary.

Mr. Gleason and Mr. Clark discussed other options for the building with Commissioner Hales. They noted that the architect presented a number of options for location of the new sanctuary but, based on his recommendation, the best layout is the one they submitted as it provides the easiest access.

Mayor Katz asked if another design would be possible if Council told the church this one could not be approved.

Mr. Clark said they provided staff with a number of other drawings, showing the auditorium in other locations, but in each case the tie-in for internal traffic was not as good as this one. This was prior, however, to adoption of the existing Code which calls for a maximum 15-foot setback.

Commissioner Francesconi asked staff why it focused only on parking.

Ms. Stark said the main issue is building setback. She reminded Council that when she showed the slides she noted that Mr. Gleason said he was willing to put the four parking spaces in a place where they would comply with the Code.

Ms. Feldman said there would still be an auto driveway between the new building and the street.

Commissioner Sten said while he shares the vision of a less auto-oriented district, he believes making the church change almost its entire orientation places a very high burden on this addition. He asked if anyone spoke to this when the Plan District was passed.

Ms. Feldman said the fact that parking is not prohibited speaks to that. Staff felt the church did not propose a design that had a more pedestrian-friendly and transit-user orientation. She said in other circumstances, people have used canopies or covered areas from the street to the building. The Code is written to reflect the City's desire to have more buildings come into conformance if they can. If they cannot meet the letter of the Code, they should at least meet the intent. In this case it is hard to grant an adjustment because there is no indication of how they meet the intent of the Code except for having a raised sidewalk. Staff did not feel that met the intent.

Mayor Katz asked if the church could meet the intent of the Code with the right design and a reconfiguration of the building.

Mr. Feldman said they could try. There is probably something more they could do to make this a pedestrian-friendly development that staff could find meets the design guidelines, the Transportation Rule and Goal 6, the Transportation

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Element. The burden is on the applicant to meet these regulations or at least meet their intent.

Commissioner Hales said perhaps the City regulations and the church's intentions can find common ground with further effort on the part of the church. What is proposed is a conditional use for a church in a residential zone. This is a reasonable addition to the church and the conditional use should be granted but the church should not be allowed to set it back 100 feet from the street. That throws a major monkey wrench into the current design but he believes there is more the church can do in terms of how this building relates to the street. The bottom line for the Hearings Officer is that this design works well for internal building circulation but that does not justify granting adjustments or approving a conditional use that does not meet the criteria. In his opinion the conditional use meets the criteria but the adjustments are not warranted. All property owners, whether churches or the City itself, must be held to City standards. He does not agree with the Hearings Officer's denial of the use for the expansion but does agree about the denial of the design and adjustments.

Ms. Feldman said without a design it is hard to meet the approval criteria dealing with physical compatibility standards.

Ms. Stark said the design and the adjustments are really all inter-related.

Mr. Gleason said they have considered a modification that would move the front of the building closer to the street with a drive-through and pedestrian walkway but they are very concerned that they will end up looking like the apartments to the rear, which neither they nor the neighborhood want. Removal of the four parking spaces in the front would allow them to do some landscaping and if a canopy would meet the criteria a covered walkway could be placed between the street and the building.

Mr. Clark said if they bring the building to within 15 feet of the street, the parking lot has essentially been cut in half and they will have people pulling in both sides and then backing up to get out. Their intent was to have one driveway in so cars could drop people off and then drive out the other way.

Mayor Katz said that does not meet the Code, however.

Ms. Feldman said the design guidelines, not just the adjustments, must be met, particularly buffering the parking and increasing pedestrian circulation. She said the architect would have to address these design guidelines and there are probably 1,000 design solutions out there.

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Commissioner Hales moved to tentatively uphold the Hearings Officer's decision to deny the conditional use and adjustments. Mayor Katz seconded for purposes of discussion.

Commissioner Hales said he does not want to give the impression that the City is going to load any approval up with so many conditions that it is impossible to do. What the City is trying to say is build buildings up to the street to provide an environment for someone who is walking or arriving in a wheelchair. He realizes it is not feasible to use transit on Sunday but does believe the parking lot should not be next to the street. That is what makes the suburban environment so awful and why they are trying to correct that. He would be more inclined to grant adjustments for parking if someone was doing a really good job on the basic design, one that says something other than "we hope you arrive by car." The most important objective is to have buildings relate to the community, rather than the car. In this case, the church is asking the City to adjust everything.

Commissioner Francesconi asked if conditions could be placed on this that would help create a more pedestrian environment.

Commissioner Hales said yes.

Ms. Stark said the only conditions they would recommend relate to the Transportation Element.

Ms. Feldman said a new design review would be needed. One complication, however, is that the record is closed.

Roll was called on Commissioner Hales's motion. Commissioners Francesconi and Sten voted no.

Commissioner Sten said this case raises questions regarding the applicability of the Gateway Plan. He said recent changes on 148th are forcing the City to try to fit a very square peg into a round hole and place an undue burden on the church to comply. He said he would overturn the Hearings Officer's decision on that basis and is open to some conditions he has not yet heard.

Mayor Katz said she is nervous about treating some institutions differently than others. She voted aye and the motion failed. She asked if this could be continued until Commissioner Kafoury returns and perhaps in the meantime some alternative can be found by working with the architect.

Mr. Gleason said they would be willing to fly him out if they could sit down with staff and hammer out something.

Commissioner Hales and the Mayor encouraged that. He said the

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Transportation Planning Rule, even without application of the Gateway Plan District regulations, still poses a problem for this conditional use. He said he is most interested in putting buildings in the right place rather than just buffering the parking.

Cay Kershner, Clerk of the Council, noted that without three votes the item would be continued rather than failing.

Ms. Feldman noted that a 120-day waiver would be needed and that the record would have to be reopened and renotification would then be required of any new proposed design. She said the applicant has a lot of options to create a less auto-oriented environment.

Mr. Gleason said they felt they were in something of a "Catch 22" because of what they had been told earlier about the existing house.

Linda Meng said she believes the Hearings Officer's decision stands unless there are three votes to overturn it. (Note: Later Ms. Meng corrected this statement to indicate that land-use appeals must be continued until there are three votes one way or the other.)

Council continued the case indefinitely. Mr. Gleason said they would not sign a waiver without advice from counsel but expect to be able to sign within a few days.

Disposition: Continued to October 23, 1997 at 2:00 p.m.

1556 TIME CERTAIN: 3:00 PM - Appeal of Lents Neighborhood Association against Hearings Officer's decision to approve with conditions the application of the City of Portland Bureau of Parks and Recreation for a conditional use to develop a soccer field in Lents Park located at SE 92nd, Steele to Holgate (Hearing; 97-00535 CU)

Discussion: Linda Meng, Chief Deputy City Attorney, outlined the procedures to be followed.

Regarding ex parte contacts, Commissioner Hales and Commissioner Francesconi indicated they had been briefed by Parks but had not discussed the substantive issues involved.

Kathleen Stokes, Planning Bureau, said the Parks Bureau proposed a second soccer field at the Park. The Hearings Officer approved the application with conditions and this decision was then appealed by the Lents Neighborhood Association, which cited increased traffic and the lack of off-street parking as reasons. She said most of the problems have been attributed to unauthorized users.

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Ms. Stokes showed slides of the site and read the approval criteria. She noted that the Hearings Officer's conditions dealt with regulations on the schedule, a requirement for sidewalks, added bike parking and efforts to reduce noise and litter.

Raymond Hites, Lents Land-use Chair, said the wildcat leagues which use the fields are the biggest problem as they play all day and their games draw 200 to 300 people. He said some neighbors also oppose losing another passive recreation area in the park as there are already five fields there and most of the other areas are hilly or striped for parking. Fire protection is another concern as fire trucks would be unable to make the turn under the present proposed configuration.

Commissioner Francesconi asked about the connection between soccer and fire protection.

Mr. Hites said there is parking on both sides of the street, making it difficult for fire vehicles to get through. He said bathroom facilities are also inadequate and litter is a problem. If this field is approved, the neighborhood wants conditions to control unauthorized use and the size of the groups using it. He suggested eight conditions, including added bathroom facilities and trash service.

Commissioner Sten asked if the neighborhood met with Parks about their concerns.

Mr. Hites said Parks staff attended the Neighborhood Association's general meeting but there were no negotiations as far as he knows.

Nancy Gronowski, Parks Bureau staff, said unauthorized use, especially by adult leagues, is a problem which the siting of this facility has brought to a head. She noted that many of those who fail to get permits are non-English speaking teams.

Commissioner Francesconi asked if there were not some way to plug them into the appropriate channels.

Ms. Gronowski said conditions are needed regarding carpooling and self-policing. The Parks Bureau will renovate the bathroom and have additional portable toilets on hand to deal with the added use. She noted that Park Rangers are on call on weekends.

Commissioner Francesconi said the Rangers are spread very thin and would have a problem covering all the parks.

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Commissioner Hales suggested transportation conditions that would include painting curbs on residents' driveways, and adding signage regarding carpooling and pedestrians.

Jamie Charboneau, Office of Transportation, said there are some operational issues regarding warning pedestrians and staff would prefer that not be a condition of approval. Residents have the legal right to paint wings on their driveways and if that is not enough they can call for parking removal.

Commissioner Francesconi moved to deny the appeal but agreed to have the Parks Bureau work on the issues raised.

Commissioner Hales said it is better to deal with these issues informally rather than add a great many conditions. He committed Transportation staff to work with Parks and the neighborhood association on this. He said conditions 2, 3, 4 and 7 set a reasonable base line.

Commissioner Sten said if neighborhood associations are given the right to free appeals against the City, then the parties involved in such disputes should get together before this, rather than having to come to Council.

Mayor Katz said she does not want to see another case like this brought to Council.

Disposition: Appeal denied. (Y-4)

At 4:30 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council