



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 10TH DAY OF DECEMBER, 1997 AT 9:30 A.M.

THOSE PRESENT WERE: Commissioner Francesconi, Presiding; Commissioners Hales, Kafoury and Sten, 4.

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

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

CONSENT AGENDA - NO DISCUSSION

- 1853** Accept bid of Faustrollean Fixture Company, Inc. for furnishing historic furniture refurbishment services for \$107,950 (Purchasing Report - Bid 98070)
- Disposition:** Accepted; prepare contract.
- 1854** Accept bid of Copenhagen Utilities & Construction Co., Inc. for 12-inch and 8-inch water mains, NE 112th Avenue, NW Pittock Avenue/NW Barnes Road and SW Mt. Hood Lane for \$159,244 (Purchasing Report - Bid 98086)
- Disposition:** Accepted; prepare contract.
- 1855** Vacate a certain portion of NW Hilltop Court east of NW Hilltop Drive, under certain conditions (Second Reading Agenda 1824; C-9916)
- Disposition:** Ordinance No. 171832. (Y-4)
- 1856** Vacate a certain portion of SE Mt. Scott Boulevard east of I-205 and west of SE 98th Avenue, under certain conditions (Second Reading Agenda 1825; C-9934)
- Disposition:** Ordinance No. 171833. (Y-4)
- Mayor Vera Katz**
- 1857** Reappoint N. Robert Naito to the Housing Authority of Portland (Resolution)
- Disposition:** Resolution No. 35659. (Y-4)

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1858 Give preliminary approval for Revenue Bonds in an amount not to exceed \$9,500,000 (Resolution)

Disposition: Resolution No. 35660. (Y-4)

***1859** Authorize contract with Davis & Hibbitts, Inc. for professional surveying of City of Portland households to provide information to be utilized by the City Council in developing the FY 1998-00 budget (Ordinance)

Disposition: Ordinance No. 171834. (Y-4)

***1860** Pay claim of Perry Lovejoy (Ordinance)

Disposition: Ordinance No. 171835. (Y-4)

***1861** Pay claim of Wendy McHargue (Ordinance)

Disposition: Ordinance No. 171836. (Y-4)

***1862** Authorize appointment of Ivar Anderson II to the position of Senior Information Systems Manager at a rate of pay above mid-range (Ordinance)

Disposition: Ordinance No. 171837. (Y-4)

***1863** Establish one Clerical Specialist position in the Bureau of Licenses in accordance with the Personnel Rules adopted by the City Council (Ordinance)

Disposition: Ordinance No. 171838. (Y-4)

***1864** Authorize extension of the current Targeted Severance Program funding for the Neighborhood Mediation staff (Office of Neighborhood Associations) (Ordinance)

Disposition: Ordinance No. 171839. (Y-4)

Commissioner Jim Francesconi

***1865** Authorize a purchase order with Faustrollean Fixture Company for historic furniture refurbishment services for a total of \$107,950 and provide for payment (Ordinance)

Disposition: Ordinance No. 171840. (Y-4)

***1866** Authorize agreement for acquisition of the Moore property, an island in the Columbia Slough, in the Urban Waterways Local Share Target Area (Ordinance)

Disposition: Ordinance No. 171841. (Y-4)

- *1867** Authorize agreement for acquisition of the Williamson property in southwest Portland southeast of SW Marquam Hill Road and SW Curry Street in the Marquam-Terwilliger Local Share Target Area (Ordinance)

Disposition: Ordinance No. 171842. (Y-4)

Commissioner Charlie Hales

- 1868** Endorse the Oregon Department of Transportation (US 30 Portland-Astoria and US 26 Portland-Cannon Beach Junction) Corridor Plan (Resolution)

Disposition: Resolution No. 35661. (Y-4)

Commissioner Gretchen Miller Kafoury

- *1869** Amend contract with Portland Development Commission and Central City Concern to alter the scope of work, increase the funding amount by \$17,507, establish a termination date and provide for payment (Ordinance; amend Agreement No. 30544)

Disposition: Ordinance No. 171843. (Y-4)

Commissioner Erik Sten

- *1870** Amend agreement with CH2M Hill to increase scope and amount of compensation for services on the Columbia Boulevard Wetweather Treatment facilities project (Ordinance; amend Contract No. 30306)

Disposition: Ordinance No. 171844. (Y-4)

- *1871** Authorize the Purchasing Agent to sign a Purchase Order as a contract with L.M.K. Enterprises, Inc. for a performance liner sectional/lateral process in a 30-foot trailer in the amount of \$79,000 without advertising for bids and provide for payment (Ordinance)

Disposition: Ordinance No. 171845. (Y-4)

- *1872** Authorize the Director of the Wastewater Group, or designee, to accept easements required for the Fanno Basin pump station and pressure line project and provide for payment (Ordinance; Project No. 5761)

Disposition: Ordinance No. 171846. (Y-4)

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1873 Consent to transfer of Pacific Garbage Service solid waste and recycling franchise to Metropolitan Disposal Corporation, a subsidiary of USA Waste Services, Inc. (Ordinance)

Disposition: Passed to Second Reading December 17, 1997 at 9:30 a.m.

***1874** Authorize agreements for the conveyance of properties to the Bureau of Environmental Services, subject to certain conditions and authorize acceptance of deeds and payments of expenses (Ordinance)

Disposition: Ordinance No. 171847. (Y-4)

***1875** Agreement with EQE International, Inc. for \$595,518 to provide engineering services for a review of the Water Bureau facilities and functions and assess their vulnerability to natural and human caused hazards (Ordinance)

Disposition: Ordinance No. 171848. (Y-4)

REGULAR AGENDA

Communications

1876 Request of Art Lewellan to address Council regarding latest developments with his L.O.T.I. proposal (Communication)

Discussion: Art Lewellan, Buckman resident, said he has a proposal for light rail that he would like the City to consider. He said the proposal deals with such aspects as the streetcar alignment, the use of electric buses on the mall, the Airport route and the alignment with Portland State University.

Disposition: Placed on File.

At 9:45 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 10TH DAY OF DECEMBER, 1997 AT 2:00 P.M.

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

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

1877 **TIME CERTAIN: 2:00 PM** -Recommend adoption of the Old Town/Chinatown Vision Plan (Resolution introduced by Mayor Katz)

Discussion: The following individuals testified in support of the Vision Plan:

Phil Kalberer, Chair, Old Town/Chinatown Neighborhood Association
Anna Abraham, Residential Manager, Everett Station Lofts
Genny Nelson, Sisters of the Road Cafe
Richard Harris, Executive Director, Central City Concern
Louis Lee, Chinese Consolidated Benevolent Association

Supporters said many different factions in the neighborhood were involved in shaping this Plan, which has brought peace to the neighborhood. It calls for a balance of business, residences and social services and specifies that all activities operate in a business-like manner that does not create problems for others. They stressed that the vision plan is only the first step and that the specifics will be addressed through the economic development plan, which a committee is already working on.

Commissioner Hales called this a commendable plan and process. He expressed hope, however, that the commercial office building with a parking garage cited on Page 33 of the Plan would include some housing and not be limited to offices and parking.

Commissioner Francesconi asked if the Chinese community was willing to put capital into the area.

Mr. Lee said the Chinese community does want to make the area more conducive to business. Not many Chinese currently live in the area and they would like to draw them back, possibly through a housing project for seniors. More than four groups of Chinese activists are considering the possibilities.

Commissioner Francesconi asked what those testifying would do to counteract the effects of gentrification.

Ms. Nelson said voices from the low-income community are finally at the table. She

said this area has been gentrifying since 1972 and a lot of housing has been lost but there is a commitment now not to lose any more. People are excited about adding upper- and middle-income residents in order to diversify the population.

Ms. Abraham said they are working very hard to ensure that the artists who live here now will not be lost.

Mr. Harris said the low-income housing already here, including eight buildings developed by Central City Concern, will remain. He said adding additional housing stock for people earning 40 to 60 percent of median income is seen as diversification, not gentrification.

Mayor Katz said the future here is very bright but the residents living there now need to be protected from having to move.

Disposition: Resolution No. 35662. (Y-5)

Commissioner Charlie Hales

S-1878 . Amend Chapter 33.205 Accessory Rental Units and related provisions of the Portland Zoning Code (Second Reading Agenda 1848; amend Title 33)

Discussion: Commissioner Hales moved the Substitute. Commissioner Kafoury seconded.

Mayor Katz said Council would hear additional testimony today from citizens who have not testified before on three issues: 1) owner occupancy; 2) program evaluation within two-years; and 3) notification.

Amanda Fritz, testifying on behalf of the Planning Commission, said the Commission discussed the issue of owner occupancy upon conversion at its last meeting. She said her initial position was that an owner-occupancy provision should not be part of this but changed her mind after hearing from the manager of 400 rental units who was certain absentee landlords would take advantage of the accessory unit provision because it would double their profits. The developers and the architects on the Commission agreed and predicted that possibly whole blocks in neighborhoods like Brentwood, which have lots of single-family rentals, would have accessory units. She said the Commission looked at adequacy of service for parking but did not consider water, sewer, impervious surfaces or environmental zones. If upzoning is what essentially happens, that should be done legislatively so that more smaller family lots are available for home ownership in neighborhoods that really need them. The Community Development Corporation (CDC) exemption issue was not raised at the Commission in terms of affordable housing but the mechanism for neighborhood notification would probably be supported. Ms. Fritz expressed concern about making sure funding of the review in two years actually happens.

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Rick Michaelson, President, Planning Commission, said his response is a personal, not official, Commission position. The Commission's position on owner occupancy at the time of conversion is a major housing public policy choice. If the sole goal is to create as many low-cost housing units as possible, then it should not have an owner-occupancy provision. But if the goal in many areas is to also increase the percentage of owner-occupied units, especially in lower-income neighborhoods, then the owner-occupancy requirement should be approved. He predicted that without that provision, the City will see a smaller number of accessory units built by home owners and a larger number by absentee landlords, further tipping the balance away from home ownership. Close monitoring is very important, no matter what decision is made, and perhaps a fee should be added to fund a monitoring program. Such a program has to go beyond counting units to look at where those units occur and at shifts in tenancy within various neighborhoods. He cited a chart to indicate that tipping would take place in neighborhoods with high percentages of rental units and low- and moderate-income areas such as Kenton and Brentwood. It will not happen in neighborhoods with a high percentage of owner occupancy or those with a high percentage of multi-family units, such as Northwest.

Commissioner Sten said one of the vibrancies of Northwest is the high number of studio rentals. The struggle here is between affordable housing and the kind of issues Mr. Michaelson raises. This is the first time he has heard that zoning would be used to mandate a social construct as opposed to a form of housing.

Mr. Michaelson said he would be the last to argue that a high percentage of renters is necessarily a bad thing. He agreed that Northwest is a vibrant place with a variety of housing types for people of all ages and incomes but added that it has a fairly stable population. There are other areas, however, that have historically been marginal and there have been problems with nuisances, garbage collection, etc., because of the large number of absentee landlords. He said the City's housing policies consistently talk about stabilizing neighborhoods where appropriate and increasing opportunities for home ownership. To do that, zoning patterns are considered, the idea being that R2.5 zoning is an owner-occupied housing type as opposed to R2. He said the ideal would be to have different rules for different neighborhoods depending on the existing housing mix, although that would be too difficult to administer. He said the City should go one step at a time rather than having to back-off from these regulations and not be able to fix the problems that have happened.

Commissioner Sten said he tends to hear more from long-term renters who are losing their housing to newcomers than about a lack of owner occupancy, particularly in inner northeast. Second, the most vehement opposition is coming exclusively from the more established, expensive neighborhoods.

Mr. Michaelson said this issue was not raised before the Planning Commission until the very end of the process and they realized then that was an issue beyond keeping stable neighborhoods the way they are. While the need for more affordable housing

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is seen as the highest priority right now, these things are very cyclical and depend on the market. He noted that four years ago when the Albina Community Plan was crafted, every measure that would have increased the number of rental units was eliminated because the major issue then was stabilizing those communities. He also is unsure the two-year monitoring period is long enough to get through a full cycle. This should be monitored at least through one full housing cycle.

Commissioner Francesconi said he is hearing from people in Lents, etc. who fear speculation in their neighborhoods. He asked Mr. Michaelson to address the enforcement issue regarding owner occupancy.

Mr. Michaelson said presently the City enforces certain regulations based on residence while others are administered by ownership. It should not be that difficult to cross-reference proof that people own a property with proof that they live there on the day they get the permit for owner occupancy.

Sam Galbreath, co-chair of the Housing and Community Development Commission (HCDC), supported retention of the ownership provision originally proposed by the Planning Commission. He said the two areas which received the most attention from HCDC were parking requirements and home ownership. HCDC believes owner occupancy needs to be tried and offered to help with the evaluation. It is concerned with impactation in sensitive neighborhoods where accessory units could work counter to increased home ownership. However, as often as not accessory units get converted from rentals to home ownership. Two years might be too short for a proper evaluation and it is also important to market the concept.

Judy Henderson, Chair, Marshall Park Neighborhood, said Marshall Park is opposed to the A-overlay and is concerned about the increase in impervious surfaces and destabilization of neighborhoods that could result. She supported owner occupancy at the time of conversion as both workable and enforceable. Notification to the neighborhood is also important. The neighborhood also believes detached units constitute a zoning change which should go through the proper process. They believe home ownership promotes stability and that drastic changes should be made slowly and carefully.

Commissioner Sten said he believes that if the CDC keeps building the kind of housing it is building now, the City does not sprawl beyond the Urban Growth Boundary and the local economy remain strong, Portland will fall further and further behind in providing affordable housing. Either the City has to get to a higher level of subsidy, which is not available to build the numbers needed, or it has to come up with housing types that can be built without subsidies. Accessory rental housing is the only form that can be built in this market without significant government subsidies. He said to reach even the City's smaller housing target, one needs 10 River Districts or to build a duplex on every block.

Mr. Galbreath said the tax abatement program for home ownership has created a

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whole market for infill development in neighborhoods like Lents. The only subsidy there is the limited property tax abatement the new owners enjoy. The accessory dwelling unit provision, coupled with that, will broaden that market because people can build homes with accessory units for owner occupants.

Commissioner Sten said he wants HCDC to look at this because there is not enough available land for that strategy to get very far. The only place one can get the numbers anywhere near what is needed is with multi-family buildings on transit lines. Where should the units go?

Mr. Galbreath said if the policy is to increase the number of units by building duplexes, then the City should rezone these areas from R5 to R2.5 and not use the accessory rental provisions to do that.

Mr. Michaelson agreed. The accessory rental provision increases the potential for housing units at a one-to-one mix for owner occupancy and rental unit. Keep that tool and add others rather than making it try to do too much.

Ms. Fritz said one could put back the owner occupancy provision at conversion but exempt not only the CDC but anyone who provides accessory units at 60 percent of median income. That would reduce speculation and ensure affordable units. There is currently no guarantee for affordable housing in this.

Commissioner Sten said if that was enforceable he would support it. He said the only way to lower the cost of housing is supply and demand. Right now the only way to get more units is through very expensive subsidies.

Mr. Michaelson said he would rather give this a try as it is and monitor the results.

Mr. Galbreath said if City policy can respond to market forces, there is more opportunity to meet housing growth needs within the UGB without doing it on the backs of single-family neighborhoods. He said there are thousands of acres of one-story commercial developments surrounded by parking which can be more intensely developed. Those are not counted currently as developable and may need to be rezoned.

Mayor Katz said Old Town/Chinatown is an example of an area where much higher density could be added.

Commissioner Sten agreed but said he knows of no example where affordable housing is being built in such areas without massive subsidy.

Mayor Katz asked if anyone wanted to change their minds from last week on owner occupancy or the two-year evaluation. Hearing no comments, she called for a vote on the entire package.

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Commissioner Francesconi noted that Betsy Ratigan had requested that the Portland Housing Center be added to the neighborhood notification list. He asked if that took a special amendment.

Jim Claypool, Bureau of Planning, said the Center can provide home-owner training to people who may not be familiar with renting property or are considering adding accessory dwelling units. Planning believes the Center could be notified along with neighborhoods and will seek suggestions for how that can occur, given the paper work generated by the City.

Commissioner Francesconi said he will vote no. He said there are three issues. First, the Planning Commission recommendation will open up more accessory units to renters, although maybe not to the extent the majority of Council would like. Second, he believes home ownership is a tried and true method of keeping the middle class in American cities. A number of Portland's neighborhoods have already tipped away from home ownership, with high percentages of renters, and home ownership strategies are needed to combat gentrification. Here there is the danger that outside speculators will move in but no guarantees that they will provide affordable housing. Third, a more effective partnership must be created with neighborhoods to do some of the difficult things necessary to narrow the gap between the haves and have nots. With the neighborhood sending such strong signals of support for owner occupancy, coupled with the recommendations of PDC and HCDC, he is hesitant to pass this in this form right now.

Commissioner Hales drew a distinction between the information presented about the speculative effects as opposed to actual information from those with hands-on experience. When people look at the home ownership provision, they are still speculating about the effect and he believes the reports of the death of home ownership may be greatly exaggerated. He said market forces have had a much bigger effect in the neighborhoods than zoning ever has. With the provisions for evaluation and notification, he believes the City will be able to make sure the result is beneficial. He said bad landlords should be dealt with through zoning and building code enforcement, not through barring a class of people from having accessory dwelling units.

Commissioner Kafoury said she will not change her vote because she believes a large investment will still be needed by the owner of the property to add this unit. The notion of absentee landlords doing a bunch of shoddy units and getting big bucks for them does not fly with her. This is not the same as buying up derelict houses and renting them out without making any improvements. She agreed with Commissioner Sten that the City could not meet its affordable housing units with any other strategy. She also questions how owner occupancy could be enforced.

Commissioner Sten said the idea is to do this for two years and take a look at it then. If whole blocks are converted into two units per lot, he will change his mind. He believes housing prices will continue to rise, forcing renters to move from the more

desirable areas of the City. It is crazy to think gentrification will be stopped if less units are allowed. Affordable housing must be provided to stop gentrification and there is nothing being done now, short of subsidy. Ways have to be found to build smaller units, especially with the decreasing numbers of people per household. He is concerned about the fringe neighborhoods, an area where more study is warranted. But given the inability to come up with a stable, steady source of money for affordable housing and the difficulties of guaranteeing that any housing be affordable, this is one more proposal that might help.

Mayor Katz said this is probably the first time that all the neighborhood associations, the Planning Commission and BHCD have flagged a warning which she believes Council should heed. She is not opposed to accessory dwelling units but believes the main dwelling unit should be limited to home ownership. She noted that there are ownership restrictions on the A-overlay and also on bed and breakfast facilities. If the argument is that it should not be done because it cannot be enforced, this is an error. Council's job is to set sound policy and if enforcement is an issue, then a commitment must be made to do it. Neighborhoods get really frustrated when told there is no enforcement and better enforcement tools can be developed. By definition an accessory dwelling unit is accessory and subordinate to the primary unit. A connection to occupancy is implied and without any owner-occupancy provision there is no connection between the two units. The single-family zone is then upzoned to two unassociated dwelling units. This will not impact Laurelhurst or Irvington but she fears it will impact lower-income neighborhoods that have a very high rental occupancy. If home ownership is valued, then the balance may be tipped to the other side and it may take a longer time to reverse the disparity in those emerging communities. Finally, there is a very delicate balance between direct and consensus leadership. She said the City has placed a lot of demands on its neighborhoods and there have been disputes, some of which they have won and some lost. But there is a growing lack of trust between the neighborhoods and the City as it tries to meet its 2040 growth goals and not expand the UGB. For all these reasons, she cannot support the amended version of the ordinance and will vote no.

Disposition: Substitute Passed to Second Reading December 17, 1997 at 2:00 p.m.

1879 Adopt and implement the Sellwood-Moreland Neighborhood Plan (Second Reading Agenda 1850; amend Title 33)

Disposition: Ordinance No. 171849 as amended. (Y-4; Mayor Katz abstained)

1880 Adopt and implement the Sellwood-Moreland Neighborhood Plan (Previous Agenda 1851)

Disposition: Resolution No. 35663. (Y-4; Mayor Katz abstained)

At 3:35 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 11TH DAY OF DECEMBER, 1997 AT 2:00 P.M.

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

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

1881 TIME CERTAIN: 2:00 PM - Appeal of Russell Neighborhood Association against Hearings Officer's decision to approve with conditions the application of Western States Chiropractic College for a conditional use master plan in order to expand, modify and upgrade the College at 2900-2916 NE 132nd Avenue (Hearing; 97-00421 CU MS)

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

Susan McKinney, Planning Bureau, read the applicable approval criteria and showed slides of the 22-acre site, the parking lots and the bordering local service streets. She said a Master Plan presented in 1996 was denied by the Hearings Officer and then appealed by the College. Between the appeal date and the hearing before Council, the College developed a proposal addressing the concerns raised by staff, the Hearings Officer and the neighborhood. However, because that was a new plan, the appeal was withdrawn and a whole new master plan application was submitted to the City. That is what Council is considering today. She said the biggest difference between the two applications concerns the College's response to transportation issues and the redesign of a parking lot.

Ms. McKinney said the Master Plan basically involves remodelling existing buildings and the addition of more square footage, up to 125,000 square feet. At build-out, there would be 13 percent building coverage on this site instead of the current seven percent. The College is requesting an increase from 480 to 600 in student enrollment and an increase in parking spaces from 430 to 515. The Hearings Officer approved the application based on a much more aggressive Transportation Demand Management Plan than originally proposed and on the phasing out of the existing out-patient clinic over the next five years as the student population increases. At the end of six years, trip generation on campus will be back to what was approved by Multnomah County in 1981. The main neighborhood appeal issues are based on traffic concerns. The second issue concerns the parking lot in the southeast corner, which the College redesigned in its second proposal to be between 15 and 40 feet away from the property line. The redesign will also allow view corridors to remain for the neighbors to the south. Restrictions on lighting and a requirement for a berm

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and landscaping will also be applied. The final appeal issue is the location of Building No. 11, approximately 120 feet from the south property line, which the neighbors want moved further north. Finally, the neighborhood does not believe the use conforms with the arterial streets classification policy and that there is already an unsafe traffic situation that increased enrollment will only exacerbate.

Mayor Katz asked why the parking lot was not located on the north end.

Ms. McKinney said in the future the College may want to build there. It also made more sense in terms of the whole site to put it in the southeast corner.

Jean Harrison, Office of Transportation, described the street classification issue, noting that the Transportation Element policies call for discouraging expansion of uses in locations where local streets must be used to reach the campus, particularly when the use is a regional draw. To offset that problem, Transportation encouraged the applicant to relocate the clinic off-site and the College agreed to do that as well as to charge for parking, create preferential carpooling spaces, and provide free transit passes despite the poor transit service. They are also encouraging students to stay on campus during the lunch hour. Transportation also felt it necessary to put a cap on the number of students and parking spaces and to restudy the situation if the College wants to grow after the end of the Master Plan. The neighborhood streets have been evaluated for traffic calming and both main routes to the College qualify but are not high on the priority list so there is no immediate way to relieve the speeding problem. However, the campus is taking more aggressive measures to curb speeding. With these changes to the Master Plan and the Transportation Demand Management Plan, staff found the second plan could be approved.

Robert Simon, attorney representing the Russell Neighborhood Association, said they have set forth conditions of approval they believe would make the Master Plan approvable. As a condition of approval he said the applicant could be required to pay for traffic calming devices in order to satisfy the traffic plan. He believes they would offer to pay for them as they are the ones causing the problem. Mr. Simon said the clinic has been operating outside the boundary of its permit since 1981 when the County approved a permit for the clinic as an accessory use. It was limited to 100 to 125 patients per day even though, by the College's own admission, as recently as 1994 there were 190 patients. No expansion of the non-conforming use (Code Section 33.258), which to be approved would require a net decrease, was requested during that time. By coming to the City as a Conditional Use Master Plan, the College is able to use the more lenient conditional use standards which only require compatibility, not a net decrease. That is not appropriate as the College has been breaking the law for a long time and now it wants the City to condone it. He said this should be sent back to be properly processed as a non-conforming use review. The parking lot, a permitted accessory use, also needs to be reviewed under that section as clinic patients do use it. Mr. Simon said nowhere does the applicant address the noise impact of its traffic. Illegal operations cannot be used as the ambient standard. Regarding noise, Mr. Simon said the Federal Highway

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Administration proposes that for residential areas near highways, the ambient noise standards should be 57 dba. However, nowhere does the applicant indicate how much noise each vehicle trip will cause. He called for investigating and imposing a penalty on the College for years of violating the existing permit granted by the County for the clinic.

Mr. Simon said the College built its illegal parking lot in the most inconspicuous spot, adjacent to the highway. He questioned how putting a parking lot between 15 and 40 feet away from the homes on NE Sacramento which have large windows to take advantage of the mountain view would be compatible with neighborhood livability. Putting a two-story lecture hall, Building 11, in the way of their existing view is also not compatible. The neighborhood wants to know why the College cannot share the open space with those residents and place the parking lot on the north side. The College has not presented any evidence that in the 10-year life of the Plan it intends to build anything on the north side and talk about doing something in 25 years is not an approval criterion. The neighbors have presented a creative solution to the traffic situation by calling for the applicant to provide some off-site improvements. One would address the traffic coming in from NE Morris and NE Siskiyou by putting a traffic device on 122nd. That would prevent left turns off 122nd onto Siskiyou and through to Morris, getting traffic off these local streets.

Commissioner Kafoury asked if this was discussed at the Hearings Officer level.

Mr. Simon said no, although the idea of getting traffic off NE Morris was. He called for acceptance of the conditions proposed by the neighborhood with an additional requirement that the College pay for the traffic calming devices. He asked Council to return this to address the non-conforming use issue.

Karen Rutledge, Chair, Russell Neighborhood Association, said they tried, but were unable to work out a solution with the College prior to the hearing. The neighborhood's two concerns have to do with traffic and location of the parking lot. She said the College was badly located in 1981 because there is no way to enter or exit from the school except by going down residential streets. They also do not believe institutional uses are compatible with household uses, when hundreds of people come to the campus for different activities. She said the location of the southern parking lot will have a devastating impact on the residents who border it. It would put 200 cars, with their noise, fumes, lights and litter, in an area that is now green space. She said the nearby neighborhood streets have the lowest classification in the Transportation Plan and are unsuitable for traffic generated by a regional facility.

Commissioner Hales said if this is a regional facility, why is the neighborhood suggesting that a traffic median on 122nd will have a significant impact. People will still get off I-84 at the 122nd Avenue exit and turn left on Siskiyou.

Mr. Simon said the applicants' transportation management plan encourages people

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to travel down 122nd, south to San Rafael and up to 132nd. A median would cut off the short cut onto Siskiyou.

Commissioner Francesconi asked if the neighborhood has evidence to show that the numbers in the College's transportation management plan are wrong.

Ms. Rutledge said they question the way the trips were calculated. The College came up with numbers based on so many trips per student and then said locating the clinic off-campus would reduce traffic. However, students will also be travelling back and forth.

Mr. Simon said they do not have a competing traffic study, however. It is very difficult to argue the numbers with experts as the applicant cites a generally accepted California study.

Ms. Rutledge said they did not have the money to do their own traffic analysis but found some of the College's numbers far higher than what it was allowed to have in 1981. She said the neighbors do not have confidence about the College's commitment to follow through on its promises.

Commissioner Francesconi said the numbers show that the traffic impact may be less in the future.

Ms. Rutledge said while the neighborhood does not have the resources to do a traffic analysis, their concerns are based on common sense and anecdotal information.

Neighbors testifying in support of the appeal included:

Richard Gardner, 13527 NE Brazee Court, 97230
Carol Hawes, 13509 NE Brazee, 97230
Steve Ladich, 2634 NE 133rd Place, 97230
Sallie LaValley, 2715 NE 131st, 97230
Margaret Billings, 1740 NE 140th, 97230
Eric Neal, 13509 NE Brazee Court, 97230
Spencer Wessling, 2530 NE 132nd, 97230
Clifton Hunter, 12830 NE Morris, 97230
Bob Larsen, 13002 NE Morris Court, 97230
Pat Rice, 13141 NE San Rafael, 97230

Those testifying called for placement of the parking lot on the north side of the property, close to the current illegal parking lot, rather than on the southeast corner which will have a more negative effect on residential livability and access to open spaces. They said placing the parking lot there will invade their privacy and increase noise. The negative effects of increased traffic were also stressed repeatedly. Several speakers criticized the College's lack of cooperation with the neighborhood association.

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Paddy Tillett, architect with Zimmer Gunsel and Frasca and representative for the College, disputed Mr. Simon's claim that the current clinic is illegal because it is used by 190 patients. Actually, it is 190 patient trips or about 95 patients coming and going, well within the legal limit. The streets used to access the campus, which has been there for a long time, carried non-neighborhood traffic for over 20 years before the streets were classified and this is clearly a case of misclassification. He said the College met many times with the neighborhood and the issue of parking in the southeast corner arises because the College has striven too hard to be a good neighbor. Since the College was not actively using that part of the campus it maintained the open space as an amenity for the neighbors and now that the land is needed, setbacks and plantings well in excess of what is required by the Code are being proposed. The setback requirement is for five feet from the boundary and what the College proposes is generally 40 feet although because of the sloping edge of the boundary, in some cases it is as little as 15 feet. A grassy berm will address the issues of headlights shining in houses and preserving privacy. The intention has always been to maintain the open sense of the campus and be sensitive to views, both inside and across the campus. Mr. Tillett said the existing parking lot is right in the middle of the campus and would become the focus of attention, which clearly it should not be. Placing the parking around the perimeter would make the center of the campus a pedestrian core.

Commissioner Francesconi asked if there were other options for the parking lot.

Mr. Tillett reviewed the rationale for placing the parking lot as proposed in the southeast corner. He said it will maximize convenience to the buildings it serves -- the proposed auditorium and the administration building. If the parking is shoved up into the northeast corner it will not be convenient, causing people to park on 133rd Place or other public streets. He noted that the College fines students found to be parking on the street. There is also concern that placing the parking lot in the northeast will encourage more, not less, use of the driveway as an extension of Morris Court. Also, a two-story building could be placed there without obstructing the views of residents to the south. If parking is placed there and eventually other buildings are needed, they will probably be sited in the southeast corner, where they will obstruct views. He said they prepared a conceptual plan to show how growth might occur beyond the ten years, despite the enrollment cap, as they know there will be more buildings then and the plan ought to be able to accommodate that. Regarding livability, he said Condition L in the Hearings Officer's decision expressly addressed all those issues and were accepted by the College. Regarding references to illegal parking lots, Mr. Tillett said all the senior administrators there in 1981 have left and no one was aware there was a problem until they began addressing the issue of growth and parking. As soon as the College became aware that there was a problem, the Master Plan process was initiated to try to sort it out.

Dan Sieman, Kittelson and Associates, summarized their traffic impact analysis and the traffic demand management program. He said the traffic analysis identified no existing safety deficient locations and City staff concurred. The adjacent streets

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currently operate, and will operate, at acceptable standards and staff also agrees. Regarding trip generation, he said the College accepts the condition to operate below the 1981 traffic levels and will do that by moving the clinic off-site and by aggressive implementation of the traffic demand management plan. City staff will monitor this to ensure compliance with the reduced trip levels. He said the College is willing to pay a pro rata share to fund traffic calming devices, including any placed at 122nd and Siskiyou. That is not acceptable, however, because of emergency vehicle access and lack of access by local residents. The College plans to educate their students to obey the speed limits and use appropriate streets to access the campus.

Commissioner Hales said the basic requirement is to minimize friction between residential and institutional uses. In this case, the College has gone from a site plan with about 25 percent of the property line between the residences and the College occupied by vehicle parking or circulation to one with nearly 100 percent used for parking or circulation, albeit with some buffering. That is a dramatic collusion of car movement and parking all along the southern and eastern edges of the property. He asked the College representatives how they would reconcile that with the need to minimize that friction.

Mr. Tillett said if the parking lot is moved to the northeast corner, the problem is moved from one set of neighbors to another, even though the latter do not have views. Moving the parking into the middle of the campus compromises use of the center space and is a throw back to a shopping-center mentality, making cars the focus. After looking at all the options, the College thought an equitable solution was to increase the required five-foot boundary to a 40-foot setback with berms and landscaping.

Commissioner Francesconi asked if parking on the northeast would work for the College for the next 10 years until more build-out occurred.

Mr. Tillett said it would work but be less convenient and encourage more people to park on the street. He said that is one of the major concerns they heard from residents.

Commissioner Francesconi asked if the College had plans for buildings in the northeast corner after 10 years.

Mr. Tillett said their main concern is to build a campus that makes sense both now and in the future. It is sensible to do the landscaping for the parking in the southeast corner now so that in 10 years it is mature and the views are kept. If the parking lot is built in the northeast, then legally any new buildings may go in the southeast corner even though the College does not believe that is good for the neighbors.

Commissioner Hales asked what the open space in the northeast corner would be used for and why it is being put by the freeway.

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Mr. Tillett said it is used for summer tutorials, informal exercise and sports. He said the open space northeast of Building No. 4 is kept open because there is a very narrow space between where the road can go and where the freeway is. Second, it functions as a view corridor for Mt. St. Helens.

Commissioner Hales said another parking issue concern he has is relocation of another entrance a little bit northwards and creation of a traffic circle. What is the rationale for that?

Mr. Tillett said neighbors expressed great concern about people going in and coming out of that driveway too quickly. The circle will slow that down.

Commissioner Hales asked if the parking spaces are divided up between faculty, student and general parking. Would the larger lot in the southeast be largely student parking?

Mr. Tillett said they have not looked at exactly how the classification would work. The natural users of the southeast lot would be administrators and students attending lectures.

Commissioner Hales said the convenience argument does not make great headway with him as the difference between the two parking lot locations does not strike him as dramatic.

Mr. Tillett said what he heard from the College was that whatever was designed should not upset the neighborhood. Until the end of this process, they believed that had been accomplished. The dissent that prompted this appeal is very recent. He said they made a solid attempt to design the campus in a way that does respect the needs of the residents. Unfortunately, if one lives close to property where development is legal and allowed, that may happen one day. A congenial property owner will do his best to accommodate adjoining owners' needs and that is what the College has done, placing the setbacks back far more than is required. But the appellants want much more.

Individuals testifying in support of the College included:

Alexa Bellingham, Student Body Vice President

Mark Kaminski, 19-year neighborhood resident and faculty member, 2040 NE
132nd Ave., 97230

Supporters said the school wants to cooperate with its neighbors and has seen dramatic results in reduced demand for parking spaces since implementation of its transportation demand management plan. Mr. Kaminski said he has not seen a dramatic increase in traffic and objected to blocking access from 122nd to Siskiyou as some have advocated.

William Dallas, President, Western Chiropractic College, said while they do not

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agree that the parking as currently configured will be offensive to the neighbors, they obviously do. Therefore, the College will reconsider its parking position to see if it can maintain at least some of the aesthetics of the plan and at the same time accommodate the neighbors' concerns. He said despite claims to the contrary, the College had an enormous amount of input from the neighbors. He said if they can take the parking lot on the southern border, which they already moved 40 feet, and redirect that somewhere along the north border; his personal preference would be to move it somewhere towards the freeway. The only problem is that the buildings projected for the future would almost certainly be mandated to go along the southern boundary.

Mayor Katz said the community is going to have to understand that if the College expands after ten years, there will be only one place to do that or the parking goes back up on the other end.

In rebuttal, Mr. Simon asked to continue this appeal for 30 days to allow the College to present a new design and meet with neighbors. He cited a memo in the record from traffic consultants dated February 4, 1995 which states that after meeting with the neighbors they came back with 16 items of concern. On September 13, 1995, they came back with 26 items of concern. Few if any of these items have been addressed. He said the findings on Page 5 state that the clinic has 190 patients, not trips, which makes the use illegal.

Mayor Katz said the College has already agreed to a redesign and the appellant's attorney should let it go at that. She asked if Council is comfortable with the College's offer.

Ms. McKinney and Ms. Harrison said they believe a continuance is the proper process, as opposed to holding the record open. There should be an opportunity for the College to meet with the neighborhood too.

Commissioner Hales said he does not believe the neighborhood has made a case for placing a median on 122nd and the key issue for him is possible relocation of the parking lot and how much of the area between the institutional and residential uses is used up for parking and driveways.

Mayor Katz said that was her main issue also.

Commissioner Sten encouraged the neighborhood to look at a compromise here. He is not convinced that the Hearings Officer erred factually or that the College has not met the legal burden but he believes there could be a better design. The questions are what is the College legally required to do under the Code and what is the best option.

Commissioner Kafoury said the neighbors should think through what the impacts will be in a decade, when other buildings may be proposed that might block the view.

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There are tradeoffs and the issue of street parking is a good one. One should be careful about what one wishes for as, instead of a parking lot, neighbors could end up with more parking in front of their houses.

Mayor Katz said the College has clearly met the legal requirements but is willing to reconsider the neighborhood's request. She cautioned neighbors that it is the College's property and in the future there may be choices people like even less.

Commissioner Francesconi said the neighborhood has not met the burden of proof on the traffic issue and he hopes the discussion will be limited to the parking lot, which he believes would be better placed on the north side.

Disposition: Continued to January 8, 1998 at 2:00 p.m.

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

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner

By Cay Kershner
Clerk of the Council