



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 7TH DAY OF JANUARY, 1998 AT 9:30 A.M.

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

OFFICERS IN ATTENDANCE: Britta Olson, Acting Clerk of the Council; Ben Walters, Deputy City Attorney; and Chuck Bolliger, Sergeant at Arms.

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

CONSENT AGENDA - NO DISCUSSION

- 4 Cash investment balances November 13 through December 10, 1997 (Report; Treasurer)

Disposition: Placed on File.

- 6 Accept bid of Proline Industries, Inc. for audio visual systems for City Hall Council Chambers for \$143,001 (Purchasing Report - Bid 98091)

Disposition: Accepted; prepare contract.

- 7 Accept bid of All Concrete Specialties, Inc. for column relocation on SE Grand Avenue at SE Caruthers Street for \$114,902 (Purchasing Report - Bid C-9925C)

Disposition: Accepted; prepare contract.

- 8 Vacate a certain portion of NE 50th Avenue north of NE Beech Street, under certain conditions (Ordinance by Order of Council; C-9941)

Disposition: Passed to Second Reading January 14, 1998 at 9:30 a.m.

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- 9** Vacate a portion of NW Bailey Street lying southeasterly of NW Springville Road, under certain conditions (Second Reading 1945; C-9935)

Disposition: Ordinance No. 171915. (Y-5)

Mayor Vera Katz

- 10** Confirm appointment of John Czarnecki to the Historic Landmarks Commission (Report)

Disposition: Confirmed.

- 11** Confirm appointment of Steven Naito to the Planning Commission (Report)

Disposition: Confirmed.

- *12** Authorize contract with Capital Project Consultants to provide a training program for project managers that responds to issues identified in the Oregon Regional Consortium Disparity Study (Ordinance)

Disposition: Ordinance No. 171916. (Y-5)

Commissioner Jim Francesconi

- *13** Amend contract with Boucher Mouchka Larson Architects for 4th and Yamhill garage two-floor addition project by extending completion time until April 15, 1998 (Ordinance; amend Contract No. 30606)

Disposition: Ordinance No. 171917. (Y-5)

- *14** Authorize contract and provide for payment for payment for specialty furniture for the renovated City Hall (Ordinance)

Disposition: Ordinance No. 171918. (Y-5)

Commissioner Charlie Hales

- 15** Accept contract with GR Morgan Construction for Custer Park improvements as complete, authorize final payment and release retainage (Report; Contract No. 30720)

Disposition: Accepted.

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- 16** Accept completion of Alberta Park renovation by 2KG Contractors, Inc., make final payment and release retainage (Report; Contract No. 31089)

Disposition: Accepted.

- 17** Accept completion of outdoor basketball court renovation at Brooklyn and Sellwood Parks and make final payment to Hal's Construction, Inc. (Report; Contract No. 31387)

Disposition: Accepted.

Commissioner Gretchen Miller Kafoury

- *18** Intergovernmental Agreement with the City of Gresham for coordination of Emergency Medical Services (Ordinance)

Disposition: Ordinance No. 171919. (Y-5)

Commissioner Erik Sten

- 19** Accept Completion of the Brentwood sanitary sewer system, Project No. 5057, and authorize final payment to Copenhagen Utilities and Construction, Inc. (Report; Contract No. 30506)

Disposition: Accepted.

- 20** Accept completion of Columbia Boulevard Wastewater Treatment Plant primary clarifier renovation, Phase 2, Project No. 4964, and authorize final payment to Pneumatic Construction, Inc. (Report; Contract No. 30718)

Disposition: Accepted.

- 21** Accept completion of the Mallory Pump Station renovation, Project No. 5373, and authorize final payment to Pneumatic Construction, Inc. (Report; Contract No. 30969)

Disposition: Accepted.

- *22** Contract with Squier Associates for NW Pinnacle Drive slope stability study and provide for payment (Ordinance)

Disposition: Ordinance No. 171920. (Y-5)

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- *23** Authorize a contract and provide for payment for the NE 138th Avenue pollution reduction wetland facility, Project No. 5700 (Ordinance)

Disposition: Ordinance No. 171921. (Y-5)

- 24** Authorize Agreement for Multi-Agency benchmarking study (Second Reading Agenda 1972)

Disposition: Ordinance No. 171922. (Y-5)

City Auditor Barbara Clark

- 25** Contract with Arthur Anderson, LLP for audits of construction-related contracts and other professional services and provide for payment (Second Reading Agenda 1980)

Disposition: Ordinance No. 171923. (Y-5)

REGULAR AGENDA

- 5** Accept bid of Albina Fuel Co. for furnishing cardlock fueling for \$452,836 (Purchasing Report - Bid 98088)

Discussion: Britta Olson, Acting Clerk of the Council, said the Purchasing Agent requested this item be returned to the Bureau.

Disposition: Referred to Bureau of Purchases.

- 1** **TIME CERTAIN: 9:30 AM** - Adopt the revisions to the Office of Neighborhood Association Guidelines as recommended by the Guidelines Review Committee and resolve that the Office shall henceforth be known as the Office of Neighborhood Involvement (Resolution introduced by Commissioner Kafoury)

Discussion: Commissioner Kafoury said both she and Commissioner Hales had begun this process some years ago. She moved to amend Page 11, Section 5, Item A9, replacing the word "alternative" with "other" and Commissioner Hales seconded.

Diane Linn, Director of Neighborhood Associations (ONA), said this resolution will bring closure to a multi-faceted process to review the overall system of citizen involvement and update the ONA guidelines. Several of the 1996 recommendations from a citizen task force, which deliberated for a year, involved increased funding. Council adopted several of the changes in the budget just prior to Ballot Measure 47 passing, contingent upon its passage. Some of the increases were for

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communications, conflict resolution, a neighborhood enhancement program and more equity funding among the coalition offices. After Measure 47 passed, ONA tried to restructure, holding public hearings, to provide services at a lower cost. Changes were possible to make within the task force's goals. Highlights of the changes are to include neighborhood business associations -- loop them into the social infrastructure and include "communities beyond neighborhood boundaries," specifically ethnic groups that are part of private, non-profits. This is a way to systematically include more voices and perspectives in public policy decisions and changes. Another incorporation into the guidelines is the alternative services delivery structure, really the North Portland model. They chose to have the City oversee their office, it is working well and the guidelines acknowledge this is an appropriate way to provide citizen involvement services. The guidelines and task force took on the process of figuring out boundary overlap problems. The guidelines committee and the task force reiterated the plan to change ONA's name to Office of Neighborhood Involvement for two specific reasons: 1) reduce the confusion that ONA runs the neighborhood associations and 2) broaden the scope to include other groups to emphasize it is about overall neighborhood involvement.

Laurel Dutton, 5254 N Princeton, said she was a member of the guidelines review committee to address the policy for the development of alternative service delivery structures into the City's neighborhood network. This policy seeks to support the grass roots concepts of self-governance and provide a clear avenue for neighborhood associations to resolve structural issues. The policy requires majority rule when lacking a clear or complete consensus. Provision is made to determine consistency with City policies and procedures, for parity of funding, to ensure legal consistency and accountability through a new work plan. There will be a one-year evaluation and reaffirmation by the neighborhood associations. After that, to provide stability, the policy prohibits significant alteration for three years. This policy will assure a clear and accountable process for continued self-determination on how services are delivered.

Jim Losk, Alliance of Portland Neighborhood Business Associations, said the original task force, by a nearly unanimous vote, recommended that a procedure be devised to welcome business associations into the public involvement process. These guidelines will do that. Approval will not impact the coming budget.

Mayor Katz said there have been complaints that business association meetings were not open to the public. Will they now be required to be open meetings?

Mr. Losk said if a business association wants to be recognized by the City, their by-laws must have provision for open meetings.

Mayor Katz added the concern from some neighborhood associations that business association members not living in the neighborhood can drive some decisions in the neighborhood association meetings.

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Ms. Dutton said they tried for consistency with the open meetings law. Often, business associations require dues payment which will be mitigated through the acknowledgment process. Presently, many neighborhood associations now allow neighborhood business owners to become members. As for undue influence, business association boundaries often overlap neighborhood associations.

Charles Shi, 4417 NE 70th Avenue, 97218, Chair of Refugee/Immigrant Consortium of Oregon/SW Washington and of the Asian Alliance of Oregon, said there are communities beyond neighborhood boundaries. Many new immigrants, because of culture, language and other differences, cannot be involved in neighborhood associations. These people are isolated, even to the point of not knowing their neighbors. As a school teacher, he has seen this issue from both sides. It needs to be recognized that such groups exist. Mr. Shi said most seek help from the same ethnic relative or friend but there is an effort for them to integrate into the whole system.

Commissioner Francesconi said money for staffing, printing, etc. had not been addressed. A number of neighborhood associations are spread pretty thin and are questioning if there are resources to handle this.

Ms. Dutton said the funding and support issue is addressed in the guidelines. There are no additional funds for the other groups at this point, without diminishing the neighborhood association funding. There are other funds for those groups, such as Portland Development Commission. The acknowledgement process goes into ONA so those groups will be on official notification lists and in the ONA Directory.

Commissioner Francesconi asked what services, such as organizing help, photocopying and notification, will be offered to communities of color.

Ms. Linn said in the last year the Metropolitan Human Rights Center has been incorporated into ONA but, beyond that, this is a question for the budget process.

Kay Collier, 1718 SE 100th Avenue, 97216, Chair of Hazelwood Neighborhood Association, said funding through ONA should be contingent upon consistent and equal monitoring. The policy on overlapping boundaries should be altered to not permit any new overlap of services. Most of the overlapping problems are driven by personalities, not issues. Funding for neighborhood boundaries outside the City limits should be withheld. She said district coalitions should not be involved in resolution of disputes between neighborhood associations on any issue unless both parties request a mediation role. She suggested a commission consisting of citizen representatives and City commissioner staff as a procedure for appeal of ONA decisions and adding language to include liaisons to the board or advisory committee of any alternative service delivery structure for those neighborhoods not in district coalitions.

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Lee Perlman, 512 NE Brazee, 97212, said, based on his longtime involvement with neighborhood associations, the accomplishments of neighborhood groups prior to documents such as this were great and there was not nearly as much internal dispute. There is a direct connection. He noted that he received no notice of this meeting nor heard about others in all the meetings he attends. He said there has been a great deal of tinkering with guidelines over the decades and the more legalistic the process is made the more the process slips from the hands of the people it was meant to serve.

Commissioner Sten asked if he had some general thoughts on what he would do.

Mr. Perlman said he would narrow the guidelines down to one page and tell neighborhood groups they will receive notices of issues that concern them and minimal assistance. Everything else would be earned. If this were an invitation to work, not an invitation to power, the people causing problems would not be interested.

Moshe Lenske, 4314 SE Crystal Springs Blvd., 97206, said the update of the guidelines continues the principle of the original codification. By having status, the neighborhood nurtures citizens' sense of place and is an essential City investment.

Steve Rogers, 533 NE Brazee, 97212, said a community of color is a broader issue than just that -- it is an issue of class and income. How to include lower income folks in the neighborhood system has not been addressed. He said this current proposal does not provide enough inclusiveness at the grass roots level. It creates a separate table for each organization. The guidelines is a mixing of categories and, at worst, will dilute the City's neighborhood system.

Jerry Powell, 1441 SW Harrison, 97201, said the possibility for inclusivity in place-based organizations is something that cannot happen in self-organizing organizations. The issue of class is a real one. The lack of emphasis on place-based organizations is a weakness in the guidelines.

Commissioner Francesconi said it was rare in Council meetings to address race and class. Is the concept of drawing congressional boundaries to take minority groups into consideration appropriate?

Mr. Powell said it is inappropriate and the original neighborhood associations were set up to ignore those kinds of boundaries. People living at a fair distance might be more closely associated with an organization not closest to them. Originally, the organizations were social constructs, rather than geographic. In answer to Commissioner Francesconi's question on how to address the fact that 83 percent of children of color in the City live in poverty, Mr. Powell said it would help to strengthen place-based organizations.

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Commissioner Francesconi said there could be all kinds of conditions on receiving money, but then it would take away the flexibility of the organizations.

Mr. Rogers said an example of an empowering mechanism would be a liaison neighborhood police officer to whom people could talk in a non-threatening or a non-criminal situation. Lower income people could benefit from training in how to participate in organizations.

Mayor Katz said if any neighborhood group relevantly deals with poverty and crime, such as Hope and Hard Work in Northeast, low income and people of color will come and actively participate. People respond to accountability and purpose and they do not necessarily need by-laws.

Commissioner Sten said low income people are rarely ever heard from in Council Chambers. Philosophically, it is sensible to strengthen place-based organizations. However, pragmatically, there is 22 years of history that says it will not work. A small step is to notify various groups and get them into the loop.

Mayor Katz said Council will be discussing the issue of citizen participation this month.

Commissioner Francesconi said Council is often caught between business and neighborhood concerns. These battles should be fought in the neighborhoods where a balance can be better struck. There will not be neighborhood livability without both being involved with each other.

Commissioner Hales said issues need to be taken from the shelf and refreshed. These guidelines are the right kind of evolutions to make sure the organizations stay healthy. The two changes acknowledging without boundaries and business associations recognize that healthy citizen involvement is more than politics, although they are political. Many good things are accomplished by neighborhood organizations and other civic groups working in concert toward a goal and these guidelines will allow 100 different flowers to bloom.

Commissioner Kafoury said Council recognizes that the issue of citizen involvement needs more of its time and attention and is committed to work on this in the next year. There have been some exciting happenings, such as Housing Our Families, a board consisting of women, many of whom are low income.

Commissioner Sten said this could simply be a name change or a meaningful change. He said it is not true that Council does not hear from people of color -- that is not fair to many hard-working organizations.

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Mayor Katz said her Japanese friends told her that "oni" means ogre in their language. She said Council needs to figure out how to reach out and talk to many more people. It is limited to what can be done within strict legal parameters.

Disposition: Resolution No. 35667 as amended. (Y-5)

- 2 Support the community building effort in conjunction with Multnomah County and other jurisdictions (Resolution introduced by Commissioner Kafoury)

Discussion: Lorenzo Poe, Multnomah County Department of Community and Family Service, said for the past 12-14 months they have been working cross-jurisdictionally with the City, the County, Portland Public Schools, the Educational Service District, the Leaders Roundtable and the State Office of Human Resources on the issue of how to address and work with neighborhoods to pay homage to the great work already occurring in the communities. Calling it a community building initiative addresses critical neighborhood concerns and interest in an integrated, collaborative approach among the jurisdictions. The most interesting thing they found was that they all had the same kind of goal in mind -- to do a better job of addressing how they work in the neighborhoods. Mr. Poe said this past November, the Multnomah County Commissioners passed a similar resolution.

Diane Linn, Director of Office of Neighborhood Involvement (ONI), said she co-chaired the core group to find out what jurisdictions could do to work better together and respond more efficiently and effectively to community problems.

Norm Monroe, Multnomah County Community Investment Coordinator, said he has been working in a community-building effort in outer Southeast. The people working on this originally came together around the welfare reform dollars issue. From that beginning, they developed programs running the gamut from teen pregnancy, Kelly House, Southeast Works and pre-school and day care projects. They are doing the important work of building long-term leadership for the outer Southeast. Much of that was stimulated by the community-building process and it is the groundswell of self-reliance and self-development for low-income residents.

Nancy Biasi, Commissioner Kafoury staff, said community-building is not a program, it is a process, reflecting the best of what jurisdictions want to see in their collaboration around specific programs and issues.

Commissioner Francesconi asked how the City and County community folks could advance something like "after school?"

Charles Jordan, Director of Parks and Recreation, said, regarding the new community center in mid-county, Parks has contacted over 67 organizations and 80 people to let them know who we are and what we do. Parks is in a support role and asks the community what it wants, such as after-school programs. He said they

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want to be a part of the whole for the first time.

Ms. Linn said there is more emphasis in working in partnership with the caring communities and other grass roots community groups without by-laws that have a compelling project, concept or idea.

Mr. Poe said there is not one, particular model to engage the community. A few years ago in Northeast, rather than calling a meeting, a door-to-door survey was taken and more information and opinions about critical issues and needs within the neighborhood were found that way than in any meeting. That points out there is no "one size fits all" approach anymore. For instance, Community Building at Humboldt school assists in helping children academically achieve. Also, the City was sponsoring the Targeted Neighborhood Project. In addition to what is happening in the school is the community's involvement in housing, economics and safety issues.

Mayor Katz said, regarding the City's goal to reduce gang violence, she would recommend that Parole and Probation staff ride with and assist the Police Bureau in hours they normally do not work, making shifts in assignments and hours without asking for more money. Neither the City nor the County may have additional resources.

Mr. Poe said flexibility is a must to accommodate the critical needs of a particular location, with current or new resources.

Mr. Monroe said a goal of community building is to shift the power and policy dynamics to bring communities back into government and vice versa.

Commissioner Sten asked what might be happening on more mundane levels a year from now, once the leaders here today do not have the time to be there.

Mr. Poe said six areas were identified: four are neighborhood focused and two are community focused. This is to test the integrated, funding and joint planning notion and the notion of moving resources collectively with the most inclusive process possible.

Ms. Linn said part of the process is to build relationships across jurisdictional lines.

Mr. Monroe said a landmark worth seeing would be one funding stream from the state, city, county and school district into the communities.

Mr. Jordan said this program is set up around real collaboration. This means Parks needs to change the program at a community center, even if it is different from all others, in order to support the whole effort. And the County needs to be included with their family services and knowledge.

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Commissioner Francesconi said he, Mr. Poe and Mr. Jordan, with input from the Boys and Girls Club, are working on an after school program in outer Southeast. Also, the City, County, communities and churches are working on prevention of juvenile crime.

Mayor Katz said the test for her will be when both the City and County, over the long run, work together on police matters and with the school districts. This may mean additional resources from both or doing business a little differently. She hopes for the latter.

Disposition: Resolution No. 35668. (Y-5)

- 3** **TIME CERTAIN: 10:00 AM** - Liquor License application for Coco Entertainment Group, Inc., dba Club Coco II, 633 SE Powell Boulevard, Dispenser Class A, alternate Restaurant liquor license (change of ownership/greater privilege); Favorable recommendation, with letter of concern and condition that applicant remain willing to enter into a Good Neighbor Agreement substantially similar to current draft (Report introduced by Commissioner Francesconi)

Discussion: Judy Ritt, Bureau of Licenses, said a Dispenser Class A (DA) allows for a separate lounge, selling hard alcohol, distilled spirits, beer and wine. The Oregon Liquor Control Commission (OLCC) administration rules require that the 25 percent food ratio is met. The restaurant license has no food sales percentage requirement but does require kitchen facilities and a dining area and the sale of beer and wine only by the glass.

Commissioner Francesconi asked if Council could put limitations on either license and what criteria would contribute to that decision.

Ms. Ritt said the concern with the DA license is Coco's would not be able to meet the 25 percent food ratio and the OLCC at this point is prepared to make an unfavorable recommendation because of that.

Commissioner Francesconi asked if there would be no other reason to limit it.

Ms. Ritt said no. She went on to say 633 SE Powell Boulevard has primarily been a site with a liquor license for many years. Most recently, the business had a Class C license, which allowed sale of hard liquor, beer and wine incidental to food service without allowance for a separate lounge area accessible to patrons. Stanley Sykes is the sole principal of Coco Entertainment Group, Inc. He was previously involved with Club Coco in the Hollywood district and received an unfavorable recommendation from City Council on March 13, 1997. That club was later

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destroyed by fire. The recommendation was based on the problem area rule, as it is within a prostitution-free zone, and related issues. Mr. Sykes withdrew the application from OLCC before there was a ruling.

Ms. Ritt said Mr. Sykes' current operating proposal includes entertainment by exotic dancers, serving bona fide meals and patterning his food service on a successful operation in Los Angeles, featuring chicken and waffles. There will be a cover charge and security each evening after 6:00 p.m. There will be no pool tables or games, except video poker which Mr. Sykes intends to apply for. The hours will be 11:00 a.m. to 3:00 a.m. Monday through Saturday and 11:00 a.m. to 2:00 a.m. on Sunday. There will be a dress code, no weapons or drugs policy and restricted entrance for persons under 25 years of age. Staff received letters of opposition from the Brooklyn Action Corps, representing neighbors on the other side of Powell, the Central Eastside Industrial Council and three area business/resident occupants. Their issues included traffic patterns and volume, the potential of drunk drivers, a concern that food service would not be the primary draw and that the entertainment format is inappropriate and incongruent with the revitalization efforts of the area.

Ms. Ritt said the Police and License Bureaus had public safety and security concerns from a shooting incident at the Hollywood Coco on September 28, 1997. Staff met with Mr. Sykes and Fred Gold of Rose City Protection to discuss security issues and plans. Mr. Sykes formed a plan to prevent and control problems. Marcia Palmer, a Crime Prevention Specialist at SE Uplift, organized a meeting with concerned groups and citizens to discuss these issues and the possibility of a good neighbor agreement. A partnership agreement was drafted and, apart from the continued opposition from Brooklyn, Mr. Sykes said he would sign this agreement or one substantially like it. The Police Bureau recommends favorable with a letter of concern, which stems from the September shooting. The Police Bureau concluded the applicant had taken positive steps to control future activity and would work with officials to solve any problems that might arise. Staff understands the expressed concerns, but the only basis for denial might pertain to the DA food ratio. The OLCC processes will address the food sales projections. The Planning Bureau advised this zone allows alcohol sales and nude entertainment. Staff factored in the applicant's apparent willingness to work in good faith with neighbors and officials. The property owners were notified of this hearing and Council's request that they attend this meeting. The owners, the Maynards, said they would not attend but submitted a written statement supporting approval of this application.

Officer Bill Calder, Portland Police Drug and Vice Division Liquor License Investigator, said the shooting occurred during the Hollywood license application process. It caused great concern to the neighborhood and Police Bureau. Since then, the Police Bureau has been satisfied that Mr. Sykes has taken the right steps

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to prevent this happening in the future. This issue stands alone, there have been no other police-related problems, which is why Police has given a favorable recommendation.

Mayor Katz asked if the shooting occurred in the parking lot.

Officer Calder answered that the argument definitely began inside the club and different witnesses stated there was shooting inside and outside. It is common to get conflicting reports, but it certainly involved the club's patrons.

Mayor Katz said the police reports indicate no one was able to identify the shooters and she wondered why the management could not provide that information. She also asked if it were a gang shooting.

Officer Calder said certainly someone saw the shooters, but they do not know if management did and there is no reason to believe they are trying to hide something. It is unknown, but possible, if it were a gang shooting.

Commissioner Sten asked about the favorable recommendation when there is only one incident. Is it a standard or a judgment call?

Officer Calder said state liquor regulations allow the benefit of the doubt if management has made a good faith effort to solve the problem. If there are repeated problems, that overcomes the good faith effort. He said it is easier to go unfavorable on a new or renewal license than it is to pull an existing license.

Commissioner Francesconi said the City tries to match its Code to what OLCC will do, to have more credibility with it. Our Code states that it must be a pattern, not just one incident.

Mayor Katz said there is a club in southeast that has a "pattern" of shootings in the parking lot and the liquor license has not been yanked. Council needs to be cautious in approving these licenses.

Officer Calder said especially at renewal times, if there has been a pattern, he will ask for an unfavorable recommendation and OLCC does emergency closures on those.

Stanley Sykes, Club Coco owner, said the argument began in the club but the shooting occurred outside, so no one actually saw the shooting. He broke the fight up and would recognize the people again. The crowd that night was younger because the club was only serving juice.

Mr. Sykes said one-third of his building is a kitchen. If he meets the criteria, he should have a hard liquor license for the type of club he wants. He is willing to start with a beer and wine license to prove he could sell food and, at renewal, ask

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for the hard liquor license. He said he chose the site because of its isolation, where it would not impact the neighbors. Mr. Sykes said there would be a cover charge and no pool tables, so it would not be a place for people to just hang out. He is going to create a culturally diverse club where people will feel comfortable. It will add income to the neighborhood. He noted there are negative attitudes about "adult" clubs and the rumor there would only be African-American dancers is incorrect. The club's theme is "women of color" but that is not to limit anyone. He pointed out that he was a minority owner.

Mayor Katz asked about the work agreement with the dancers and if he would keep the club open after hours.

Mr. Sykes said the dancers were independent contractors. They make their own schedules and pay him a house fee of about \$10 a night. He will not pay them -- they will dance for tips. The club would close at 3:00 a.m.

Commissioner Hales asked Mr. Sykes if he had any citations for serving intoxicated patrons or minors in his previous club.

Mr. Sykes said there were none.

Dr. Stephen Bailey, Chair of Hosford-Abernethy Neighborhood Development, said his association did not take a position on this application because it is a legal establishment and they are working on a good neighbor agreement. In the past two years, six new alcohol establishments have come into the neighborhood. He and Mr. Sykes discussed the proximity of a high school and the club's employing 18-year old women. Dr. Bailey's association did not want its lack of involvement to be read as either support or objection.

Cameron McCreadie, Board member of the Brooklyn Action Corps, said this type of club is a predatory business that capitalizes on the desperate and the weak. This club's portrayal of itself as an eating establishment is a farce. At present, the premises are severely not up to Code, such as overgrown, littered sidewalks and graffiti. He said, as allowed in Oregon Statutes 471 and related City regulations, this application should be denied. Its short track record shows it is not financially capable of maintaining a restaurant. The location already had persistent alcohol and drug-related problems, which should have been stated in the police report.

Lee Orten, Chair of Brooklyn Action Corps, said the board was unable to reconcile what to do about the good neighbor agreement -- some were opposed and some in favor. While good neighbor agreements are admirable, there is no way to enforce them. One point was to ask for a 25-year old customer minimum but that, as anything, could be changed to help the bottom line. Mr. Orten stated his concern with the video poker, foot/auto traffic impact, vandalism and graffiti.

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Mayor Katz said she wants an agreement on graffiti and vandalism issues from the owner.

John Henry, 1021 SE Sherrett, said he works in the "adult" industry in distribution and knows that Mr. Sykes is a responsible person who will run a good, clean club.

Larry Jackson, Director of Operations, Portland Observer, said he was speaking as a person who has known Mr. Sykes well since childhood and has had discussions with him about his responsibilities as a business owner to the neighborhood associations.

Mayor Katz asked if the license were contingent upon the signing of a good neighbor agreement and upon the condition of keeping the streets clean and graffiti off the walls immediately -- enforcing the existing Codes.

Officer Calder mentioned that the graffiti problem has existed for 20 years and has not appreciably worsened. He noted that this location had been cleaned recently.

Gary McGrew, License Bureau, said the OLCC is the expert in food service issues and the Bureau knows they are looking very closely at the applicant on this issue.

Commissioner Hales said Council prefers that property owners involved in liquor license applications, particularly those featuring nude entertainment, participate in the hearing and the property owner, Mr. Maynard, is not here. There certainly have been public safety problems for clubs featuring nude entertainment, with a correlation between that kind of business and prostitution. Commissioner Hales said it would be a healthy part of the process if property owners who want to lease for that purpose were required to show up in public and say so, rather than going through an intermediary. It would have a healthy chilling effect on the number of these businesses in the community.

Mayor Katz asked if there had been an investigation of the property owner.

Mr. McGrew said it was March 13, 1997 when Council asked that property owners attend these hearings and, based on that direction, Judy Ritt asked the applicant to notify the property owners. They were also notified by mail and by telephone. It is very unusual to investigate the property owner.

Mary Lou Dominique, OLCC investigator, said she is not recommending a hard liquor license in her draft report for several reasons, the primary being the food sales projection cannot be justified factually or comparatively. She is recommending a restaurant license. In a year or six months, after the applicant establishes a verifiable food sales record, he can apply for the Class A Dispenser again (he only operated his juice bar for about two months).

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Commissioner Francesconi moved to approve a restaurant license with the condition of a good neighbor agreement. Commissioner Hales seconded.

Commissioner Francesconi, speaking personally, observed that Mr. Sykes had business talent and it was hard to understand why he chose this area of work as it could open a can of worms to market the club with "women of color." He also noted Mr. Sykes' well-intentioned efforts.

Commissioner Hales said OLCC's instructions are that if Council follows the rules and does not use liquor license recommendations as a substitute for zoning, they will back the recommendations.

Commissioner Kafoury said she has been rational and patient in her 20 years of voting on most things, but some things are beyond her capacity to vote for anymore.

Commissioner Sten said, despite his respect for Mr. Sykes' skills, it is almost offensive to say the club is an answer for culturally diverse people to feel comfortable. It is not a step forward for racial relations.

Mayor Katz said this industry is offensive and even more so when featuring "women of color." She said such marketing could well be in violation of state law.

Disposition: Favorably recommended excepting Dispenser Class A (DA) (Y-4; N-1, Kafoury)

Commissioner Erik Sten

*26

Authorize an Intergovernmental Agreement with the Multnomah County, Office for Community Action and Development for \$117,000 to provide services for the Block-By-Block Weatherization Program (Ordinance)

Discussion: Dave Tooze, Energy Office, said this contract hires Multnomah County's weatherization department to help implement a successful neighborhood-oriented low-income weatherization program. A key part of Block-by-Block is fix-it fairs -- neighborhood events providing information about energy savings, water conservation, home security, home health issues, loans, solutions to fixing problems in peoples' homes to feel warmer and safer.

Commissioner Kafoury asked what the County puts into this program.

Mr. Tooze said they took advantage of the County's staff of energy auditors and an in-house job training crew.

Mayor Katz asked if peoples' bills have been actually lowered and/or are people more comfortable in their homes.

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Mr. Tooze said, for homes with the least amount of insulation, people are saving about \$100 a year on home energy bills, a reasonable target. This program is in its eleventh season, in which time 2,030 homes have been weatherized. The cumulative savings are well over a million dollars.

Commissioner Sten asked how many houses still need to be weatherized.

Mr. Tooze cited the community's estimate of about 15,000.

Commissioner Sten said he would soon be submitting a report on future energy deregulation. Council should set up a system to recapture some of this money to speed up the weatherization process. Large utilities will become completely profit-driven in years to come.

Disposition: Ordinance No. 171924. (Y-5)

At 12:40 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 7TH DAY OF JANUARY, 1998 AT 2:00 P.M.

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

OFFICERS IN ATTENDANCE: Britta Olson, Acting Clerk of the Council; Kathryn Beaumont, Senior Deputy City Attorney; and Officer Larry Siewert, Sergeant at Arms.

27 TIME CERTAIN: 2:00 PM - Designate twelve significant historic structures as Portland Conservation Landmarks (Ordinance introduced by Commissioner Hales)

Discussion: Britta Olson, Acting Clerk of the Council, noted the correction of a scrivener's error. In the text on pages 7, 10 and 11 Exhibits A and B were referred to in reverse.

Cielo Lutino, Planning Bureau, said in 1996 the Planning Bureau received a State Historic Preservation Office grant to create an educational program about the benefits of historic designation. Staff produced brochures and held two informational workshops. Property owners at both meetings showed considerable interest in historic designation at the local level for their individual properties. Consent forms received by the City this year represent the first group of citizens to follow the legislative procedure necessary for local historic designation as mandated by Senate Bill 588. This Bill, adopted in 1995, requires owner consent for any locally designated property, whether in a district or individually. These dozen properties were reviewed by the Portland Historic Landmarks Commission which recommends that Council designate them as conservation landmarks. Ms. Lutino noted that a property needs to meet at least three of five general standards for local historic designation: architectural; historic; integrity; environmental and ensemble. She presented slides of the properties.

Mayor Katz asked if the education program was continuing.

Michael Harrison, Planning Bureau, said it was, however the program this year is smaller than last. He said staff had been encouraged to pursue the consideration of creation of a National Register District.

Commissioner Hales noted a book entitled "Changing Places" which states that Portland lost about 90 percent of its cast-iron downtown buildings when Harbor Drive was built. The ethic has changed since that loss so properties which would have been routinely demolished 30 years ago are now part of the City's regulatory structure and something citizens really support.

Mr. Harrison said the Oregon tax credit legislation passed in the 1970's expired in 1993 and was reestablished with passage of SB588. There is now a higher degree of protection for properties listed on the National Register for those taking advantage of our local zoning incentives for historic preservation. The City now has the ability to block demolition. He recognized Liza Mickle's important volunteer work on this issue.

Disposition: Passed to Second Reading January 14, 1998 at 9:30 a.m.

28

TIME CERTAIN: 2:45 PM - Appeal of Corbett/Terwilliger/Lair Hill Neighborhood Association against Hearings Officer's decision to approve with conditions the application of BRD Restaurants LLC for design and greenway reviews, in order to construct a hotel, condominium and spa building at 4640 SW Macadam Avenue (Hearing; LUR 97-00996 DZ)

Discussion: Katherine Beaumont, Senior Deputy City Attorney, described the kind of hearing that was being held and the order and sort of testimony. She emphasized that it was an on-the-record hearing. The hearing is designed only to decide if the Design Commission made the correct decision based on evidence presented to the Commission.

Mayor Katz asked for announcements or declaration of ex parte conflicts.

Commissioner Francesconi said he entered a memorandum dated January 7, 1998 for the record.

Commissioner Kafoury asked for clarification on her understanding that the Commissioners' staffs could meet with and talk to people to develop information for presentation to the Commissioner without it being ex parte contacts.

Ms. Beaumont said it is a functional equivalent of an ex parte contact when staff is a conduit for information, repeating fairly verbatim what they have learned from others.

Commissioner Sten said he has had no specific conversations with anyone about the details of the design but, as commissioner in charge of Environmental Services, the subject of the hotel and Willamette River treatment has repeatedly come up in the last six months. He did not catalog them all but he told people on all sides of the issue that he would not discuss it.

Mayor Katz said the entire Council has heard discussions about the Greenway with regard to the North Macadam Plan, generic in nature.

Commissioner Hales said he has recreationally walked along the river in that area for several years. On a Willamette Shore trolley trip in early December with

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Gerald Fox, (Tri Met) Mr. Fox noted the hotel site and mentioned street access and crossing concerns. He met yesterday with Bridget Flanigan, a Design Commission member who voted in the negative, and it was briefly mentioned that the issue was on today's agenda without discussing anything substantive.

Ruth Selid, Planning Bureau, said this is an unusual site in that the hotel location is within the CX zone in the Central City Plan district. The Macadam Plan district, a CG zone, begins from the face of the hotel to the south. She said the proposal is for a seven-story building; a five-story hotel topped by two stories of condominiums. It includes a two-story spa facility and a parking garage within the building for tenants. There is a public street dedication on the west side parallel to the railroad line which includes parking lot upgrades. She showed slides of the site area.

Ms. Selid said the approval criteria for this proposal is complex. Part of the site where the building is located is in the CX zone, subject to approval criteria of the Central City fundamental design guidelines, North Macadam special design guidelines and the Greenway design guidelines and issues. On the south side for the rest of the site, the Macadam Plan district is the regulation and the Macadam corridor and Greenway design/issues guidelines apply. Not all the criteria in these guidelines apply to this proposal, however the Greenway regulations apply throughout the site. But, as it not a river-natural site, those that apply are primarily design guidelines.

Ms. Selid addressed the main issues raised before the Design Commission and its determination. The building height, which cannot be adjusted, is a development standard -- 75 feet. The height limits in this area step down to the river, with 75 feet the lowest of the height limits and for all of the land fronting the river bank. The Floor Area Ratio (FAR) is a development standard, not an approval criterion for the guidelines. If the design qualifies for the bonuses, it gets them. The base FAR is two to one: twice the floor area of the size of the site to be put into the building. The applicant qualifies for additional floor area by increasing the greenway easement, having residential units within the building, having more than 50 percent of the rooftop in gardens and having parking for employees. Applicant actually qualifies for more floor area than has been designed. Regarding the shading on the trail, the Design Commission spent considerable time reviewing this and decided the shading guidelines were met. Ms. Selid said the setback from the trail and the top of the bank has been another issue. The distance to the path from the closest point of the hotel ranges from 18 feet in the north to 54 feet at the south. The distance to the top of the bank would be 52 feet up to 71 feet from the north to south end of the hotel. The 25-foot greenway setback is always measured from the top of the bank and is the only numerical standard. When the Design Commission approved this proposal, they included several conditions of approval on issues that came up in the hearing, such as access to the public trail through the property. She said the Commission also required a tree and resource protection plan to be approved by Parks and secured with a bond. Another condition was for a glass guest door at the north end of the hotel as well as lighting on that side to light the

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building and the path. This proposal has gone through a series of changes in response to staff concerns, neighborhood issues and Design Commission comments.

Mayor Katz cautioned that this proposal should be looked at with a clean history rather than comparing it to an earlier one. She asked for clarification on the stepdown issue.

Ms. Selid said it was in the purpose statement, as part of height guidelines, not in the design guidelines per se. The stepdown is part of the goal statement in the North Macadam Plan and Central City Plan districts, embodied in the height regulations.

Mayor Katz asked what is a goal, a guideline or a policy?

Commissioner Hales said the Plan district enforces a stepdown of building mass by the FAR that go from high on the west to low on the east. Zoning says buildings in general stepdown as they get closer to the river.

Ms. Selid said there was specific language in the Macadam Corridor design guidelines that suggests stepdown. In response to Mayor Katz' reference to City Code 33.510.205, she said that was the height development standard and the purpose statement for it, not a design guideline. Purpose statements are included in the Code to help clarify the regulations.

Commissioner Hales said the purpose statement includes avoiding shading of public open space and asked if it were in the Code somewhere as a regulation.

Jeff Joslin, Planning Bureau, said that was just in the purpose statement which essentially does two things: to give some history on what the regulation was derived from and to give direction in considering an adjustment.

Commissioner Francesconi said Central City Plan Design Guidelines, B6, a guideline, says to consider sunlight, shadow, glare, reflection, wind and rain on pedestrians.

Phil Hamilton, 7215 SW LaView Drive, President of the Corbett/Terwilliger/Lair Hill Neighborhood Association (CTLH), said they do not oppose the proposed land use but do oppose the scale and massing of the building, its relationship to the street and riverfront and the location of the tower. The proposed design fails to meet all the guidelines required for an approval. The design violates many of the City's visions and goals for this district in particular and for the greenway. Design guidelines are a type of land use promise to be used in conjunction with the base zone regulations. Unlike regulations which say what not to do, guidelines get at what should be done and how. He cited the adopted special design guidelines for the North Macadam district's goals and objectives for new development. This proposal's urban design maximizes height and takes advantage of multiple FAR

bonuses to swell to almost twice its base zone density. But it fails to meet all other urban requirements. The orientation of the building's height and mass face the greenway, not the new transit street. It builds up to the river, not down to it. The main entrance faces a private cul-de-sac. The North Macadam implementation amendments designate Moody Avenue as a major transit-priority street. Code requires main entrances to be within 25 feet of a transit street and to face the transit street directly or at a 45-degree angle. A North Macadam objective is even more specific, directing development to concentrate density on the western edge of the district adjacent to the Moody/Bond corridor and away from the river. The proposal also fails to implement the street plan amendments regarding pedestrian accessways.

Mr. Hamilton said the Avalon would be farther from the greenway setback than the minimum standards required, but not far enough to offset the effect of a seven-story, 185-foot-long building on the pedestrian trail. The hotel is only 18 feet from the trail at the north corner. There has been considerable debate over where the top of the bank and the greenway setback are located on this site and, unfortunately, the Parks Bureau survey is not complete. CTLH believes that the applicant's drawings and models on this point are abstract and do not represent the area as they know it. Design Commissioners Flanigan and Sax suggested reversing the building to face the transit street. An appropriate design needs to allow more direct and indirect sunlight onto public open space and parkland, to create a visual connection with the surrounding natural area, to provide pedestrian-scale buildings next to the greenway, to provide good accessways to the river and promote transit use. The applicant could try offsetting sections (like the River Forum), curve the building or build a smaller hotel.

Mayor Katz asked how much of this land was under water in the last flood and what would that have done to the hotel?

Ms. Selid said this issue came up with the Design Commission. Applicant's architect stated that the hotel would be on piling and constructed to the flood regulations.

Gail Jacobsen, 0245 SW Nebraska, said Zoning Code 33.130.242 requires the main entrance to face the transit street, which in this case is Moody Avenue. The proposed street car alignment in the North Macadam area is along River Parkway and Moody Avenue, including in front of the Avalon Hotel. The southwest corner entrance to the spa does not meet the definition of a main entrance and only indirectly connects to the hotel's lobby. Applicant might argue that main entrance location is not relevant to design review, but code provisions that affect or require design alterations are relevant. It would not make sense to approve a design which would fail at the plan check stage. This city encourages use of transportation other than the automobile. Redevelopment of North Macadam is an opportunity to do it right; to plan an entire area for multi-modal transportation. The Avalon Hotel would be the southern anchor of the Central City.

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Ms. Beaumont said the specific as to any regulation that directed where the lobby entrance should go was not discussed before. In response to Commissioner Francesconi's question about the regulations applying in any case, she said it may depend on whether that regulation is a development standard as opposed to serving as a criterium for design review. The development standard is not an appropriate item for discussion here. Ms. Beaumont asked those submitting maps or exhibits to identify where in the record the document comes from.

Don Baak, 6485 SW Burlingame Place, said he is testifying on behalf of the Southwest Trails Group, a wide-ranging group of 300-400 people interested in bicycle facilities and pedestrian issues in southwest. The present Avalon Hotel design is not pedestrian and bicycle friendly. River access is not attractive or open. The pedestrian corridor between adjacent buildings is very narrow and is affected by the lack of windows on that side of the building. The Willamette Greenway means the conservation of those rare, natural areas such as this. He said his group's request for modification recognizes that it will cost the developer time and money, but care now, unlike the siting of the I-5 freeway on the river, will make it worthwhile. Cottonwood Bay, with a decent growth of trees, is one of the only natural areas left north of Willamette Park.

Leonard Gard, 7688 SW Capitol Hwy., Land Use Specialist for Southwest Neighborhoods, Inc. (SWNI) said the issue of the main entrance fronting on the transit street did come up in earlier hearings. He said citing the Code's legal authority is not evidence and, as such, would be permissible in an "on the record" hearing. SWNI contends that design guidelines challenge developers to use creative design, but this applicant has not been creative. Despite the stepback of the top two floors, it is still basically a large, rectangular box. The North Macadam guidelines, B1-1, provide pedestrian scale and interest to buildings along walkways. The goal for that guideline is that building height and shadows will not negatively impact major pedestrian routes. The fundamental guidelines: B6 - to consider the effects of sunlight, shadow, glare, etc. and maximize the amount of direct and indirect sunlight reaching adjacent public spaces; and C4 - provide harmonious relationship and graceful transition between private projects and public spaces. Examples of "graceful" are arcades and stepbacks.

Mayor Katz said that if it is in City Code and legal, whether it is brought up originally or not is irrelevant.

Ms. Beaumont said, having reviewed the issue with staff, she agreed.

Jim Gardner, 2930 SW 2nd Avenue, said he supports the appeal on behalf of his neighborhood association, especially its support for the North Macadam street plan. It not only provides for an efficient movement of traffic but, as the area develops, results in building orientations toward those streets. As this area develops, there is a need to ensure that building heights near the river are lower than those further away. The Greenway will become an important part of the regional transportation

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system, helping the City and region meet air quality, energy conservation and livability goals. As this project is one of the first to be constructed in the North Macadam area, it will be a bellwether in how it treats the Greenway.

Greg Robart, Oregon Department of Fish and Wildlife, said he would address floodplain impacts and wildlife habitat. The hotel development will jeopardize the existence of approximately 60 cottonwood trees between the proposed site and the river. Continued building in the river's floodplain is detrimental to fish and wildlife. Cottonwood Bay is an important west side riparian area, between the Sellwood Bridge and Riverplace. It has increased in importance as it is a mature remnant of what has been replaced by commercial development.

Responding to a question about Mr. Robart presenting new details, Ms. Beaumont said that although Mike Houck, Audubon Society, brought the subject up before, amplification with new detail is beyond the scope of what is in the record.

Commissioner Hales noted that it would have been more appropriate for the State, which is taking a position in this case, to appear at the Design Commission hearing.

Corinne Paulsen, League of Women Voters of Portland, said the League is not opposed to a hotel in this location, but they believe it does not comply with the intent of applicable guidelines for buildings along the riverfront and sets a dangerous precedent for future riverfront development. She noted that the Riverplace Hotel was an example of sensitive development along the river, with deep setbacks, a relatively low-rise of four stories and a wide esplanade. The Avalon proposal is in close proximity to the river's edge, with a barely discernable stepback in its seven stories. The bonuses to allow increased FAR were for million dollar condominiums, bike racks, employee lockers and roof gardens. This permitted three stories to be added. This is a signal to the City to review its bonus policy. The League supports the Willamette Greenway Plan's to inventory the potential commercial development on both the east and west sides of the river so it proceeds thoughtfully, rather than on an ad hoc, piecemeal basis.

Mike Houck, Portland Audubon Society, 2443 NW Quimby, said he has had an interest in this area and in the greenway in general since 1985 when he prepared, pro bono, a Goal 15 final greenway inventory with City Planning staff. Cottonwood Bay is referred to as a Class 5 site. This is because it is a relatively small remnant on the west side and it is not appropriate to compare it to land such as Oaks Bottom. Also, the applicant inappropriately talked about restoration and manipulating vegetation on the site when it is City-owned property. Mr. Houck said ultimately there should be an agreement signed between the applicant and the City guaranteeing that they will not manipulate the site and leave it to the Park Bureau. The privatization of the river and its banks is a real concern. Regarding

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stormwater management, the Bureau of Environmental Services (BES) has agreed the applicant can put in an oil separator and collect water but he hopes that Council will consider some additional treatment through bioswells.

Commissioner Sten asked what could be done to improve the design, given that this is a CX zone and applicant has exceeded the setback requirement.

Mr. Houck said he was not a designer but the applicant has an excellent landscape designer. Even though some changes have been made, the applicant has not gone far enough.

Don Francis, PO Box 11606, 97211, member of Portland's Combined Sewer Overflow (CSO) Predesign Task Force, said this area has been flooded in all the major floods so, next time, when the property is flooded, the taxpayers will pay for restoration. The Task Force is keenly aware that by the time the river gets to Portland, it is already in bad shape. The precedent to build right on down to the river (urban cliffs) should not be set. He quoted Governor Kitzhaber's comment that it is not so much an egregious wound affecting the Willamette, but death by a thousand cuts.

Jerry Ward, 7409 SW Fulton Park Blvd., 97219, architect and member of the CTLH Greenway Committee, said numerous City Codes, guidelines and regulations in the base zone, along with overlay and Plan districts, address scale/mass compatibility. Title 33.700 definitively states that the overlay and Plan districts supersede the base zone. Title 33.510.205, Height, is not a purpose statement.

Mayor Katz asked specifically about Title 33.510.205 and Ms. Selid said it was a development standard, not a design criteria.

Mr. Ward said the hotel had setbacks as it progressed in height and the building is 90 feet high from the greenway path to the top of the roof. A narrow, totally shaded pedestrian alleyway is created on the hotel's north side. Walking north/south by this building would be similar to walking a downtown sidewalk next to a 90-foot high, seven-story building. The average height of 12 surrounding buildings is 27 feet. The average setback from the greenway, top of bank, of four buildings facing the Willamette is 56 feet versus the Avalon's 37 feet. The Pacific Gas Building is a 2.8 story building, and its average distance from top of bank is 215 feet, almost six times more than the Avalon. The Avalon is compared to the River Forum building, but the latter is perpendicular, not parallel, to the river and it has greater setbacks from top of bank, an average of 85 feet versus Avalon's 37 feet, more than double.

Carl Simons, 0350 SW Dakota Street, said the greenway will be in shade nearly all afternoon. There are major concerns, too, about the effect of excessive shade on Cottonwood Bay.

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Ann Bradwell, 032 SW Seymour, 97201, CTLH Land Use Chair, said her issue of accessways was addressed by Mr. Hamilton earlier.

David J. Redlich, 3944 SW Condor Ave., 97201, Homestead Neighborhood Association Vice Chair, said both the building height and its proximity to the greenway are out of scale. The intended use is not opposed.

Martin Slapikas, 5211 SW View Point Terrace, 97201, said the applicant's design will promote the appearance of a private, gated community. The special design guidelines for North Macadam district and Central City Plan A4-3 are not met in the applicant's traffic study for southbound vehicles turning east into the hotel as their solution would remove some of the median on Macadam. Parking will be a major problem because of the amount of parking displaced by the facilities and lack of transit opportunities in the area, which currently has critical parking problems.

Jeanne Galick, 7005 SW Virginia, member of the Greenway Committee, said the Greenway was much more than an ordinary sidewalk in the City. The Avalon proposal is squeezed onto the extreme edge of the CX zone and a few people will get a spectacular place to live while the public will literally have to walk in their shadow.

Stephen Leflar, 3404 SW 1st Avenue, said the Avalon will have to be shoe-horned into the site and occupy only one-sixth of the land owned by the developers. He said the proposal does not meet over 12 design guidelines, goals and codes and does not reflect the neighborly spirit of Portland.

Joe Poracsky, 1826 SE 22nd Avenue, Chair of the Urban Forestry Commission, said that at the hearing he noted the Commission's favorable position for the development, reflecting the plantings on site. As a result of the Avalon presentation to the Forestry Commission, they set up a Natural Areas/Stream Corridors Committee to look at these issues. In his five years on the commission, it was the first time the commission was asked to deal with riparian issues. The Urban Forestry Management Plan, adopted in 1995, has a goal to identify lands that need protection beyond normal regulations. Mr. Poracsky said areas along the greenway demand such protection. The commission is concerned about the property's plantings and the vegetation on the adjacent greenway being maintained into the future. He suggested, as the property owner reaps the benefits, the owner should act as the insurer of the adjacent vegetation and bear the cost of maintenance.

Amanda Fritz, 4106 SW Vacuna St., 97219, said the Willamette is DEQ listed as water quality limited for summer temperature and this proposal has no provision to cool the water from the property before it is dumped into the river. The north wall is seven stories high with ten small windows at the top, presumably for the penthouses, a small glass door, and the rest is a blank, florescent white which will be lighted. In answer to Mayor Katz' question that it may be a fire code issue, Ms.

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Fritz said the fire code does not overrule the zoning code. She noted, regarding the flood plain, Code Title 24 says ground floor living space below the 100-year flood plain level is not allowed.

Michael Ratoza, 4386 SW Macadam, said his office is immediately to the north of this project, River Forum II, four stories with glass all around, and they would be faced by a seven-story slab. He noted that parking was a difficult problem with few practical alternatives for people working in the area and this development will make it worse. He submitted a list of signatures from River Forum II employees opposed to the design.

Jane Glazer, 2378 SW Madison, 97205, said the river is a universal metaphor for the onward flow of life and teaches us fluidity in the face of change.

Liz Callison, 6039 SW Knightsbridge Drive, 97219, said this development is not sensitive to riparian health and noted the new River District development on the City's northwest end is becoming increasingly encased in concrete and asphalt and is also in the riparian zone. Also, the taxpayers should not have to pay for rebuilding in a flood plain.

Jeff Lang, 7240 SW Fulton Park Blvd., 97219, CTLH past president, said State law requires three weeks' notification for a hearing and the three weeks for this one occurred over the holidays. He wanted this noted in case of an appeal.

Kevin Myles, 0232 SW Lane Street, said the applicant owns a large parcel of land, yet burdens the public way without burdening most of his land. It is open to the west onto which he plans to put a parking lot -- more runoff and oil. Private owners should not have the opportunity to degrade the value of public property and decrease the public's enjoyment of an area. He said there is no guarantee that the present owners will be here even in a few years, with the money and interest in our City going elsewhere.

Amanda Jacobsen, 0245 SW Nebraska, said, as a 45-year resident and member of the neighborhood association, she has always loved the walk along the river and now that she's older, she needs to walk for her health. It should not be a privilege for the very few, but the right for all to enjoy the river path.

Robert C. Ward, 7162 SW Barbur Lane, 97223, cited Code 33.700 regarding different levels of regulations. He noted the applicant's intention of providing accommodations for 10 members of the community with another 120 rooms to be used by a transient population which will not have an investment in the community.

Doug Weir, 342 SW Hamilton Court, agreed with previous opponents' statements and added that he had seen a good 75 percent of the site covered with water in the last flood.

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Steve Pfeiffer, Stoel Rives, 900 SW 5th Avenue, Suite 2300, 97204, said he was speaking on behalf of the applicant. He asked for an extra 10 minutes to balance the prior nearly three hours of opponents' testimony. The bulk of the issues addressed today were not articulated in the appeal.

Ms. Beaumont said nothing in State Statute or City Code prescribes the allocation of time. It would be Council's discretion.

Mayor Katz said to go ahead and Council would play it by ear.

Mr. Pfeiffer said this is a narrow scope of review where Council, for a change, is not setting but implementing policy. What is to be addressed is what Ms. Selid laid out at the beginning. Two allegations regarding Title 17, Streets, were in the appeal. These are not review approval criteria for the Design Commission decision or, therefore, for Council's. Title 24 issues regarding flood plain ground floor elevations are applicable criteria at the City level, not design review criteria. They will be met or not, at applicant's risk, at the plan check stage. Height is not an issue, either. He emphasized that the site was in the Central City and the design is an urban, not suburban, building. He believes whoever spoke below is relevant -- this is a public hearing and anyone who came should be able to speak. Also whether the issue was raised below or not is relevant -- it is relevant at LUBA. What is relevant is whether the evidence is in the record. Mr. Pfeiffer said the Code clearly states that the appellant is to identify the specific criteria alleged to have been violated by the Design Commission. The appeal raised three design guidelines and two Title 17 issues and then said "other numerous guidelines." The applicant has been blindsided by all the other issues raised today as they were not in the appeal.

Commissioner Hales said Mr. Pfeiffer seems to be making the point that the Standards for Commercial Zones listed in 33.120.230.b, which addresses ground floor window area are development standards that apply in plan review but are not design criteria applied by the Design Commission.

Mr. Pfeiffer said that is correct, and they are not review criteria for the Design Commission. The blank wall issue is misleading as the Class 3 walkway that formerly was on the northern edge of the building was replaced by the new, expanded full walkway on the south. Applicant believes this is a plan check issue.

Mayor Katz said the fundamental design guideline, C4, under Central City guidelines, says establish a graceful transition between buildings and public open spaces.

Mr. Pfeiffer said a specific development standard is not before you or the Design Commission. If Council chose to interpret a design standard to apply to a blank wall, which the Code does not require, it is free to do so.

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Paul Brenneke, 11370 SW Riverside Drive, President of NSP Development, noted the site is CX zoning and, responding to prior testimony that the Avalon was a large, rectangular box, essentially every building in this area and downtown is one, too. What makes a difference is materials and other things to make it special. Regarding the flood plain, the finished floor is 33.125 feet, four feet above the flood plain and two feet above the last flood in this location. Regarding comments comparing the Avalon with Riverplace, the latter is a 900-foot, five-story facade without a single public break. This project's property is 230 feet wide and its design has a 60-foot public break and public access right through the heart of it to the detriment of separating the hotel and restaurant. Mr. Brenneke said the applicant is developing this site to hold long-term, with no plans to sell and leave. The Avalon is replacing a surface parking lot and the design has less impervious and more landscaped space than today. A hotel, unlike an office building, generates the least amount of traffic. This building is 75 feet tall with a 54-foot average. The newly created North Macadam Plan and the Central City Plan are what was used as guidance in this development and the applicants should be able to rely upon them.

Lee Winn, design architect for the project, said this design is a puzzle, defined by the planning and zoning constraints. There is a 25-foot setback on the greenway side, a street dedication on the west side and the CX and CG zones are right in the middle of the site. There is not much left for site utilization. He noted they had not asked for any variances beyond the loading/unloading access (common for hotels). The FAR works out to a 3.4 to 1 and are all pieces they accommodated in a code which is trying to eliminate urban sprawl and blight. The FAR bonus pieces keep the core vital and keep people in the core.

Commissioner Sten asked Mr. Brenneke if there had been much interaction between his team and the neighborhood.

Mr. Brenneke said there was a lot at the beginning and throughout the project. It broke down after they heard the neighborhood wanted a 100-foot setback.

Mr. Winn said they had met with the CTLH Land Use Committee twice with two different presentations, each time listening to their concerns and making modifications. They went to a main CTLH meeting and have met informally many times with planning staff after they requested adjustments. For a year, there has been an ongoing discourse and the design reflects neighborhood concerns.

Commissioner Sten asked if it were possible to reconcile the fact that the developer has the right to a certain setback footage and the fact that a great many people think the greenway is very important.

Mr. Brenneke said, at some point, they would run out of site after taking 27 feet off the back, an extra 25-foot setback, and a public accessway dedicated through on the

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south side. The site began at 40,000 feet and they have lost 25 percent of that. Despite being divided by several zones, this is one tax lot.

Mr. Winn emphasized they more than doubled the setback requirement on the north end, tripled it on the south end and stepped the building back to provide a pedestrian scale.

Commissioner Francesconi asked why the taller part of the building was not put closer to the transit street.

Mr. Brenneke said there was only one location for the parking which would not be a problem. The greenway dictates much of the design, as parking, service entrances and loading trucks cannot be on it. Of course, they also want the rooms on the water. He said the whole backside was added at the second design review. It put retail on the street to create a retail environment, as required by the North Macadam Plan, and the surface parking was covered after the review.

Commissioner Francesconi asked if the location of the rooms next to the river has nothing to do with the design.

Mr. Winn said certainly placing the rooms toward the view is a very important part of the design. They view the transient group coming to the City as contributing visitors.

Mr. Brenneke said they have pushed the building back as far as possible and there is not an extra foot anywhere. Laundry will have to go off-site.

Mayor Katz noted that condominiums and a spa are not necessary to run a hotel. An issue that has been raised is the building's height and bulk.

Mr. Brenneke said height and bulk are defined by the zoning code, which they have complied with.

Commissioner Sten asked if they could make this building better and more friendly on the Willamette side.

Mr. Winn said in their view it is friendly and he emphasized this was an urban environment.

Mr. Brenneke said, even though the rule for greenway setback is 25 feet, he told his design team to get the setback to 50 feet after hearing Commissioner Sten's earlier suggestion to double the greenway setback. They got it to 54 feet at the minimum and 74 feet at the maximum, even though the rule is only 25 feet.

Mr. Winn said they were trying to create a vibrant urban environment with interaction with the greenway, as the Central City Plan requires.

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Commissioner Kafoury asked what the highest point was.

Mr. Winn said it was 75 feet to the middle point of the gable with the very top about 80 feet with projections for mechanical penthouses and roof access, allowed by Code.

Robert Simon, 712 Main Street, Oregon City, said he represents Pacific Anti-Discrimination Advocates (PANDA). PANDA has a relationship with NSP Development which has an environmentally sensitive track record in the metropolitan area. NSP has participated with them in many types of development for their clients, the disabled or less advantaged. NSP also has pioneered affordable and accessible housing.

Ms. Beaumont said the focus of the testimony is the design issues and guidelines. The developer's track record for other kinds of housing is not relevant.

Ms. Selid said there had been discussion of the presence of the condominiums, used as bonus points for the FAR.

Mr. Simon said a key element of NSP's comments deal with mixed-use development, creative development designs and new types of housing structures. The developer went through several design review hearings and Mr. Simon asked if a new policy issue is being presented.

Gary Papers, Chair of Portland AIA's Urban Design Committee, said Central City design guideline C4 establishes graceful transitions between buildings and public space. Over 15 years, his committee has always interpreted that as buildings and their adjacent parks and public open space, not so much streets. The committee feels that the river side does have an adequate setback as well as the building's stepping back. Guideline E1 in the Willamette Greenway Plan says "areas of intense human use could consider a more formal landscape treatment." Mr. Papers' committee does not think the entire riverfront should be urban, but this is an appropriate location for a more urban relationship to the river and trails. The street along Hamilton Court is the one place the committee thinks the Design Commission could have been more aggressive in creating a public character along the Court, using street trees, generous sidewalks and typical street lights. The issues of height and bulk are legitimate points to consider as a community, but they are not on the books now. To make a policy change like that in the context of design review is unfair.

Mayor Katz asked how Mr. Papers would deal with some of the issues that Council believes might be in violation of the guidelines. Especially, for the front facing the river.

Mr. Papers said the stepping back attitude of the upper levels could be more pronounced to make the actual top edge of the building further back, considering

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sight lines from the trail. That might allow for more generous decks on the river side. Also, more stepping could be done on the south facade as well so the gateway toward the river is not so abrupt.

Ms. Selid noted that Hamilton Court is essentially a driveway.

Lawretta Morris, 169 N Lotus Beach Drive, 97217, said she chaired the Portland Planning Commission for four of the six years she was a member and has worked on many committees, task forces and neighborhood associations. She said the shadow regulation was designed to protect Pioneer Square and large public investments; it was not intended to protect every shadow in the city. The Central City Plan asks for gateways and this area is on the edge, CX. The design makes a good gateway and a good merge between the residential and the Central City high-density urban.

Scott Fouser, 2425 SW 76th Avenue, 97225, said he and his family enjoy the greenway and the commercial environment.

Nanette Watson, 1727 SE 30th, 97214, said she was a developer and, although she has no connection with this developer, they share the same architect. She has seen the plans develop and thinks the architect has provided a good visual from the street and greenway. It is a building that will age well and fit well into the Central City.

In rebuttal, Mr. Hamilton said CTLH did not "blind side" the applicants. All their issues were raised before the Design Commission. He said the developers did meet with the neighborhood several times but it seems apparent they did not listen as the neighborhood never asked for a three-story building or 100-foot setback. Also, between their first and second proposals, the building grew by 11,000 square feet. The setback distances the applicant cited include public property. With redesign, the garage could be put under the tower. Code 33.700 requires that the three overlay zones and greenway zone supersede the base zone.

Ms. Galick said the abstract goal is to go down to the river, but this building actually builds up to the greenway. The direction of the bulk should be going down.

Commission Francesconi asked about Central City guidelines: B1 which asks if it enhances or reinforces the pedestrian system; B5, the requirement to make plazas, parks and open spaces successful; and B6, the sunlight, shadow and rain provision. He also asked about compatibility between new and existing buildings.

Mr. Papers said the lower two floors, the scale, detail, visual interest and quality of materials do make the building interesting and stimulating. The east facade and the trail are definitely part of the pedestrian system, but they did question the north side. The trade-off is to provide a more generous opening on the south side aligned with Hamilton Court, the street that connects over the tracks and up to

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Macadam. The terminus of Hamilton at the river bank has a hardscape plaza and the adjacent activities will create a lively, active area with afternoon sun. Although an additional stepback would improve this, there are no tangible criteria in guidelines or regulations to dictate what it should be. Not much can be done about shadows on the north sides of buildings. They do encourage rain canopies or awnings, but not so large as to cast gloomy shadows. The east side path does not hug the building, so there should be ambient light. The building is compatible and complements the existing restaurant and will be a nice gateway approached from the west.

Commissioner Francesconi continued his questions, asking about how the proposal meets the North Macadam guidelines to provide convenient pedestrian linkage to and from the river and adjacent neighborhoods and the pedestrian-friendly issue. He also asked about transit stop availability.

Mr. Papers said although applicants were not obliged to create anything at Hamilton Court, they created a generous public access point to the trail.

Ms. Beaumont said asking questions of non-staff treads a fine line and might be creating additional testimony.

Mr. Papers said the pedestrian-friendly issue was on record. The southwest entry to the spa, especially as it connects internally to the main lobby, does address the future transit street in an adequate way.

In answer to Mayor Katz' question, Jeff Joslin, Planning Bureau, explained Council's options: 1) deny the appeal, sustain the approval; 2) approve the appeal and deny the proposal; and 3) approve the project with conditions.

Ms. Beaumont said if Council proposed conditions requiring anything beyond minimal or cosmetic design changes, they would need to exercise caution.

Commissioner Francesconi said he was confused about the street plan issue. Would it be separate and happen later on.

Mr. Joslin said the street plan itself is not approval criteria, with the exception of the reference in guideline A3.1: provide walkways and accessways identified in the North Macadam District street plan. It gives clear direction and expectations to developers as to the intentions as to where Transportation will require streets and access roads. The Design Commission looked at the street plan which had no accessway identified to align with Hamilton Court. That lack was not by intention, it was by omission.

Mayor Katz asked about the relatively blank wall, a design issue.

Mr. Joslin said it was also a Code issue. If ground floor windows were required in that location, the developer would have to provide them or get an adjustment. He

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noted the problem was that the dimension of the building could not shrink, it needed to slide one way or the other. Providing ground floor windows on the north wall would necessitate moving the building south, as they cannot provide the windows the Code would require and meet the Building Code.

Ms. Selid noted that within the building behind that wall, there is a parking garage, part of a unit and a foundation wall. The Design Commission was concerned about the wall, which led to the addition of the lighting requirement and adding the glass door to provide an activity point.

Commissioner Sten asked for staff's opinion on design requiring more of a stepdown approach on the river side.

Mr. Joslin said he does not believe it was prescribed by the guidelines. If Planning had not thought it stepped up sufficiently, the recommendation to the Design Commission would have been to revisit the overall massing of the building. Planning also agreed that the building had been shifted as far to the west as possible.

Commissioner Kafoury said she thought a lot had been done to make this attractive although the 75-foot height is not pedestrian-friendly. Perhaps angling the building would be more user-friendly, along with a serious stepdown. She cannot get past this and, if the vote were taken now, she would sustain the appeal.

Commissioner Hales said although this is the last parcel in the Central City, it is still in it. Pedestrian-friendly, regardless of the height of a building, is what happens at street level.

Mayor Katz said there was leeway for both sides to be right. The North Macadam Plan deals with urban form. This project probably deserves a higher density, yet, density makes design even more important. This is a special place -- the waterfront.

Commissioner Francesconi thinks a hotel on this site is a good idea and it does sound as if the developer has tried to accommodate opinions; he's been through design review twice. There is no reason why he should not want to make a profit on his property. The other side of the coin is the river location, the greenway, Cottonwood Bay, pedestrian consideration. He would have to vote no if they voted today.

Commissioner Sten said Code requires a minimum of 25 feet from the bank for a building, which is ridiculous. It should be 50 feet or more, at least. Also, the Code should distinguish the CX zone right on the river. The building should stepdown more on the river side. A smaller building might also be an ugly building and the developer has created a good looking one with good materials. He would need to

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vote against the appeal if the vote were taken today. He hopes the developer and neighborhood can take a couple of weeks and come up with a plan satisfying to both.

Commissioner Hales said he is very concerned about the integrity of the City's process. If Council changes the criteria after a developer has complied with what is required, its excellent track record with LUBA is going to become pretty poor. Council's decision must be based on what the Code says now, not what it would like it to say.

Mayor Katz asked for an answer regarding Code 33.510.205 -- creating views, stepdown of building heights to the Willamette River.

Mr. Joslin said it was not an approval criteria, simply the focus statement for the building heights.

Commissioner Kafoury moved to set this item over for two weeks, seconded by Commissioner Francesconi.

Mayor Katz said the purpose of the two weeks is to see if findings can be worked out to support the Council's majority view.

Ms. Beaumont said she understands Council wants to close the public hearing today and postpone this two weeks to resume Council discussion and deliberation.

Mayor Katz said she was nervous about additional lobbying of Council members. The continuance will be a technical and legal issue, not a lobbying issue for either side.

Disposition: Continued to January 21, 1998 at 2:00 p.m.

At 6:45 p.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 JANUARY, 1998 AT 2:00 P.M.

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

OFFICERS IN ATTENDANCE: Britta Olson, Acting Clerk of the Council; Linda Meng, Chief Deputy City Attorney and Frank Hudson, Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

29 **TIME CERTAIN: 2:00 PM** - Consider request of Corey Brunish for a Comprehensive Plan and Zoning Map amendment from R1, Medium-Density Multi-Dwelling, to CS, Storefront Commercial, Urban Commercial designation, in order to develop property located at 3286-3292 SE Hawthorne Boulevard with a mixed commercial and residential building (Hearing; LUR 97-00866 CP ZC)

Discussion: Linda Meng, Chief Deputy City Attorney, stated the hearing's guidelines.

Regarding ex-parte contacts, the Mayor and Commissioners Francesconi and Hales said they had gone by the site and received some letters and e-mail. This did not apply to Commissioner Sten.

Nan Stark, Planning Bureau, said this was a request for a comprehensive plan map amendment and zoning map amendment from R1, medium density, multi-dwelling zone, to CS, storefront commercial. The latter is in the urban commercial designation which also includes mixed commercial and the applicant is also receptive to CM as an option. She cited the applicable approval criteria and showed slides of the site at the corner of SE 33rd and Hawthorne Boulevard. She noted there was some non-conforming commercial uses and residential uses in the two-block residential zone, from 32nd to 34th. The CS zone runs on Hawthorne from 34th through 51st.

Ms. Stark said the two criteria for the comprehensive plan map amendments are: the requested designation on balance is equally or more supportive of the Comprehensive Plan than the current designation; and 2) there will be no net loss of housing units. The Hearings Officer and Planning Bureau found four reasons why, on balance, the proposal does not equally or better support the Comprehensive Plan: 1) the erosion of the residential zone; 2) it reduces the incentive for the existing CS zone nearby to be built at its intended levels; 3) the loss of housing potential, although it would be built with a 25-year covenant, but there is no requirement to maintain housing beyond that; and 4) expansion of strip commercial as the density of residential on Hawthorne supports the commercial district and breaks up the strip commercial pattern. Additionally, the Hearings Officer found the Richmond

Neighborhood Plan was not supported because the proposal resulted in a piecemeal rather than planned transition of the commercial zone. Regarding the zoning map criteria, the first is that the proposed zone is the most appropriate of the allowed zoning in the requested designation, in this case, Urban Commercial. Either Storefront Commercial or Mixed Commercial are appropriate in that designation. The City service bureaus responded that services could be made adequate, with a condition from Transportation that on-site parking be provided for at least several residential units. Neighbor response was both for and against the proposal. The site is in an existing R1 zone, anchoring the west end of the CS zone on the south side of Hawthorne. Removing a portion of this zone would further threaten its viability, creating pressure on other lots in the zone. The existing zoning better supports the Comprehensive Plan.

Corey Brunish, applicant, 2426 SE Market Street, 97214, said the Richmond Neighborhood Association unanimously endorsed the zone change and letters to the Planning Bureau are 17 to two in favor of the change. Commercial use of the land generates higher tax revenues and long-term jobs and careers for small business owners. Commercial use is more in demand than housing on Hawthorne. It will also contribute to cleaner air as the shops will allow residents to stay closer to home. Tri Met's Hawthorne bus is the best in the City. Median-cost housing on this lot will simply not occur as the diminutive size of the lot and the cost of construction will make the rent per apartment about \$1,200 a month. He said his proposal would allow the retail portion of the building to, in effect, subsidize the residential portion so rents would be about \$700 a month. Mr. Brunish said this was his sixth project on Hawthorne. In 10 years, he has completed commercial rehab projects on NE Broadway, downtown, NW 21st and Westover, along with five residential properties in the city. All have been executed with an eye toward four ingredients: 1) curb appeal; 2) construction quality; 3) neighborhood compatibility; and 4) filling a need in the community. The proposal has four residential units above and three retail units below.

Michael Krueger, 3381 SE Francis, 97202, the project's designer, said the request for additional Urban Commercial designation is consistent with the existing storefront commercial character found throughout this area. The Mixed Commercial zone is a way to soften the transition between busy streets and residential neighborhoods. The Richmond Neighborhood Plan wants to accommodate growth through main street development. This proposal fills both needs. The quality of the building's materials will lend a feeling of permanence. A statement from the Hearings Officer's report states "the housing potential from CM zoning is greater than that allowed by the R1 zone." Mr. Krueger found a density of over 37 dwelling units per acre in the existing R1 zone, more than the Metro Functional Plan requires.

Michael Deible, 1526 SE Bidwell, 97202, said he owns the property immediately south of the subject property. He owns some rentals in the area and develops on a small scale and is uncomfortable with the present R1 zoning for this property. If six units go in on it then the whole first level will be parking and, among other things,

will invite graffiti. The Hawthorne district is high rent, but the majority who want to live there are singles and generally have lower incomes.

Cynthia Lee, 10610 SE Washington, 97216, President of Gibson Bowes Better Homes and Gardens Real Estate, said realistically no one wants to buy or rent on Hawthorne's ground level. This proposal meets the appeal of second-story housing units with retail below, with no net loss of housing.

Douglas Klotz, 2630 SE 43rd, 97206, Land Use Chair of Richmond Neighborhood Association, said the neighborhood supports the proposal. He said the R1 zoning is not working for this property and agrees that it will create a non-pedestrian-friendly ground floor. He noted that many of the area's residents do not have cars.

Roger Jones, 2936 SE Taylor, said these two R1 zoned blocks will undoubtedly be discussed during the community planning phase of the Metro Main Streets Program. Many developers have looked at this lot and decided nothing could be done without a zone change. Mr. Jones said this proposal is very ingenious.

Sarah King, 1932 SE 35th, said the amount of criteria supporting the Hearings Officer is very small so Council could make findings to support the zone change. Hawthorne does not fit into the "image" of strip commercial.

Bruce Kent, 1323 SE 51st, supported Mr. Brunish's proposal.

Bob Head, 1828 SE 43rd, said he has lived in his home for 37 years. As a realtor, he had the subject property for sale for two years. Mr. Head is working with the Lentz revitalization program which is trying to get people to put in mixed use. Banks and mortgage companies are afraid of the mixed use. This proposal's success would "sell" that zoning. There must be some flexibility in zoning to make the City work as it should.

Mayor Katz asked Mr. Head to send her a list of the financial institutions and individuals not willing to invest in the mixed use developments.

Commissioner Hales said it is a healthy decision-making process if Council disagrees with the Hearings Officer, or staff, about 20 or 25 percent of the time. This kind of land use allows Council the most discretion as the decision involves changing the Comprehensive Plan and Zone. Does the proposal equally or better meet the Comprehensive Plan goals as a whole? He recalled the spot rezoning of R1 parcels that had sat for years in the Belmont area. Council, in a collaborative process, spot rezoned those parcels to CM which has been good for Belmont. Hawthorne, successful as it is, has few mixed use buildings and it is time to try that concept. Commissioner Hales moved to change this property's zoning to CM and Commissioner Sten seconded.

Commissioner Francesconi commented that there is an excellent relationship between businesses and residents on Hawthorne.

Commissioner Sten said this was a very good proposal and, at the same time, it is good that it takes some work to change the Comprehensive Plan.

Mayor Katz said employment growth is occurring on main streets and this is a win-win situation.

Disposition: Tentatively grant request, with conditions; Prepare findings and ordinance for January 21, 1998 at 2:00 p.m.

Commissioner Charlie Hales

30

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 (Findings; Previous Agenda 1881; LUR 97-00421 CU MS)

Discussion: Susan McKinney, Planning Bureau, said in last month's hearing Planning was given the direction to have Western States Chiropractic meet with the neighborhood for an alternative design for its parking lot. She said two alternatives were discussed and her understanding is that no consensus or agreement was reached.

Robert Simon, 712 Main Street, Oregon City, said he represents the Russell Neighborhood Association (RNA).

Karen Rutledge, 13141 NE San Rafael, Chair, RNA, recalled the two reasons the neighborhood is opposed to the expansion: 1) the negative impact of the traffic and 2) negative impact of the location of the parking lot. She said Western States sent invitations to a meeting only to the immediately abutting properties. Western States' alternative plan was to either move the parking lot 20 feet further or move the lot to the north and put very large buildings on the property lines. The latter is not an acceptable alternative.

Mr. Simon said RNA was trying to bring the neighbors into the environment created by this campus and it would benefit all the neighbors if it were more open, accessible and the visual was not a barrier of parking lots.

Mayor Katz said in the previous Council hearing, there was no plan for any additional buildings on the parking lot site. Those buildings would not come for at least 10-15 years.

Paddy Tillet, ZFG Architects, 320 SW Oak, Suite 500, 97204, architect for the Master Plan, said in the new proposal they have taken out all the head-in parking on the south boundary so the typical setback width has increased from 40 to 60 feet. The neighbors on the south are concerned about their privacy but this issue has existed since the houses were built and are unrelated to the college's use of its property.

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However, to be sensitive to neighborhood values the college increased the setback from five to 40 feet, eight times the requirement. The proposed parking will be protected by fences and planted berm to eliminate any nuisance from auto headlights. This proposal was presented at a community meeting and rejected out of hand. They wanted much more open space for the enjoyment of neighbors on the south. Compromise requires concessions on both sides -- the college has made three substantive concessions on this issue, each involving permanent loss of usable land. The setback now totals over an acre, five percent of the entire campus.

Mayor Katz asked if Mr. Tillet talked about the future buildings in that meeting.

Mr. Tillet said they explained that if the parking were displaced to the northeast corner, as suggested, then future buildings would be displaced to the south.

Commissioner Hales asked if the elevation of the parking lot was an issue.

Mr. Tillet said the topography generally works in their favor and, with the berm and plantings, lowering the lot is not necessary. In answer to the question why is the amount of parking being increased since the clinic will be moved from this site, Mr. Tillet said there is a proposed increase in the number of students. He noted that moving the clinic out removes some parking spaces, and it certainly removes a very large number of trips.

Commissioner Sten verified that the Hearings Officer had approved this design even before Western States' concessions.

Ms. Rutledge said the campus was designed as an island. She could not understand why the parking could not be close to the freeway side of the property.

Pat Rice, RNA, made several suggestions about the use of the campus' open space and trails that could be built.

Mr. Simon noted that Western States has based adding students on getting rid of the clinic. But, the clinic is a non-conforming use and, rather than adding students, they would be sent to enforcement, fined and shut down. They also should be dropping parking spaces, not increasing them.

Commissioner Sten said, if the situation were reversed, the school as a property owner could object to a resident building an addition. A property owner has the right to do what he wants on his property if it complies with the Code.

Mr. Simon said City Code 815.105B and 815.105C deals with the issues raised under the conditional use standard for livability. Also, Transportation Goal 6.15 applies. He emphasized this was a for-profit school, not an elementary or high school. It is an odd duck.

Mr. Tillet said the small number of people objecting are not representative of the

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neighborhood, it is a sub group. Moving the clinic was the result of a lengthy negotiation with the City's transportation folks on how to address trip generation. The Code is very clear on a college or other use next to a residential use and what the setback should be. This is not an odd duck at all. The college is not for-profit, it is C-3 non-profit. He understood this meeting was only going to deal with the setback.

Commissioner Hales made the motion to overturn the Hearings Officer and deny the application for a conditional use Master Plan. Mayor Katz seconded. Commissioner Hales said it was an accident of history to have a college in the middle of a neighborhood, walled off by the freeway. He said a conditional use Master Plan does not better solve the problems any more than individual conditional use applications for this or that change.

Commissioner Sten said we cannot say to institutions to not waste their time with the Master Plan process if one issue, of the 20 or 30 the college is trying to get certainty on, is just that neighbors and the campus are too close together.

Commissioner Hales said what a conditional use Master Plan ought to do is better balance the conflicts. The proposal still rings the campus with parking, which does nothing to tie the neighborhood to the campus.

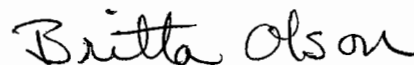
Mayor Katz said the votes on the motion to overturn the Hearings Officer were split two to two and the item will come back to Council. She recommended that the college and neighborhood get together again and really try for consensus. She had the clerk take a vote on the motion: Commissioners Francesconi and Sten, no; Mayor Katz and Commissioner Hales, yes.

Ms. Meng said the record would be open only on the issue of the parking lot.

Disposition: Continued to January 21, 1998 at 2:00 p.m.

At 4:00 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland



By Britta Olson
Acting Clerk of the Council