



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 8TH DAY OF JULY, 1998 AT 9:30 A.M.

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

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

***972 TIME CERTAIN: 9:30 AM** - Accept a \$247,223 grant from the U.S. Department of Justice, COPS Advancing Community Policing program (Ordinance introduced by Mayor Katz)

Discussion: Commissioner Kafoury said this should be referred back to the Mayor's office as both she and Chief Moose are unable to attend today's meeting.

Disposition: Referred to Commissioner of Finance and Administration.

Agenda Nos. 994, 996 and 997 were pulled from Consent. On a Y-4 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

973 Accept bid of Copenhagen Utilities & Construction, Inc. for affordable street improvements project phase II for \$487,211 (Purchasing Report - Bid C-9951)

Disposition: Accepted; prepare contract.

974 Accept bid of Schlumberger R.M.S., Inc. for furnishing an annual supply of large service meters for \$180,351 (Purchasing Report - Bid 98149)

Disposition: Accepted; prepare contract.

975 Accept bid of Nutter Underground Utilities Co. for N. Minnesota sewer rehabilitation for \$276,143 (Purchasing Report - Bid 98178)

Disposition: Accepted; prepare contract.

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- 976** Accept bid of All Concrete Specialties, Inc. for West Portland traffic calming safety projects for \$145,092 (Purchasing Report - Bid 98181)

Disposition: Accepted; prepare contract.

- 977** Reject all bids for multichannel logging recorder system (Purchasing Report - Bid 98208)

Disposition: Accepted.

- 978** Accept bid of Ikon Office Solutions for furnishing full service copier maintenance for \$66,350 (Purchasing Report - Bid 98215)

Disposition: Accepted; prepare contract.

- 979** Accept bid of Borg-Warner Protective Services Corp. dba Burns International Security Services for furnishing security services for the Bureau of Police vehicle storage facility for \$78,784 annually for three years (Purchasing Report - Bid 98223)

Disposition: Accepted; prepare contract.

- 980** Vacate a certain portion of SW Texas Street west of SW 45th Avenue, under certain conditions (Second Reading Agenda 930; C-9945)

Disposition: Ordinance No. 172453. (Y-4)

Mayor Vera Katz

- 981** Confirm reappointment of Dale Johnson and Steve Preston to the Towing Board of Review (Report)

Disposition: Confirmed.

- 982** Confirm appointment of Kelcey Beardsley, D.W. Owens, Peter Sanders and Ingrid Stevens to the Adjustment Committee (Report)

Disposition: Confirmed.

- *983** Approve a grievance settlement between the City of Portland and International Union of Operating Engineers, Local 701, authorizing payment to resolve a grievance over the change of work schedule of certain building maintenance mechanics (Ordinance)

Disposition: Ordinance No. 172454. (Y-4)

- *984** Execute a labor agreement between the City of Portland and the District Council of Trade Unions (DCTU) relating to terms and conditions of employment of represented personnel (Ordinance)

Disposition: Ordinance No. 172455. (Y-4)

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- *985** Extend contract with Ralph Andersen & Associates to conduct a classification and compensation study of the City's information technology positions (Ordinance)

Disposition: Ordinance No. 172456. (Y-4)

- *986** Pay claim of Hugh Grant, Jr. (Ordinance)

Disposition: Ordinance No. 172457. (Y-4)

- *987** Authorize amendment to the City's Self-Insured Benefit Plan Document for CitySelect and CityBasic (Ordinance)

Disposition: Ordinance No. 172458. (Y-4)

Commissioner Jim Francesconi

- *988** Reimburse Multnomah County for expenses incurred in the repair of the 15th floor of the Portland Building and provide for payment (Ordinance)

Disposition: Ordinance No. 172459. (Y-4)

- 989** Increase contract with Carlson Testing, Inc. for additional services for City Hall renovation in the amount of \$3,300 (Ordinance; amend Contract No. 30689)

Disposition: Passed to Second Reading July 16, 1998 at 2:00 p.m.

- *990** Award revocable permit to Staff Jennings, Inc. for installation, maintenance and monitoring of groundwater wells at Willamette Moorage (Ordinance)

Disposition: Ordinance No. 172460. (Y-4)

Commissioner Charlie Hales

- 991** Consider vacating a portion of SW Multnomah Boulevard between SW 40th and SW 45th Avenue, at the request of Leonard Gionet (Report; C-9943; **Hearing rescheduled to September 9, 1998 at 9:30 a.m.**)

Disposition: Continued to September 9, 1998 at 9:30 a.m.

- *992** Amend Professional Services Agreement with Becker Projects to increase the amount by \$18,500 for Bureau of Buildings newsletter services (Ordinance; amend Contract No. 30650)

Disposition: Ordinance No. 172461. (Y-4)

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- *993** Amend Professional Services Agreement with Becker Projects to increase the amount by \$18,000 for Bureau of Buildings publication services (Ordinance; amend Contract No. 31194)

Disposition: Ordinance No. 172462. (Y-4)

- 995** Vacate a certain portion of SE Fern Avenue, under certain conditions (Second Reading Agenda 949; C-9798)

Disposition: Ordinance No. 172463. (Y-4)

Commissioner Gretchen Miller Kafoury

- *998** Contract with Portland State University Center for Community Research and the Urban League of Portland for \$22,000 to provide technical assistance to the Bureau in assisting BHCD target areas in developing project performance measures and tracking tools and provide for payment (Ordinance)

Disposition: Ordinance No. 172464. (Y-4)

Commissioner Erik Sten

- 999** Accept completion of the Water Pollution Control Lab building phase, Project No. 4618, and authorize final payment to U.S. Pacific Builders (Report; Contract No. 30280)

Disposition: Accepted.

- *1000** Authorize a contract and provide for payment for the design of Johnson Creek FEMA flood insurance study, Project No. 6220 (Ordinance)

Disposition: Ordinance No. 172465. (Y-4)

- *1001** Authorize a contract and provide for payment for the design of Marshall Park stream restoration project, Project No. 6043 (Ordinance)

Disposition: Ordinance No. 172466. (Y-4)

- *1002** Authorize a contract and provide for payment for Balch Creek-Lower MacLeay Park stream restoration project, Project No. 5946 (Ordinance)

Disposition: Ordinance No. 172467. (Y-4)

- *1003** Extend and increase the amount of contract with Cornforth Consultants, Inc. from \$92,860 to \$137,563 for additional construction services (Ordinance; amend Contract No. 31260)

Disposition: Ordinance No. 172468. (Y-4)

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- *1004** Authorize a contract and provide for payment for the reconstruction of Bull Run Road 1008 (Ordinance)

Disposition: Ordinance No. 172469. (Y-4)

- 1005** Authorize a contract and provide for payment for the construction of improvements to Marquam Hill pump station #2 (Ordinance)

Disposition: Passed to Second Reading July 16, 1998 at 2:00 p.m.

- 1006** Amend contract with KPFF Consulting Engineers for professional services under Phase II of bridge rehabilitation project (Second Reading Agenda 960; amend Contract No. 29668)

Disposition: Ordinance No. 172470. (Y-4)

- 1007** Amend contract with Cornforth Consultants, Inc. to provide professional services for the addition of a public involvement phase to a study of underground water conduit crossings of the Sandy River (Second Reading Agenda 962; amend Contract No. 30891)

Disposition: Ordinance No. 172471. (Y-4)

REGULAR AGENDA

- *994** Authorize construction contract with the lowest responsible bidder to construct the Eastbank Convention Center dock project (Ordinance)

Discussion: Commissioner Hales said he would like this referred back to his office.

Disposition: Referred to Commissioner of Public Safety.

- *996** Appoint Fire Battalion Chief John Bisenius to Fire Deputy Chief at the pay rate of \$40.23 (Ordinance)

Discussion: Commissioner Kafoury said she would like this and the following item returned to her office.

Disposition: Referred to Commissioner of Public Affairs.

- *997** Increase compensation of Rachel Jacky within the existing pay grade range for Program Manager II to the rate at the top of the range (Ordinance)

Disposition: Referred to Commissioner of Public Affairs.

- 1008** Direct the Bureau of Purchasing to adopt a Selective Purchase Rule to prohibit City contracts for professional, technical expert services with firms that do business with the military regime in Burma (Myanmar) (Resolution introduced by Commissioners Francesconi, Hales, Kafoury and Sten)

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Discussion: Commissioner Sten said today Council is taking a stronger approach than in 1996 when it sent a letter to Portland businesses urging them not to do business with Burma. The co-sponsors concluded this is probably the worst country in the world with regard to human rights abuses and that there is a clear need to make a statement about Burma. Can this make a difference? In this case, a strong grass roots movement has pushed local governments to make a statement that, coming from a coalition of cities, can be more effective than just one acting alone.

Individuals speaking in support of the resolution included:

Edith T. Mirante, Burma Action Committee, 0104 SW Lane, 97201
Jensine Larsen, 1727 SE Madison Ave., #2, 97214
Aung Zin, a Portland resident, no address stated
Aung Win Kyi, 1624 SE Bidwell St., #8, 97202

Supporters of the resolution said the Committee has exposed the relationship between multi-national companies and the Burmese dictatorship. Most American companies have left Burma because of the military regime's extreme brutality but Arco and Unocal still remain there. Ms. Mirante said the flourishing heroin trade here links the corrupt generals of Burma with the streets of Portland. Others testified to specific incidents of brutality and injustice they had witnessed and said this peaceful economic pressure on the military elite will help promote the pro-democracy movement there.

Commissioner Sten moved the amendments that had been distributed. They call for the Purchasing Bureau to finalize a more detailed policy and then return to Council. Hearing no objection, Commissioner Kafoury, as President of Council, so ordered.

Disposition: Resolution No. 35710 as amended. (Y-4)

Mayor Vera Katz

- *1009** Authorize a contract with Convergent Group, Inc. to assist in the development and implementation of an Enterprise Geographic Information Systems Hub (Ordinance)

Disposition: Ordinance No. 172472. (Y-4)

Commissioner Jim Francesconi

- 1010** Approve the Park Block 5 process report and direct the respective City Bureaus to undertake certain activities related to this report (Resolution)

Discussion: Commissioner Francesconi said everyone is very happy that the City will have a public square instead of a parking lot on this block. This resolution outlines the steps that will be taken to make the planning process for this park an inclusionary one and relates this effort to what is happening elsewhere in the area. He is confident this will be a signature park for the City.

Zari Santner, Parks and Recreation Bureau, said Parks will be collaborating with the Portland Development Commission (PDC) in development of this park. This resolution describes the process

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and the long-term responsibilities of each agency. The process will begin with a contextual study of what is happening downtown, followed by a visioning process to develop goals and a list of activities to be accommodated in the park. That will lead into the design phase and selection of a design team. Because this is a premier downtown block, it deserves to become a premier urban open space. Throughout the planning, this will be a citizen-driven process.

Les Prentice, PDC, said a Citizens Advisory Committee will be the driving force in shaping the work program and the report also states that he and Ms. Santner will meet with any special interest group or neighborhood association at their request. Once a preferred alternative is determined, it will go through Design Review and the City Council. First, however, some intermediate steps will be taken to keep both the Design Commission and Council up to date.

Disposition: Resolution No. 35711. (Y-4)

Commissioner Gretchen Miller Kafoury

- 1011** Authorize execution of agreement with the U.S. Department of Housing and Urban Development for a Section 108 loan in the amount of \$8,000,000 and a corresponding Economic Development Initiative Grant in the amount of \$2,250,000 (Ordinance)

Discussion: Commissioner Kafoury said this authorizes the agreement with the federal government for the money they knew was coming.

Disposition: Passed to Second Reading July 16, 1998 at 2:00 p.m.

Communications

- 1012** Request of Randall Steiner to address Council regarding Providence Hospital's proposal to build a parking structure south of NE 48th and Multnomah and north of I-84 (Communication)

Discussion: Randall Steiner, 1344 NE Euclid, objected to the effect Providence Health Care System's plan to build a parking structure in a residential area will have on neighborhood livability. He added, however, that after a meeting with the neighborhood, the hospital may be backing away from building the structure until it has taken better look at it. He said after negotiations failed on another property, Providence decided to place a 760-space, five-story parking structure on land east of 47th Avenue, with access through a small stub of NE 48th, a quiet residential street. He asked Council to reject that plan for reasons of traffic and public safety.

Mike Hayakawa, Planning Bureau, said the Bureau took a close look at this during the preapplication process and found that the property has been in light manufacturing or employment zoning for about 40 years. Unfortunately, the main access is through an area with residential zoning. Staff recognizes the issues but needs to look further at the Zoning Code for direction regarding the structure and the uses by right.

Commissioner Kafoury asked if the Bureau could mediate between the neighborhood and the applicant.

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Mr. Hayakawa said Planning staff has the same concerns as Mr. Steiner and will share them with the medical center to see what might be worked out. The preapplication was fairly vague and staff has not seen the exact details as yet.

Commissioner Hales volunteered to talk to the Mayor's office about an informal approach to Providence. He asked about neighborhood association involvement.

Mr. Steiner said after he called a meeting in his front yard, attended by between 30 and 40 people, Providence scheduled a meeting which drew 118 neighbors.

Disposition: Placed on File.

At 10:20 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 8TH DAY OF JULY, 1998 AT 2:00 P.M.

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

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

Commissioner Charlie Hales

- 1014** Tentatively grant appeal, with conditions, of Northrup Investment Company, applicant, against Hearings Officer's decision to deny a conditional use to expand the BridgePort Brewing Company Pub at 1313 NW Marshall Street (Findings; Previous Agenda 869; 97-01217 CU)

Discussion: Cay Kershner, Clerk of the Council, noted a letter from the applicants requesting a two week extension to allow full review of the findings.

Disposition: Continued to July 22, 1998 at 2:00 p.m.

- 1013 TIME CERTAIN: 2:00 PM** - Appeal of Corbett/Terwilliger/Lair Hill Neighborhood Association against Design Commission's decision to approve with conditions the application of BRD Restaurants LLC and Guardian Management Corporation for design and greenway reviews for a new 7-story hotel and condominium building (Avalon Hotel) at 4640 SW Macadam Avenue (Hearing; 98-00177 DZ GW)

Discussion: Kathryn Beaumont, Senior Deputy City Attorney, outlined the guidelines to be followed for today's appeal, which is an evidentiary hearing at which new evidence can be presented.

Council members described their visits to the site and any ex parte contacts they might have made.

Ruth Selid, Bureau of Planning, said the appellant has requested that the previous two cases be added to the record for this case. She cited the approval criteria for this project and noted that they are extensive because the site and proposal cross both the Central City and Macadam Plan Districts. She said in February, Council denied an earlier version of this proposal on appeal and the Design Commission then held hearings in April and May on a revised application. On May 14 it voted four to one to approve the application. The Design Commission's findings focused on the same issues raised by Council. These included: 1) the relationship of the building to the greenway trail; 2) pedestrian access; 3) height and mass of the structure; and 4) shading and impacts on the greenway. In approving the new application, the Design Commission noted seven major changes, which Ms. Selid explained in detail. These include: 1) a shift in the building mass 14 feet back from the River; 2) more setbacks from the River in the facade; 3) more articulation of the facade with lateral steps as well as the steps back from the River; 4) the addition of windows to the north wall, which previously had no openings; 5) efforts by the applicant to secure an easement from the adjoining property owners to provide a Class III pedestrian accessway as required by the Design Commission;

6) revision of the design for the south side private street access, an extension of Hamilton Court, to meet public street standards; and 7) a reduced canopy over the south entrance rather than a large porte cochere with street trees. An issue was raised about the transit street main entrance and the ground-level floor plan now shows one open lobby rather than separate spa and hotel lobbies. The corner entrance will act as the main entrance for the hotel. She said four new drawings have been provided, including two measurement drawings that break out the distances from the framework in front of the ground floor of the hotel to the edge of the trail. The other two drawings show how the design can meet the ground floor window standards on the north side of the building.

Regarding the floor area ratio (FAR) issue, Ms. Selid noted that this project qualifies for FAR bonuses. The base FAR in this area is 2:1, which is rather low for the Central City CX (Central Commercial) zone and without the bonuses development would tend to be very low, with surface parking adjacent. The bonuses are development standards which grant floor area by right if the Code-defined amenities are provided. Another issue raised earlier was the public street width. Standards for streets in this area are outlined in the North Macadam Street plan which states that the City Engineer may require a specific street width based on the development proposed on a parcel at a specific time. She said Transportation staff has indicated that the City would accept the 22-foot wide street although the Macadam Plan matrix shows this area as having a 24-foot wide street. Transportation stated that due to the unique site condition here, 22 feet is what it would require and that is what the proposal shows. In this case the Railroad Consortium owns the right-of-way immediately on the west side where the right-of-way is wider than it is to the north and south. It was hoped that the Consortium would be willing to allow more of its land to be used for street development but the developer was unable to arrange that so it was decided that 22 feet was acceptable.

In conclusion, Ms. Selid said the Design Commission found that the new design is more articulated, sensitively designed and uses higher quality materials. The tallest section of the building is as far from the greenway trail as possible and the scale, as experienced from the greenway, has been reduced through significant stepping back in the major planes of the building walls and through articulation of the facade. Access to the greenway has been improved to the north with dedication of the pedestrian access and ground floor windows and to the south with standard sidewalks and a wide and attractive access to the greenway. Staff and the Commission both recommend approval.

Daniel Kearns, attorney representing Corbett Terwilliger Lair Hill (CTLH) Neighborhood Association, the appellants, said they do not oppose the use but believe the design does not comply with the design guidelines, which are the approval criteria. He said this is the first time the North Macadam Design guidelines, adopted in 1992, have been tested. Prior guidelines also apply, including the Willamette River Greenway guidelines adopted in 1988 pursuant to Goal 15, the Central City Plan fundamental design guidelines and the North Macadam Street Plan adopted in 1997. Goal 15 itself is very specific about the special status of the Willamette River. He said this is one of the most important design areas in the City and the City has had a long history of dealing with the specific characteristics of the area and CTLH has long been a part of the process the Planning Bureau put together to shape these design standards. Also to be considered is the recent increased focus on water quality in the Willamette River, due to the endangered species listing and Metro's Title 3 amendments. This building, at seven stories, will be the largest one along this section of the water front and extremely close to the Willamette River greenway, leaving precious

little bank between the walkway and the River. This is not a modest or appropriately sized development for this area.

Mr. Kearns said Council in its previous findings was very specific about why it denied this proposal the first time. It found that the pedestrian accessway did not meet three of the design guidelines for the Macadam District area. The building is right on the property line and the mass, scale and height of the building, relationship of the greenway, shading and other impacts were found to support findings that the criteria were not met. He noted also that the HVAC units from the River Forum building also infringe on this property because the owners assumed that the developers of this property would provide an equal amount of accessway of the property line, which this applicant has not done. The message from Council's first decision was that this project was too big, too bulky, too massive, too tall and too imposing of a facade. The pedestrian accessways do not invite a flow-through as it is expected to do or as the River Forum Building does. Mr. Kearns said the new proposal retains the same footprint, height, bulk, number of rooms and dimensions. The floor area inside the building has been increased by 2,200 square feet and the FAR has been increased from 3.4 to 3.48. At the original hearing Mayor Katz said Council was looking for substantial design changes, not just tweaking around the edges. This is tweaking and the fundamental problems still remain. CTLH believes there should be a huge shift to the street side, backing the building away from the greenway.

Mr. Kearns said a number of other issues were not addressed in this application. Street standards on the Moody Street side require a right-of-way standard of 24 feet because it is a major transit street. Instead the applicants have provided a substandard right-of-way, partly because the site has been filled by the building. Also they are providing sidewalk on only one side and part of the right-of-way requirement is apparently being met by the Railroad Consortium. Also, the main entrance on the south side, instead of being an inviting public access point, has become a massive car and people circulation area. The north entrance way is very canyon like and uninviting as an accessway, with windows placed very high above ground. He said, overall, the redesign does not meet the design guidelines that Council interpreted in its previous decision. This is not a change from that original design and Council must consider the significance of the River.

Commissioner Francesconi asked him to pick the top three reasons why this design does not meet the guidelines.

Mr. Kearns said the building is too big, it does not provide a strong pedestrian element along the greenway and the accessways north and south have been blocked. These problems could be fixed with a significant design change.

Individuals testifying in support of the appellant included:

Pat Scruggs, 0426 SW Dakota,
Carl Simons, 0350 SW Dakota,
Amanda Fritz, 4011 SW Dolph Court, 97219
Jeanne Gallick, 7005 SW Virginia, 97219
Mike Houck, Audubon Society of Portland
Mark Wilson, 1123 SE Harney

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Susanah Marriner, representing the Willamette River Keepers

Joe Porasky, 1826 SE 22nd Avenue, Chair, Urban Forestry Commission

Corinne Paulson, League of Women Voters

Phil Hamilton, CTLH President

Jeff Lang, 7240 SW Fulton Park Blvd., 97219

Don Clark, 5170 SW Landing Dr., #302

Howard Glazer, 2378 SW Madison, 97101

Leonard Gard, Southwest Neighborhood Inc. staffperson

Stephen Leflar, 3404 SW 1st Ave., 97219

Margot Barnett, 9912 SW 25th Ave., 97219

Adam Zielinski, Columbia Group, Sierra Club

Opponents of the project said the revised design does not make significant changes or address the issues raised when Council denied the earlier application. It is just a tweaking around the edges of the same design. It is still too massive, too close to the Willamette River and will seriously impact both the Willamette Greenway and Cottonwood Bay, which has been acknowledged as an important riparian area worthy of protection. Some commented on the shadowing effects and testified that the minimal reduction in the solar shading between the two designs fails to meet the intention of the Willamette Greenway guidelines. They also voiced concern about the effect shadowing will have on the accessways and on the ecosystem of Cottonwood Bay. Many testified as to the failure of both the south and north accessways to be sufficiently public in nature. They said they are too narrow and do not meet guidelines which mandate a pedestrian circulation system with safe, attractive walkways with landscaping and open space. Some questioned allowing such a building to be built in a 50-year flood plain and the merits of the proposed stormwater terrace between the building and the greenway, especially as there is no stormwater pretreatment or shade trees planned on the greatly expanded parking lot. They called for more convenient linkages to the river and to adjacent neighborhoods, for a harmonious transition between private and public spaces and better public access. The need to do more to protect the trees, fish and wildlife habitat was emphasized, particularly given the recent endangered species steelhead listing for the Willamette River. Specific approval criteria were cited as not being met. These included design guidelines 8.3, regarding the ratio of open space to buildings; 8.31, requiring a safe, attractive walkway; and B-2, which mandates a pedestrian circulation system designed to ensure adequate separation and screening from parking, loading and circulation, exterior vents and mechanical devices. They said approval of this design will set a bad precedent for the development of the rest of the North Macadam area. CTHL representatives said that the applicants had not involved the neighborhood in a meaningful way, resulting in bad feelings on both sides. They called upon Council to reject this design and ask the developer to come up with a new one that truly involves the neighborhood.

Greg Hobart, Oregon Department of Fish & Wildlife (ODF&W), cited the impact this development will have on adjacent trees in Cottonwood Bay and said the applicants have not made a commitment to the City to not interfere with the trees, which provide important wildlife habitat and natural streambank stabilization. He noted that applicant's attorney has just provided language for a condition indicating their intent to protect the trees. If that is acceptable, it would satisfy ODF&W concerns.

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Commissioner Hales noted that the cottonwood trees in question are on property owned by the Parks Bureau, not the applicants.

Mr. Hobart said ODF&W, while recognizing that the trees are on City property, would like a condition stating that the applicant will refrain from suggesting that the trees be altered or removed.

Commissioner Sten asked if this was ODF&W's sole concern.

Mr. Hobart said they have other general concerns about siting buildings in flood plains along the Willamette but they are peripheral.

Steve Pfeiffer, attorney for the applicant, said a panel of experts, ranging from landscaping to habitat assessment and shading studies, is available if Council has questions. He said the focus of these proceedings should be on the design guidelines as the endangered species act is not a standard here, nor is Goal 15 or Title 3, even though that does not mean they will not be met. Second, he said saying something often enough does not make it true and cited the destruction of the trees as one example. He said the applicants have moved the development further away from the trees and repeatedly offered commitments to protect the trees in any way needed. Mr. Kearns indicated that the applicants are deficient on right-of-way width. This is untrue as they meet the full right-of-way width of the North Macadam Management Plan. The debate is simply over the width from curb-to-curb of 22 or 24 feet. One individual testified that ground floor window improvements look upon a locker room but, in fact, they look upon a lunch room. Mr. Kearns suggested there is no sidewalk on the other side of Moody but the reason for that is because it is a railroad track and when and if that redevelops, there will probably be a sidewalk there. Concern was expressed that this development will run afoul of the 50- or 100-year flood plain but only five to ten percent of this site lies within the 100-year flood plain and the first floor is over four feet above the minimum 100-year floor level for the small portion that applies.

Mr. Pfeiffer said they have no problem agreeing to ODF&W's condition, even though the trees are not on their property, and noted that he provided a letter yesterday which includes specific language to accomplish that. They are formally committed to keeping those trees as they are and the building design reflects that. He said there has been a lot of testimony premised on the notion that if the footprint does not change or the gross area or overall height of building does not decrease, the applicant has not been responsive to Council's earlier basis for denial. That incorrectly presupposes that changing the footprint and height are the only two ways those concerns can be addressed. In fact, there are many other ways those can be addressed leaving the footprint exactly where it is. The pathway, contrary to much of the testimony, is a 12-foot wide easement with a 7-foot pathway with two feet of landscaping on either side. It is a serpentine path which avoids the mechanical systems in that area. To suggest that seven feet is inadequate for public accessibility suggests that all six-foot sidewalks in the City are wholly inadequate as well. The seven-foot pathway is a substantial improvement. The primary pedestrian access is on the southern edge and will result in a far better situation than exists today. The pathway speaks both to what Council directed in terms of the design and also fully complies with the requirements of the Macadam Street Plan which requires a 10- to 25-foot easement but no real fixed pathway width, although they really tried to provide the 7-foot width plus landscaping.

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Lee Winn, project architect, 644 NW 13th, said the earlier north elevation had little or few openings and did not meet Council's approval. The proposed new north elevation has added glazing to the storefront, the glass door and sidewalk so guests can see through to the corridor. In addition, windows near the corners of the outside rooms were added to comply with the 50 percent requirement for the length. They provide more than double what is required for glazing. The second and fifth floors also have glass blocks with doors that open out onto balconies and the sixth and seventh condominium floors have glazing. He compared the original proposal with the current one to illustrate the difference in paving materials. He said they extended the access from Hamilton Court using City standard sidewalks and paving, planting areas, street trees, lighting, curb cuts and also pulled back the canopy. The goal has been to make it exactly replicate a City street. The opening for the throat for the building is 70 feet, an extremely generous opening that leads down off the turnaround past the fountain, onto the Willamette greenway. The revised floor plan shows the lobby, which combines the front desk for the hotel and the spa so the two entrances to the hotel are equally weighted. They also made the spires and the canopy similar in height so one entrance would not visually dominate the other. Obviously it would be better to locate the luggage drop-off, etc. at the back and place the pedestrianway in front. But the two are combined at this point. He said they have an agreement with the Railroad Consortium to provide a trolley stop and its design will be similar to the canopy's. He said the height is well within that required, not only for the site, and is also compatible with surrounding buildings. He said when they designed this building, they took the furthest west point that they could actually locate, based on connecting to the River Forum II circulation and also to curbs required by Transportation to accommodate fire and emergency vehicle access. That became the control point. He described the placement of various elements and the revisions done to accommodate both vertical and horizontal stepping back. Mr. Winn displayed drawings to indicate the new design and showed a computerized study indicating different shadow effects at various times of the day on April 21st. The first shadows began to appear at 1:00 p.m., by 3 p.m. there was a slight encroachment on the path at the north end and by 4 p.m. the shadow was clear. There is a six percent reduction in light based on the after 5 p.m. In addition, he noted that cottonwood trees are prolific and grow near buildings without any problems.

Commissioner Francesconi asked why the bulk of the building had not been reduced.

Mr. Winn said the bulk is essentially the same except for the increase of 2,000 feet for the enclosure of a second-story court. When they moved the 14-foot portion back on the site, it reduced the size of the courtyard so it was impossible to use. The reason it is this size is because of the pro forma -- it has to be a business that survives and makes money. Without that, there is no reason to put it there.

Commissioner Francesconi asked why this was the furthest west the control point could be.

Mr. Winn showed a slide to indicate that a portion of the River Forum II Building where the sidewalk connects and the front of River Forum is at that point. Beyond that, on the other portion of their property, is parking. The proposed right-of-way would be a straight line except that River Forum II is under no obligation to move at this point. Once the sidewalk was established and they provided the curves needed for emergency vehicle access, that put them back to the straight section of the extension of Moody. The street defined the westerly-most portion where the building could be located and that corner, which actually aligns in front of River Forum II, then became the point

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where that mass needed to be.

Commissioner Sten asked the applicants to comment on testimony that the conversation between the two sides has not been substantive over the last several months.

Mr. Pfeiffer said he believes there is little to be gained from further discussion among the parties. Some of the opponents' recommendations would simply kill the project so at some point they have to agree to disagree and appear to have reached that point.

Supporters of the current design application included:

Gary Papers, American Institute of Architects, Urban Design Committee, speaking as an individual

Charlie Sax, Vice Chair, Design Commission

Ron Rathburn, senior ecologist for Enviro Science

Gretchen Vadnais, project landscape architect, 821 SE 14th

Bruce Magnuson, David Evans & Associates, 2828 SW Corbett Ave.,
97201

Vern Rifer, Gerding Edlen Development Co., 4650 NW Macadam, 97201

Alice Morris, 4380 SW Macadam Ave., 97201, employee of Pacific Hotel Group,
commissioned to manage the Avalon Hotel and Spa

Jimmy Drakos, 2 SW Boundary Street, area business owner and
CHLH board member

Mary Janet Steen, 2303 SW 16th

Jay Harter, 4123 SW Comus, 97201

Christine James, 2943 NW Imperial Terrace, 97210

Supporters said this is a well designed and innovative project which meets the design guidelines and should not be penalized for following the existing rules. While the bulk of the opponents' testimony emphasizes height, mass and scale, much of what is proposed here is allowed by right in this zone and unless flagrant abuse of design guidelines is demonstrated, the design criteria has never trumped base zone development regulations. Mr. Rathburn said his study of the riparian vegetation found this area to already be impacted by development but believes this project can maintain the riparian vegetation and wildlife associated with it now. Supporters testified that there will be a decrease in impervious surface and less stormwater runoff than currently exist. Mr. Rifer and others said this development will produce significant transportation improvements, specifically the pedestrian access from Macadam to the River and greenway. The proposed future extension of Moody and the trolley stop will also greatly improve the attractiveness of the area. Several testified that many people in the neighborhood, including the Johns Landing Macadam Avenue Business Association, do support this development while others stressed the appeal of having a safe trail in an urban environment where people can walk or jog.

Commissioner Francesconi noted that the Design Commission has requested that the Planning Commission consider the FAR bonuses to see if some adjustments can be made. However, the Council may want the Design Commission to look at this first.

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In rebuttal, Mr. Kearns said this is an innovative and terrific-looking design but not for this place, where very specific design criteria apply. The neighborhood was hoping that the new design would include a reduction in height from seven floors as a building this high is out of scale with adjoining buildings. They also looked for a reduction in bulk which could be achieved by pulling in the footprint. That will eliminate the access problems to the north, which the applicant has essentially written off by stating there is legal access. That is not the standard here. Council gave a very elaborate explanation of the need to provide an access that is inviting to the public. Jumping over luggage and bellhops to get to the riverfront from the south access also does not invite the public to move through the area. He said at the one meeting the applicant held with the neighborhood, people were not given an opportunity to discuss their ideas about what significant design changes it would take to meet the design criteria. The bottom line is that in order to maintain profitability, the structure needs to have a certain size. There is nothing wrong with that but this building needs to go to another location if that is the situation. This decision will set a precedent for what the North Macadam design guidelines mean.

Commissioner Hales moved to tentatively deny the appeal and uphold the Design Commission's approval of the project as revised. Commissioner Sten seconded but suggested that some version of the Department of Fish and Wildlife's request for a clause to protect the trees be included.

Commissioner Hales agreed and noted that could be included in the findings since language to that effect has already been discussed by the parties to the case.

Ms. Beaumont read the language proposed by the applicant's lawyer to ensure that the cottonwood trees are protected.

Commissioner Kafoury asked if a bond would be appropriate.

Ms. Beaumont said in this case, where the applicant agrees to refrain from doing something, a bond would not be appropriate. The condition calls for the applicant and any subsequent owners of the hotel to refrain from taking any initiative to cut down or otherwise adversely affect the trees.

Commissioner Sten said ODF&W does seem to imply that the trees are on hotel property, which they are not.

Commissioner Francesconi said this has been a very difficult case for him. Among his concerns are the FAR bonuses and whether 19,000 square feet should be given for a locker room and 10,000 square feet for roof gardens. There is also the question of where the City should be giving residential bonuses. He said this case has helped focus attention on how the City treats the River and public access to it, especially as urbanization occurs. He expressed regret that the parties became more polarized, leaving Council to resolve the situation. He agreed that developers need certainty although that can be hard to balance against the public interest in protecting the river and greenway. He said design guidelines need to be enforced and another question is whether the Council should defer to the Design Commission. That is the right thing to do but the river needs to be given special consideration and he sees a conflict between the zoning and some of the guidelines that needs to be reconciled. The way to do that is to examine the evidence to see if it meets the design guidelines. There are three basic issues. The first is the impact of shading on the greenway and the cottonwoods.

Here there is evidence of a six to eight percent light reduction in the new design. In its previous findings Council said the earlier design did not set back the bulk of the tower enough and did not maximize the amount of sunlight reaching the public space adjacent to it. He said the new design moves the control point as far west as possible and therefore, he believes the evidence in support is significant enough that he cannot use that criteria to defeat this proposal. The second issue is the pedestrian access. While some have testified that Council has given into the neighborhood association and to political whim, the business owners in Macadam also wrote a letter objecting to this proposal, based on the pedestrian access. The north wall has been modified -- windows and additional lighting have been added and the path has been widened from five to seven feet. The developer may increase that to 15 feet with an easement. The key access is Hamilton, on the south, which in the previous design was basically a private entry that benefited the restaurant. Changes have been made to the south access to add features that encourage public use, i.e. sidewalks and street lights which meet City standards on both sides of the street. Public parking is available and the hotel entrance has been moved 14 feet west and an additional 10 feet between the restaurant and hotel has been added as well as a trolley station. These changes are significant and he cannot turn down the application on those grounds.

Commissioner Francesconi said by far the toughest issues have to do with the scale, mass, height and relationship to the greenway. Exhibits A-1, B-1, B-1.1, C-4 and A. He continues to be troubled by the bulk of this building in such a small space -- he thinks it is too tall and too big. However, this is private property and the hotel owner has a right to make some money on the deal. They have not reduced the size of the building and the square footage is actually 2,200 square feet larger. It comes down to whether the applicant has satisfied the design guidelines, however, rather than his personal opinion. He has concluded that they have for three reasons. First, the changes are significant, adding variety to what was previously a long flat wall with a series of terraces and patios to improve the pedestrian scale. Second, the zoning does allow such buildings in the central city and if this one meets the design criteria he must approve it to provide certainty. A third reason to approve this is based on his reliance on the credence of staff and the Design Commission. Their testimony was powerful and he does not believe it is up to him, unless he has strong feelings (which he did before about the long, blank wall and the pedestrian access) to interject his personal opinions. He hopes to work with the community to find the appropriate balance between incentives and regulations in order to develop the City's most precious resource, its river. He said he hopes the neighborhood will assist in this but believes the bulk of the evidence clearly supports approval.

Commissioner Hales agreed with Commissioner Francesconi on the Code issues and the design criteria. The design improvements on both the building and site plan are significant and respond positively to the concerns raised. Elements such as the Hamilton Court extension have significantly improved the building's relationship to the public realm, not just to the greenway but also to the street network. While this has become a polarized case, he is heartened by the discussion and by the changes that have been made as a result of the appeal. It is also great to have this level of citizen activism on design issues, particularly in this area. Finally, he disagreed with Mr. Kearns' assertion that this is not the right site. He said this property is zoned central city commercial, the last parcel heading south from downtown, and everyone ought to be able to rely on the zoning and the Code to a very considerable extent. While there is some room for discretion, the intention of the zoning is to have central city style development here, modified to deal sensitively with the greenway. That has been accomplished here. He thanked the citizen members of the Design Commission who have

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put in an incredible amount of time trying to improve the design quality of what gets built in the City.

Commissioner Kafoury said she agrees with Commissioner Francesconi's analysis about the changes that have been made and about Council's original reasons for denying this. It was a close vote then and she believes the stepping back of the facade is a major improvement as is the public access to the south. Staff and the Design Commission members who have worked on this for many more hours than she has, continue to recommend this design and she does not lightly reject their recommendations. She noted that the Council members who voted recently to allow the skybridge (on the Pioneer Square expansion) in order to keep commitments the City made many years ago were the same ones who rejected the Avalon Hotel's prior application, indicating Council's inconsistency about honoring prior agreements. However, in this case the site visit was the key to her in making this decision as it led her to conclude that this is the right kind of development for this place. It is an urban greenway at this point, not a nature trail, even though the river needs to be protected as best it can be. While it would be politically popular to vote against the applicant and it would not change the outcome, she is going to vote against the appeal.

Commissioner Sten said he wishes the building were a little shorter but its height is clearly allowed. It is a very well-designed building and in terms of access to the river, the Code only requires a building to be 25 feet back. This plan is over double that in several places and close to double that on average. By turning this down, the City could get a shorter building much closer to the greenway and that would trouble him more. He does not buy that the height of the building will have a huge impact on the health of the river so, for him, it is an aesthetic issue. He said Council has fallen down on its commitment to take another look at the greenway guidelines. He said when he commented last time that a bigger setback from the river was needed across the board, he ran into a huge firestorm from other developers who are less generous than these. He said making the river enjoyable for more people without hurting the riparian areas or the health of the River, is a good use and he sees no problem protecting the trees, since they are owned by the City. He said while it is not fair to say that the City makes it impossible for developers to work in the City, it also unfair to conclude that an eight-story building setback from the River is going to have significant impact on fish habitat or harm the trees. As the Council member in charge of steelhead issues, he believes a community consensus will be needed on the significant changes that must be made if the City is to restore the fish. It is important, therefore, not to create false arguments about what will and will not restore the fish. He said he was amazed by the developers who got mad at him last time for saying that a 25-foot setback from the River is not enough but he still believes that. This development, however, is granting bigger setbacks than that. Everyone needs to take another look at the overall standards for the Willamette because he continues to believe they are inadequate even though he believes this building is just fine and will be a good addition.

Disposition: Tentatively deny appeal and uphold Design Commission's decision as amended; applicant prepare findings for August 5, 1998 at 2:00 p.m.

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

BARBARA CLARK
Auditor of the City of Portland

Cay Kershner
By Cay Kershner
Clerk of the Council