



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF
PORTLAND, OREGON WAS HELD THIS 10TH DAY OF OCTOBER, 1990
AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Clark, Presiding;
Commissioners Blumenauer, Bogle, Koch and Lindberg, 5.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the
Council; Kathryn Imperati, Senior Deputy City Attorney;
and Officer Dennis Dalton, Sergeant at Arms.

The Mayor proclaimed October 7-13, 1990 as Aussie
Football Week, noting that the Foster Cup game will be
held in Portland on October 12.

Agenda No. 1691 was pulled from Consent. On a Y-5 roll
call, the balance of the Consent Agenda was adopted as
follows:

CONSENT AGENDA - NO DISCUSSION

- 1683 Cash & Investment balances for August 30, 1990, through
September 26, 1990 (Report; Treasurer)

Disposition: Adopted.

- 1684 Accept bid of J. I. Case Company for one articulated
loader for \$50,858 (Purchasing Report - Bid 13)

Disposition: Adopted; prepare contract.

- 1685 Accept bid of Northside Ford Truck Sales, Inc., for two
utility service vans with aerial ladder for \$77,366
(Purchasing Report - Bid 14)

Disposition: Adopted; prepare contract.

- 1686 Vacate a portion of NW Upshur Street and NW 28th Avenue,
under certain conditions (Ordinance by Order of
Council; C-9729)

Disposition: Ordinance No. 163537. (Y-5)

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Commissioner Earl Blumenauer

- 1687** Accept completion of the Maintenance Oil Gravel Project 1990 and make final payment (Report)

Disposition: Adopted.

- * **1688** Call for bids for the SE Ash Street, SE 24th Avenue to SE 22nd Avenue, sewer replacement project, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 163538. (Y-5)

- * **1689** Authorize the City Attorney to continue negotiations to purchase two sewer easements for construction of the Englewood sanitary sewer system project, authorize the City Attorney to commence condemnation proceedings, if necessary, and authorize the City Attorney to obtain early possession (Ordinance; C-9700)

Disposition: Ordinance No. 163539. (Y-5)

Commissioner Mike Lindberg

- * **1690** Amend Agreement No. 13306, lease of Progress Downs golf course (Ordinance)

Disposition: Ordinance No. 163540. (Y-5)

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- * **1691** Authorize the Mayor to apply for a grant in the amount of \$58,721 from the Meyer Memorial Trust for a preliminary design/feasibility analysis for an outdoor performing arts and entertainment facility (Ordinance)

Discussion: Commissioner Lindberg said the Fred Meyer Old Timers intend to donate this facility to the City as a memorial to Fred Meyer. He added that he has emphasized to them the necessity of providing an endowment to cover operation and maintenance costs.

Disposition: Ordinance No. 163541. (Y-5)

- 1682** **TIME CERTAIN:** 9:30 AM - Support Ballot Measure #26-1, which would provide the local government portion of the non-Federal funding to construct the Westside light rail line and begin development of an East Portland/Clackamas County line (Resolution)

Discussion: Commissioner Blumenauer said this would be the largest public works project in the state.

The following individuals spoke in support of passage of the measure.

Scott Pratt, Oregon League of Conservation Voters
 Dave Mazza, Urban Issue Coordinator for Columbia Group of the Sierra Club
 Larry Jacobson, Regional Rail Project
 Ellen Vanderslice, 2951 NW Raleigh
 Nathan Cogan, Sylvan Highland Neighborhood Association and Citizens for the Canyon

Supporters noted some of the benefits an expanded light rail system will have on the region's liveability in the years to come. They emphasized the crucial need to take advantage of the monies already available and spread the word about what obtaining the 75% federal matching funds will mean to the local economy.

Commissioner Lindberg said the federal match available to us is the envy of many other cities and that if we fail to find the matching funds now there will be never be a second chance.

Commissioner Bogle said a yes vote on this measure would be the best expression of our support for liveability in the area.

Commissioner Koch said we have Senator Hatfield and Congressman AuCoin to thank for having made the federal funds available and that without their presence in Washington there is little likelihood that the project will survive.

Disposition: Resolution No. 34775. (Y-5)

Mayor J. E. Bud Clark

- 1692 Recommend approval of annexation case A-21-90 in the South Glendoveer/Burnside corridor area (Report)

Disposition: Placed On File.

- 1693 File annexation case A-21-90 in the South Glendoveer/Burnside corridor area with the Portland Metropolitan Area Local Government Boundary Commission (Resolution)

Discussion: Susan Schneider, Acting Urban Services Manager, said one of the people in the area proposed for annexation is the man who turned a hose on one of their canvassers. She said he told them that one of the property owners has now moved; they will try to verify that between now and the Boundary Commission meeting and sign up the new owner.

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Ms. Schneider said the man opposed to the annexation had been asking neighbors to withdraw their petitions, but that as far as they know there is no provision in the statute for such a change. She added, however, that the Boundary Commission could choose to modify the proposal if they wished. Those who indicated that they wished to withdraw their petitions were told to appear before Council today to make their request.

Disposition: Resolution No. 34776. (Y-5)

- * 1694 Transfer appropriations within certain bureau budgets and between funds; adjust resources and requirements in various funds (Ordinance)

Disposition: Ordinance No. 163542. (Y-5)

Commissioner Earl Blumenauer

- 1695 Support the November, 1990, Ballot Measure 9 that, in most cases, would require safety belt use by motor vehicle drivers and passengers over 15 years of age on Oregon roads (Resolution)

Discussion: Commissioner Blumenauer said this is a common sense regulation that can save both lives and dollars.

Kurt McCracken, Portland Traffic Safety Commission Chair, and Sally Smith, Oregon Life Belt Commission, spoke in support of the measure.

Commissioner Koch said why anyone would not protect themselves by not wearing seat belts was a mystery to him.

Disposition: Resolution No. 34777. (Y-5)

Commissioner Bob Koch

- 1696 Accept mid-year status report on 1990 Gainshare Pilot Project (Report)

Discussion: Commissioner Koch said the Gainshare Project was a very novel and entrepreneurial concept, the first such program ever to be adopted in the State. He said it involved a very carefully negotiated agreement between the labor union, management and all the participants.

David Kish, Director of General Services, said the program is on track and operating very well. Savings to date total \$33,000 and twenty employers will participate in the bonus program, averaging about \$500 each.

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Anna Thorn, Printing and Distribution, cited some of the intangible gains they have seen so far. These include improved communications between work shifts and work sites, and increased trust and respect between labor and management.

Disposition: Adopted.

- * 1697 Authorize an agreement with the Association for Portland Progress to manage City parking garages and to manage a parking area promotion program (Ordinance)

Discussion: Commissioner Koch said representatives from APP were present to answer any questions about the agreement.

Council members indicated they were prepared to vote.

Disposition: Ordinance No. 163543. (Y-5)

At 10:25 p.m., Council adjourned.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 10TH DAY OF OCTOBER, 1990 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Clark, Presiding; Commissioners Blumenauer, Bogle, Koch and Lindberg, 5.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Pete Kasting, Chief Deputy City Attorney; and Officer Dennis Dalton, Sergeant at Arms.

REGULAR AGENDA

- 1698 Results of sale of General Obligation Water Bonds, Series 1990, in an amount of \$18,000,000 (Previous Agenda 1667)

Discussion: Dick Hofland, Acting Debt Manager, reported that they had received four bids, the lowest of which came from Shearson Lehman at a true interest cost of 7.09%.

Disposition: Adopted.

- 1699 Appeal of Brian & Valerie Malliris, applicant, against conditions imposed by the Hearings Officer in approving a three-lot major land division at 12425 SW Orchard Hill Road (Hearing; S(P) 25-90)

Discussion: Steve Gerber, Planning, said this was an appeal of a Hearings Officer decision approving a major partition with conditions that included provision for a 20-foot-wide private road and construction of a sidewalk.

Mr. Gerber noted that two subdivisions just to the West of this property have improvements that meet urban standards, including curbs and sidewalks.

Mr. Gerber said applicant is asking not to construct the sidewalk at this time and for approval of a 12-foot-wide road instead of the 20 foot-wide-road approved by the Hearings Officer. He noted that a 28-foot-wide road is the usual standard called for in partitions, but that the Hearings Officer was willing to reduce that to 20 feet as a compromise between the need for street services and the need to preserve trees. He said applicant's contention that 34.60.030 allows a 10-foot-wide roadway in this situation does not apply as this is applicable only when no more than two lots are involved and not, as in this case, where there is a potential for four.

Mr. Gerber said the Office of Transportation has no official opinion on the design of private streets which is under the jurisdiction of the Bureau of Buildings.

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Mr. Gerber said any decision about development must take into account Comprehensive Plan decisions for the area which in this case call for a density of R10. As densities increase, urban services such as streets and sidewalks must be installed or service deficiencies will be created which are much more expensive to rectify after development has occurred.

Brian Malliris, appellant, said the protection of neighborhood continuity and liveability must be considered when deciding which standards are to be imposed on new developments. He said the sub-divisions to the west of him are totally different in character and that imposing the same standards on his property would be inappropriate and create a hodgepodge.

Mr. Malliris said he has no objection to building a sidewalk on his property if and when it provides a service. He added that it does not provide a service now because it does not go anywhere and will not for the foreseeable future. He stressed that his goal is to put the two lots in with the least amount of impact on the environment, adding that he has learned that he can save every single tree with the 12-foot road and that the Fire Bureau has given him a variance which will allow him to do so.

Mr. Malliris placed into the record a petition and letters signed by 40 nearby residents in support of his position. The petition cited an inherent conflict between the building of a 20-foot-wide roadway and preservation of trees and open space. He also placed into the record letters from the Fire Bureau and the Office of Transportation stating that a 12-foot-wide road would be sufficient to provide access to the two home sites. In addition, he noted Urban Forestry Commission support for his plan to preserve the trees.

No one spoke in opposition.

Commissioner Blumenauer moved to overturn the decision of the Hearings Officer and grant approval of the 12-foot-wide street conditioned upon Fire Bureau approval of the turnouts and with a reservation that construction of a sidewalk and roadway widening be required if the situation changes in the future.

Commissioner Koch seconded.

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Commissioner Blumenauer said, while he thinks staff should be conservative in its reading of the Code, it is appropriate for Council to be more flexible in a case where approval will not disrupt the grid system and where it involves only two sub-divisions. He added that the Office of Transportation is now reviewing the standards for private streets. He asked that the vote be tentative so that appropriate standards approvable by the Fire Bureau can be included along with a condition for wider streets or a sidewalk if conditions change in the future.

Mr. Malliris said that he had submitted a redrawn plat which does all of those things.

Mayor Clark said he was pleased to see Council going this way and agreed that it should reserve the right to change if future needs so dictate. He said we cannot give our staff one direction and then change in midstream.

Pete Kasting, Chief Deputy City Attorney, said he understood Council wanted to grant the appeal with appropriate conditions to assure that the City has a workable mechanism if widening of the street or construction of the sidewalk becomes necessary in the future. He said he will review what is on the plat and that may do the job.

Mr. Kasting said another approach is to require that a covenant be added to the property deeds to ensure that the conditions will be met if the property changes hands.

Don Gardner, Office of Transportation, asked for a clarification on the sidewalk. In reference to the sidewalk on Orchard Hill Road, he said established City policy has been that when properties are developed, sidewalks are required. He said he is concerned that Council is giving away an opportunity to do that in this case.

Commissioner Blumenauer said he did not think Council was interested in doing anything that disrupts the pattern or changes the ability to make the sidewalk connection.

Commissioner Koch asked if the issue is whether or not the applicant would be required to build the sidewalk during the time of development.

Commissioner Blumenauer said he thought it should be consistent with existing City standards.

Mayor Clark asked Commissioner Blumenauer if it was his intent to keep the requirement that the sidewalk on Orchard Hill Road be built at this time.

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Commissioner Blumenauer said yes.

Mr. Kasting suggested that findings be scheduled for adoption by Council in three weeks (October 31, 1990)

Disposition: Appeal granted tentatively with conditions; Bureau of Planning prepare findings for October 31, 1990

At 2:35 p.m., Council recessed.

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 11TH DAY OF OCTOBER, 1990 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Clark, Presiding; Commissioners Bogle, Koch and Lindberg, 4.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Paul Elsner, Deputy City Attorney; and Officer Erin Kelley, Sergeant at Arms.

Mayor Clark moved for Suspension of the Rules. Commissioner Bogle seconded and the motion carried. Commissioner Koch moved reconsideration of Council Agenda Item 1698; Commissioner Bogle seconded and the motion carried.

S-1698 Results of sale of General Obligation Water Bonds, Series 1990, in an amount of \$18,000,000 (Previous Agenda 1667)

Discussion: Commissioner Koch moved the substitution; Commissioner Lindberg seconded and the motion carried.

Disposition: Substitute report approved. (Y-4)

1700 **TIME CERTAIN:** 2:00 PM - Appeal of Winkler Scrap Metals against Planning Commission's interpretation of the zoning code to deny the operation of their scrap metal recycling business at 3365 SE 17th (Previous Agenda 1590)

Discussion: Doug Warren, Planning, said a 1988 Planning Director interpretation allowed Winkler Scrap Metal, as a permitted pre-existing use, to locate at a site on SE 17th. However, after Winkler located there, neighbors complained that there was undue impact from the scrap metal operation and appealed the interpretation in February, 1990, to the Planning Commission which then overturned it.

Mr. Warren said the Planning Commission decision was based on its belief that a scrap metal recycling business is a more intense use than the previous tire sales warehouse, and that the intent of the pre-existing use provisions is to not allow a change to a more intensive use group.

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Max Miller, Attorney representing Winkler Scrap Metals, said the Brooklyn Action Corps appeal is time-barred because of its lateness and noted the considerable investment Winkler made in the business, based on Planning Director's assurances that use of the site for a scrap metal business was an allowable, permitted change of a pre-existing use. He also contended that the Planning Commission, in order to grant the neighbors some relief, incorrectly interpreted classifications to mean use groups and not zones.

Mr. Miller said, contrary to what opponents maintain, Winkler Scrap Metal is not universally disliked by its neighbors and that quite a few nearby residents support it.

Mr. Miller said that if Council upheld the Planning Commission decision, it would essentially shut down Winkler after it has made a huge investment in its property. He said even though the new Zoning Code will allow a metal recycling facility to operate on this site, thus providing future relief, Council should undo the terrible decision by the Planning Commission to hear an appeal so late and make a decision that is such bad law and jeopardizes any property owner operating under a Planning Director's interpretation. He said now, because of the Planning Commission decision, a neighbor can complain at any time that a Planning Director's interpretation was improper. If they prevail on the merits, the use would be terminated, no matter how much money had been invested.

Commissioner Lindberg asked if Winkler knew that the Planning Director's interpretation could be reviewed by the Planning Commission.

Mr. Miller said any decision is subject to legal challenge, but the Code does not provide for neighbors to seek review of a Planning Director's interpretation. Recourse for the neighborhood would be through LUBA or the courts. He said he was surprised that an appeal made more than sixty days after the decision would be allowed.

Paul Elsner, Deputy City Attorney, said Mr. Miller is probably correct in stating that the Code does not provide standing for neighborhood association appeal of the Planning Director interpretation. However, a recent LUBA decision, Kunkel vs. Washington County, wherein LUBA held that discretionary decisions are subject to public hearing, is applicable here. Senior Deputy City Attorney Kathryn Imperati, in a memo dated March 26, 1990, held that the opinion rendered by the Planning Director was a discretionary decision and thus subject to the rule that public notice must be given. Since notice had not been given, the opinion was potentially still appealable.

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John Kelly, Vice Chair, Brooklyn Action Corps, said the only remedy available to them was a request for review to the Planning Commission. He said City Code 33.205.040(b) explicitly allows appeals to the Planning Commission of a Planning Director's interpretation, adding that there was no time limit on such appeals.

Mr. Kelly reviewed use of the site by Capital Tire Warehouse, noting that the Bureau of Buildings never received a single complaint about them in fifteen years of operation. This, he said, is definitely not the case with Winkler. He said Mr. Miller's contention that it will be allowed under the new zoning code is erroneous. Metal salvage operations will be allowed in the EGI zone proposed for this site, but only if the Planning Director makes a prior finding that the use will comply with offsite impact standards, such as noise and dust.

He said while he agrees with Winkler that there are incongruities in the current policy, the Planning Commission made the right decision in this case even if it might not be right as applied to other situations. He said this was a zoning problem that resulted from juxtaposing incompatible uses, metal salvaging and residential, not an enforcement problem. He said the Planning Director made a mistake that is now painful to correct but it should not be the neighbors who have to bear the pain.

Mr. Kelley recapped by stating that the neighborhood did not get the legal notice they were entitled to and the Planning Commission decision was the correct one because there is no other way to fix the problem.

Mayor Clark asked why, if it was so disruptive to the neighborhood, it took fourteen months before the appeal was made.

Mr. Kelly said it was because they did not get notice of the interpretation. He said they tried enforcement but then began to think that the zoning could not be right and only at that point found out about the interpretation.

Paul Hermann, Noise Control Officer, said he has received noise complaints, the first in June, 1989, and many others since then.

Commissioner Lindberg asked about his letter stating that Winkler was violating noise standards.

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Mr. Hermann replied that there has been an improvement since his first measurements were taken but that it would be very difficult to say if Winkler is still in violation because the noises are intermittent and unscheduled and thus hard to document.

Commissioner Koch asked if there was a specific activity which caused the noise.

Mr. Hermann said yes, some operations, such as the sorting and movement of metal, in all probability do cause noise violations.

Mayor Clark noted that the trains are only a block away.

Mr. Hermann said that they are judged by a different standard but are louder than Winkler.

Martha Peck Andrews, President of the Portland Planning Commission, said her presence today is indicative of the importance the Planning Commission attaches to this case. She said the Commission spent a great deal of time discussing what the word "classification" meant and decided it could not mean zone but had to mean groups or types of uses and that was the policy they then adopted.

Ms. Andrews said they sympathize with the substantial investment Winkler made based on the Planning Director's interpretation but have even more sympathy for the neighbors who have as much right to rely on what the zoning code says as the Winkler people do.

Commissioner Koch asked if the kind of activity engaged in by Winkler now would be a permitted use under the new Code to take effect January 1.

Ms. Andrews said yes but they would need to meet the offsite standards concerning noise, odors, traffic, etc.

Individuals speaking in opposition to the Winkler appeal included:

Evelyn Davis, 3384 SE 16th
Sherry Wilmsen, 3411 SE 16th
Siobhan Taylor, 4205 SE 12th
Marian Roberts, 1505 SE Haig
Teri Inman, 3411 SE 16th
Bob Elliott, 2436 SE Tamarack

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Opponents cited problems with noise, speeding trucks and metal droppings resulting from the Winkler operation. They said it was unfair for neighbors to have to put up with this intensification of an incompatible industrial use. Several mentioned the importance of being able to rely on the zoning code and related their difficulties in determining what avenues were open to them to remedy the situation.

John Shmilenko, 8823 SE 15th, owner of Oregon Roofing Company adjacent to the Winkler property, spoke in support of Winkler. He said the neighborhood has always been a mix of industrial and residential and that Winkler was a good neighbor and an asset to the area.

Commissioner Bogle asked if a permitted use could be conditioned on its impact.

Mr. Warren said in the new Code such a use would be permitted but that the applicant would have to submit documentation to the Planning Director at the time of location showing that the offsite impact standards such as noise, vibration, odor, dust, etc. could be met.

Commissioner Lindberg asked if they would have to meet standards under the existing Code.

Mr. Warren said City noise ordinances would be the only ones that would apply under the existing Code.

Ann Gardner, Portland Development Commission, said today's business climate is a difficult one and that one of the things City government can do is to provide certainty. She said this business asked and was given permission to locate there, adding that she was worried about the precedent the Planning Commission decision would set for many other businesses who have made investments based on a Planning Director's interpretation.

On rebuttal, Mr. Miller said Victor Winkler is willing to make capital improvements to ensure compliance with City noise regulations but is unwilling to do so while this appeal is pending.

Victor Winkler, owner of Winkler Scrap Metal, said he runs a totally clean business that provides a service to those who wish to recycle metal. He said he attended a neighborhood association meeting and asked neighbors to come and see him if they have a problem but he has never been called.

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John Kelly disagreed, stating that neighbors had made many calls to Mr. Winkler which were not received kindly. He said under the new Code just about everything is permitted but is subject to the offsite impact standards. He said if the Planning Commission is reversed, Winkler will be exempt from having to comply with the offsite impact standards in the new Code.

Commissioner Koch moved tentatively to overturn the Planning Commission decision, based upon the ability of Council to work out appropriate agreements or requirements that Winkler adhere to the offsite standards that go into effect with the new Code on January 1.

Commissioner Bogle seconded.

Mr. Elsner said he does not think Council can do that at this time because this matter concerns an appeal of an interpretation of the Code, not a conditional use where you are imposing conditions on a particular piece of property.

Commissioner Koch said that is why he phrased his motion to call for an agreement as well as requirements so it could be binding.

Mr. Elsner said he was willing to see if something like that could be worked out.

Commissioner Lindberg said he questions whether the compatability is ever going to be there. His preference would be to support the Planning Commission and deny this use for the time being, but give them a sixty to ninety day delay period and then have them go through the process required under the new Code.

Disposition: Tentatively grant appeal with Condition; City Attorney file report. Continue to October 25, 1990 (Y-3; N-1, Lindberg)

REGULAR AGENDA

- 1701 Appeal of Stewart A. Dean, applicant, against Variance Committee's decision to deny application for variances in order to build a single-family residence at 3700 SW Hillside Drive (Previous Agenda 1591)

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Discussion: Suzanne Searle, Planning Bureau, reviewed the case, noting that the Variance Committee did not address the individual variance requests for siting of a specific house. She said basically the Committee denied all the requests based on the history of the property and their conclusion that this lot, held jointly by Stewart Dean and his wife Mary Jones, and the adjacent lot, held in the wife's name alone, together formed one conforming lot. Ms. Searle said staff and the Variance Committee were under the impression that, since the couple were married at the time of purchase and are still married, the two lots should be considered as one conforming lot. The appellants challenge this conclusion and hold that the lots have always been maintained separately and must be considered as separately owned.

Mayor Clark said a note from Deputy City Attorney Paul Elsner states that since the two lots were under separate ownership, they must both be considered as separate, legal lots.

The Mayor asked if the property owner still needed to make a case for the variances now that the separate ownership of the lots had been established. He said the Variance Committee took their action on the basis that the property was not a legal lot and the City Attorney has now told them it is.

Mr. Elsner suggested that Council make a finding that since the variances were denied based on an erroneous assumption -- that if you are married, lots owned separately are owned together -- the variances should be approved.

Mayor Clark said there is still need for variances on the property.

Commissioner Koch moved that Council overturn the Variance Committee's decision based upon misinformation about property ownership rights and that the lot be treated as a separately owned piece of property and that the variances be granted.

Commissioner Bogle seconded.

Ms. Searle said the Variance Committee did not specifically address issues of the sideyards and setbacks and that those should probably go back to the Committee.

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Terry Neidermeyer, 3536 SW Hillside Dr., spoke in support of sending this back to the Variance Committee.

Jerry Jones, 3723 SW Hillside Dr., said all but one neighbor within 150 feet of the property oppose the variances for various reasons, including parking, street width, the small size and unbuildable nature of the lot. He said none of these issues were dealt with by the Variance Committee.

Stewart Dean and Mary Chambers Jones, owners and appellants, explained how the ownership of the lots came about. Mr. Dean said they have a buyer for the second lot providing they can get the variances approved for his house. To avoid additional delay, he requested a decision by Council today.

Stephen Arel, 3718 SW Hillside Drive, requested that Council return this to the Variance Committee since five variances are involved. He questioned whether the lot should be rezoned to R7 in an R10 zone.

Ken Dieringer, 1120 NW 25th, #2, said he wished to buy the lot from the Deans and asked for a decision on the variances today. He said the Committee never discussed the individual variances and that if the lot is buildable they must receive the requested variances for lot size and width. The other variances deal with requests to reduce side yard setbacks from twenty to seventeen feet and with the location of the garage.

Tom Pabst, 3550 SW Woods, disputed claims that the lot was too small to build on. He said there are 100 lots the approximate size of this one, 50 by 100 feet, in the area and that variances such as those for garages are routinely granted.

The Clerk repeated the motion made by Commissioner Koch to overturn the Variance Committee decision and grant the appeal and the variances.

The Mayor asked why Commissioner Koch wished to grant the variances rather than send them back to the Committee.

Commissioner Koch said such variances are granted routinely on sub-standard lots, and that he believes sending the applicants back through the process again is an unnecessary hardship. He said the Variance Committee had their chance at it and now it is all right for Council to make a decision on the variances.

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Mayor Clark and Commissioner Bogle indicated that they would prefer that the matter go back to the Variance Committee.

Commissioner Koch modified his motion to overturn the Variance Committee's decision based upon their misinformation in recognizing individual ownership rights and send it back the Variance Committee for decisions on Variances 1-5, at no cost to the applicant.

Commissioner Bogle seconded.

Disposition: Remanded to Variance Committee (Y-4)

At 4:05 pm., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland



By Cay Kershner
Clerk of the Council