



City of Portland
Bureau of Development Services
Land Use Services Division

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MEMORANDUM

Date: May 29, 2012
To: Portland Design Commission
From: Chris Caruso, City Planner II Urban Design
503-823-5747, Chris.Caruso@portlandoregon.gov
Re: June 7, 2012 - Design Commission Hearing
LU 12-115245 DZ - Glisan Commons

Design Commissioners:

Please find enclosed comments from Chris Koback, representing Mel Fox, regarding Glisan Commons. BDS's response only relates to the first 5 pages of text that address the Design Review case. The remainder of the memo from Mr. Koback is a duplicate of what was sent to the Hearing's Officer and responses have been sent by staff to that office.

The applicant has voluntarily decided to not install the construction/security fence around the third plaza area. Any type of fencing required to provide security until Phase II is constructed will go straight across the top of this future plaza. The applicant has also told staff that they will voluntarily plant grass on the plaza area until Phase II construction begins. Neither the fencing nor grass planting are subject to building permits and therefore are not subject to design review. The work is being done in response to the Commission's expressed concerns but is voluntary. The actual division between Phase I and Phase II will remain unchanged.

Please contact me with any questions or concerns.

Att: Staff Response May 29, 2012
Hathway Koback Connors letter May 24, 2012



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MEMO

Date: May 29, 2012
To: Portland Design Commission
From: Chris Caruso, City Planner II, Land Use Services, BDS
Re: LU 12-115245 DZ - GLISAN COMMONS

This memorandum is Staff's response to issues brought up in the May 24, 2012 letter from Chris Koback of Hathaway Koback Connors, representing Mel Fox.

- A. Concurrent Reviews. Both the Design Review and Master Plan cases contain conditions of approval requiring that both of these processes be approved before either one can be constructed. The applicant is aware of these conditions of approval and the risks if either case process is delayed.
- B 1&2. Gateway Design Guidelines in a Larger Context. The Gateway Regional Center Design Guidelines responses can be found in the Staff Report. The proposal has in fact consolidated four parcels into this one larger site, does utilize a significant amount of public funding, and is not required to develop in conjunction with other property owners.. The site's RX zoning is the highest density residential zoning available and was placed on this site by City Council, in a location that is expected to contain taller, denser buildings near significant areas of public transit infrastructure such as the Gateway Transit Center which is just northwest of the site. Gateway is a designated Regional Center in the Portland Comprehensive Plan, second only to the Portland City Center in desired intensities of urban development. The height of the proposed building is similar to other newer housing developments in the area and is in keeping with the expectations of this developing urban district. The RX zoning extends beyond the Glisan Commons site to the north, east, west, and south and has been placed in these locations to promote this type of development. The project's location within walking distance of the Gateway Transit Center, the low on-site parking-to-housing unit ratio, the on-site bicycle parking, the through-site pedestrian connection and improved surrounding sidewalks, and the mix of office and residential uses helps support the public's investment in transit by increasing the number of residents and employees in this area who can access services without owning a car.



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Christopher P. Koback
503-205-8400 main
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chriskoback@hkcllp.com

May 24, 2012

VIA EMAIL

City of Portland
Design Commission
1900 SW 4th Avenue, Rm. 2500A
Portland, OR 97201

Re: LUC 12-115245 DZ Glisan Commons
PC# 11-171488

We represent Mel Fox who has owned the property at 9919 NE Glisan since 1983. We are writing to submit additional comments on the applicants request for design review approval.

A. The Commission Should Defer Action until the Master Plan Approval is Final.

We reiterate our prior comments from May, 17, 2012. We believe that in light of the significant issues we raised with respect to the master plan approval, this body should defer taking any action on the design review approval until the hearings officer renders a decision on the master plan. On May 21, 2012 we submitted additional comments to the hearings officer that further demonstrate the need to redesign the current proposal to be consistent with the Gateway plan district requirements.¹ For the reasons set forth in our May 17, 2012 submission, as well as the reasons in the May 21, 2012 submission to the hearings officer we request that the commission withhold action on the design review approval request until after the hearings officer's decision.

B. If the Commission Proceeds to a decision it should apply the design guidelines in the context of the larger purposes and vision behind the Gateway Regional Center and the Gateway Plan district.

In the event the Commission proceeds with its decision in the design review process, it is important that it has a clear understanding of Mr. Fox's position. Mr. Fox's goal in the parallel

¹ The first page of that letter erroneously was dated May 11, 2012, however, the remainder of the pages have the correct date of May 21, 2012.

proceedings has been to encourage the applicant, and its City partners, to work cooperatively with him and others in the Gateway district to come up with a development plan that is dynamic, energetic and that will serve as a benchmark for future projects in Gateway. Mr. Fox has opposed the current project, not because he does not wish to see development in the Gateway district in general or on the site involved. He has opposed this project because it is not consistent with the core vision for the Gateway plan district, and in fact, is counter to many of the stated purposes.

The Commission is charged with applying the Gateway Design Guidelines and Mr. Fox agrees that those guidelines are relevant to this proceeding. However, he does not believe the Commission should apply those guidelines in a vacuum. The design guidelines are part of a larger structural framework for the Gateway Regional Center. The development of that regional center took years. Gateway is the only Regional center in Portland. It has been described by some as the next "Pearl" district. While Gateway may never evolve into the "Pearl", Gateway deserves a better effort than that which is being presented. The goals and visions for Gateway are to see it develop as a dynamic, dense urban area with intense housing, pedestrian oriented uses, street related activities and opportunities for employment. Those objectives cannot be accomplished through isolated development that does not coordinate with other properties within the district. The visions can best be brought into reality by assembling properties to develop larger, more energetic commercial developments as opposed to isolated developments focused upon limited objectives. Planning staff and decision makers need to prod applicants to broaden their horizons and plan for the future. They need to embrace the vision that is touted in all of the Gateway district literature and not simply give lip service to it.

1. The overall objectives behind the Gateway Regional Center should be part of the Commission's evaluation.

In the 2005 Report to Metro on the Gateway Regional Center the stated strategy for the development of the center included the following four items:

- 1) Focus on key redevelopment opportunities and catalytic projects near the Gateway Station/Gateway Transit center.
- 2) Focus business enhancement tools on the medical niche to enhance the district's identity, build on agglomeration economies and increase business to business activity.
- 3) Pursue acquisition of property for consolidation and redevelopment as funds and opportunities allow.
- 4) Leverage public and private funding sources:
 - Leverage federal and regional transportation funds for improvements;
 - Provide loans and gap financing to leverage private investment.

The design for the current project should be evaluated in the context of the above objectives if the Gateway Regional Center is ever to become what was envisioned. The current design does not effectively focus on key redevelopment opportunities, but rather ignores such

opportunities. The current proposal is not the result of an effective pursuit of property for consolidation and redevelopment. The proposal instead leaves isolated property out of redevelopment creating significant impediments to future redevelopment. The proposal, as designed, does not maximize the use of private funding sources to pursue consolidated redevelopment.

2. The Commission should encourage the Applicant to pursue a design more consistent with the "Gateway Vision".

The site is a total of 81,000 square feet. While there have been some rather small single use developments in Gateway, this proposed project is one of the first multi-use developments in the regional center. As such, it will set the stage for future development. Further, the proposed site is in the heart of Gateway. It is close to Max station and at one of the major intersections. It will be a highly visible project in all ways. The project should be designed to effectively implement the primary objectives behind the creation of the regional center. In applying the specific design guidelines, the Commission should request that the applicant explore designs that would use the entire site in a manner that better fulfills the visions for the regional plan and the purposes of the Gateway plan district. Mr. Fox believes that the only development on the site that encapsulates the vision for the Gateway district and the purpose of the Gateway district is a development that is designed over the entire site. He feels that a plan truly consistent with the vision for Gateway is a multi-use development designed on the entire block with street oriented uses extending along the Glisan frontage and around NE 99th. The purposes stated in PCC 526.110 support the development of retail stores, cafes, restaurants and other small local business that will encourage residents and visitors to gather on the expanded sidewalks. The purpose and design guidelines promote a carefully coordinated design for store fronts, awnings, signs and lighting. Rather than devote a significant amount of the site to surface parking, the Gateway vision and, specifically the design guidelines, promote structured parking.

Mr. Fox requests that the Commission request that the applicant explore a development using the entire 81,000 square feet with another building on the corner of NE 99th and Glisan, which would have retail/restaurant uses on the first floor and perhaps medical or dental office on the second floor. Residential uses could occupy higher floors. The proposed design should include retail uses that promote street front activity such as a coffee shop, restaurant, or boutique store. There are many benefits from a well-coordinated aggregated design.

- The current Phase I building could remain unchanged (or perhaps be even one story taller);
- As noted above a flexible vibrant building could be added to the most visible corner at NE 99th and Glisan;
- Better circulation between the buildings and other features could be explored;
- Structured parking at the northwest corner could be developed for the entire site preserving more surface for desirable businesses and creative open space;

- The commercial parking for buses and vans could be accommodated in the structured parking eliminating the negative impacts;
- Better circulation of traffic to and from the site could be explored with perhaps having all ingress from 99th into the parking structure and all egress out to NE 100th;
- It would even be possible to explore an additional story on the Phase I building to add desired density;
- A better more dynamic plan for the project may also solve the problem the current development team has meeting the requirement that of guarantee completion of the entire project. If the entire site is incorporated into the project, the current applicant could more easily attract another private development partner that could be instrumental in providing the financial backing needed to guarantee the Phase II elderly housing.

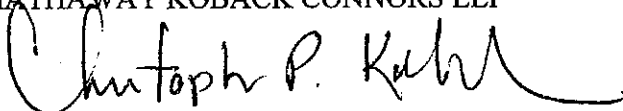
The current proposal is not the dynamic, energetic development that Gateway needs and deserves. It is focus almost exclusively upon subsidized housing and community service. While those uses provide valuable services for the community, they will not set the stage for the type of future development in the district when proposed as a single stand-alone project. The current uses do not include any uses that will encourage use of the expanded street frontage. The only commercial uses are approximately 75 offices, shown on a schematic provided by the applicant, and training rooms. People will come to the offices and leave when their work is done. Persons attending training and educational classes will arrive before the sessions and then depart. Those uses will not energize the community. There will be no commercial activity on weekends. If the entire site is incorporated into a development, additional uses can be infused that will balance out the project.

The current project also creates an albatross out of Mr. Fox's remaining parcel severely limiting the potential for redevelopment as the regional plan envisioned. Any person looking at future development of my 12,000+ square feet is going to face the daunting task of developing a project that can exist next to a large project that lacks the energy and variety expected in the district. Any development on Mr. Fox's property will undoubtedly have to construct its own structured parking due to its size. Surface parking would simply consume too much ground leaving the developable area too small for any feasible project. The evidence of the impact that the current proposal has had on Mr. Fox's property is irrefutable. The developer of the current project paid approximately \$58.70 per square foot for the property on NE 99th. In 5 years of discussion with them about acquiring Mr. Fox's property, the developer offered him \$22.78 per square feet, in its most recent offer. Mr. Fox suspects that is because their plan has been set in areas they understand, and they are looking at his property as being outside their expertise. That should not be a reason to diminish nearby property value, nor allow a project to proceed alone at the expense of underutilizing prime property in an outstanding location. We cannot find in any of the code sections or policy statements any support for the notion that devaluing a parcel of property in the heart of the Gateway district is within the vision for the Gateway Regional Center.

It may appear that Mr. Fox is coming late to the party. That is not entirely true. In recent negotiations, he has gone to great lengths to convince the development team to incorporate his property into a larger more dynamic development. He pointed out on several occasions how this limited plan is going to be inconsistent with the vision for Gateway. The development team kept their blinders on and marched forward. Now that Mr. Fox has become more involved in the permitting process and learned more about the Gateway plan, he has been able to offer, what he believes are, more instructive comments. He does not feel that it is too late. The City is going to have limited opportunities to set the stage for the Gateway plan. Once a development pattern takes hold, it may be too late to get the plan back on track. We urge this body to take a long look at how the City wants the Gateway district to look in 10, 20 and 30 years. That vision should be captured in the current project, for this project to be a front-runner for future developers to achieve, or better yet to exceed, instead of having a partial-hearted project at a crucial location. We ask that the Commission strongly encourage the applicant and its public partners to reevaluate their design for this site.

Very truly yours,

HATHAWAY KOBACK CONNORS LLP

A handwritten signature in black ink, reading "Christopher P. Koback". The signature is written in a cursive style with a long, sweeping tail.

Christopher P. Koback

CPK/df



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May 11, 2012

HAND DELIVERED

Kenneth Helm
Hearings Officer
City of Portland
1900 SW 4th Avenue
Portland, OR 97201

Re: LU 12-116420 MS

Dear Mr. Helm:

On May 14, 2012 we appeared and made a presentation on behalf of Mel Fox who owns real property at 9919 NE Glisan Street. At the conclusion of the initial hearing, the applicant requested that you keep the record open for additional evidence. You gave all parties until May 21, 2012 to submit additional evidence. The purpose of this letter is to provide additional evidence in opposition to the application.

- 1. The proposal does not meet the minimum density requirements in PCC 33.120.205.**

In our May 11, 2012 submission we stated that under the applicant's proposal, the project barely met the minimum density. After additional analysis, we do not believe the proposal meets the minimum density. The applicant and staff recited that the proposal meets the minimum density because the requirements call for 126 units for a 62,898 square foot site. *See*, Applicants May 3, 2012 Revised Submission, p. 2; Staff Report, p. 2. We have enclosed as Exhibit 1 a copy of a recent survey of the site and a recent City tax map. The large section labeled A on the survey is 207.5 wide by 294.0 deep. That equals 61,005 square feet. The two identical smaller parcels located on the northwest side of the site labeled B and C on the survey are 69.39 by 60.0 feet. The combined area for those two smaller parcels is 8,326.80 square feet. Thus, the total site size is 69,331.80 square feet. The minimum density for the site is 138 units.

It appears that the applicant may have deducted from the total site size area it voluntarily dedicated for street trees. PCC 33.526.240 allows an applicant to reduce the site size for density calculation under certain circumstances, but that section does not apply here. First, section PCC 33.526.240 applies only to creation of open spaces. Indeed, it is labeled "Open Area". The language of PCC 33.526.240 cannot support the conclusion that street dedication can be deducted from the total site size. Second, the plain language in PCC 33.526.240.C states that it only applies to sites 5 acres or more in size. The site is not even two acres in size. The record does not contain any other justification for reducing the site size from 69,331.80. The record does not contain any evidence to support the applicants density calculations based upon a 62,898 square foot site. The proposal does not meet the minimum density requirements as it is currently designed.

2. The proposal does not include substantial evidence of compliance with PCC 33.833.210.H.

PCC 33.833.210.H mandates that an applicant provide a guarantee that required housing that is deferred will be built. The applicant acknowledged that to satisfy the density requirements for the RXd zone, it must develop 127 housing units. As we discussed above, we do not accept the applicant's statement that the minimum density is 127 units. Regardless, there is no dispute that the applicant has funding to complete just 67 units. In its May 3, 2012 revised submission, the applicant acknowledged that it does not currently have funding for Phase II. The applicant explained that the State of Oregon will only fund a certain number of affordable units each year and since there is no funding for Phase II now, it cannot be built.

At the May 14, 2012 hearing you inquired of both parties what type of assurance is required. At that time, we mentioned that a binding loan commitment may suffice. After reading the code again, we do not believe the express language allows a simple commitment to meet the requirements of this section.

PCC 33.833.210.H uses plain unambiguous language. It required a guarantee that the deferred housing will be built. To interpret the term guarantee in this section, a decision maker should place the term in context. Here the context is an assurance that something will be constructed. In the construction field, a guarantee that the developer will construct required improvements must be backed by a financial performance bond or other assurance. A performance bond is an example of a guarantee in a construction project. We enclosed a copy of the page from Wikipedia discussing the characteristics and purposes of a performance bond. In summary, a performance bond assures completion of a project. That is precisely what PCC 33.833.210.H requires of a developer. We also enclosed a sample of a construction guarantee agreement that was used by the City of Fraser Colorado and which includes a provision requiring the developer to provide financial backing to its promise. To interpret PCC 33.833.210.H to require less than a financial performance bond or similar instrument, would require the hearings officer to change the text of that section. The language would have to be read to say that the applicant must provide reasonable assurances that it will construct the deferred housing. Of course, that is not how the provision was written.

A construction guarantee is not a foreign concept to the City. Under the City code whenever a developer is required to make public improvements, the developer is required to guarantee that the improvements are completed. The guarantee that the City requires is a bond or other financial assurance in an amount that will guarantee that the required work will be completed, even if the current developer fails to complete it and the City is required to do so. PCC 17.24.055. (a copy of that section is enclosed for ease of reference).

The guarantee in this matter is critical to the project. If Phase II is not constructed by the developer, the project will be non-conforming. It will have a fraction of the required density. The project will not only violate the density requirements in PCC 33.120, it will violate the basic purposes of the Gateway plan district. The financial guarantee takes on more significance because after Phase I is constructed, the City will have no effective means to enforce PCC 33.833.210.H. After Phase I is built and occupied, there is no way that the City is going to require the owner to remove the non-conforming building on Phase I and displace the residents even if Phase II is not constructed. Furthermore, without a performance bond or other financial assurance in place, the City could not complete Phase II on its own. It is imperative that the applicant be required to post the same type of construction guarantee that any other private developer would be expected to provide for required improvements.

The evidence at the May 14, 2012 hearing supports such a requirement. The person who testified on this topic for the applicant admitted that even if the application for state funds is approved in June, there is no guarantee that the project will ultimately receive the funds. Her words were to the effect that there is no guarantee when one is depending on tax money. Indeed, in a time when schools are being closed due to lack of public funds, it would be improvident to rely upon future tax dollars as a guaranteed source of funds.

Finally, there was evidence during the design review hearing that significant doubt exists over the applicant's ability to guarantee completion of Phase II. The proposal includes a plaza in Phase II near the bus storage area. Several design commissioners encouraged the applicant to adjust the line between the phases to include that plaza in Phase II. That is strong evidence that the commissioners have concern over the level of guarantee the applicant can provide.

3. The applicant's justification for bus storage is inconsistent with the text and context of the City code.

The applicant did not provide an acceptable interpretation to support the inclusion of a commercial parking facility. The applicant's response to this point was to explain that Ride Connection offers other services in addition to transportation and that it stores its buses in other locations in the City. First, the fact that Ride Connection offers other services from its site is irrelevant to this issue. The issue is whether the bus storage is a primary use or an accessory use. The bus storage has nothing to do with the other educational services noted at the hearing. The people attending educational programs on transit and defensive driving will park in the other 85 parking spaces provided to serve the uses on the site. The bus storage is not accessory parking for those uses. It is a stand-alone use. A site may house several different uses. Just because there are multiple uses does not mean there is one primary use and all others are accessory to that use. PCC 33.920.210A is clear. Commercial parking facilities provide parking that is not

accessory to a specific use. The hearings officer must analyze the bus storage as its own use. The applicant offered no explanation of how storing buses during times when the offices are closed is accessory to any specific use on the site. The accessory parking is included elsewhere on site.

Additionally, the fact that Ride Connection stores buses on other sites alone means little to this matter. The restriction on commercial parking facilities is specific to the Gateway plan district and RXd zones. It is not relevant that Ride Connection stores buses in other zones.

4. To meet the purposes of the Gateway plan district, which are approval criteria, the proposal should include structured parking design to provide capacity for future development.

We demonstrated in our May 11, 2012 submission that the applicant has sacrificed housing density for parking and for commercial uses that do not meet the use regulations in PCC 33.526.110. There is additional support for redesigning the project to decrease to amount of the site used for surface parking. One of the design guidelines expresses a strong preference in the Gateway plan district for structured parking. Gateway Regional Center Design Guideline C4 requires an applicant to develop complementary parking area and encourages the use of structured parking.

When read in context of the Gateway plan district, the parking on any proposed site should take into consideration future development of the area and not just the limited parking needs of one development. The applicant in this matter is proposing a single development that will occupy almost, but not quite all of a tract that is slated for more intense development. Indeed, one of staff's positive remarks about the current proposal is that it will make better use of an underdeveloped site. However, the proposal leaves Mr. Fox's parcel as a small remnant that will forever be impacted by the development being proposed. The applicant has made no attempt to coordinate future development with Mr. Fox to assure that his property is left with the potential for development that will further the goals and purposes of the Gateway plan. Parking is one example. The best plan for the district would be to have a single complementary parking facility that facilitates sound development of the entire block. By leaving one small parcel on the block, the current proposal assures that any future development on Mr. Fox's parcel will have to include underground or other structured parking. The manner in which the current proposal is designed with tall buildings close to Mr. Fox's property, any development on his property to appear consistent compete in the market is going to have to have multiple stories. It will have to thus, include structured parking. That will not be economically feasible and the parcel is likely to never be developed consistent with the purposes of the Gateway plan district. To be consistent with the plan district, the applicant should be required to propose structure parking that could be used by development on the entire block under appropriate conditions.

5. It was error for the City not to require a traffic impact study to address safety concerns associated with an auto-oriented development.

It was error to not require a traffic impact study. PCC 17.88.050 states that a transportation impact study ("TIS") may be required in two situations. One is where the

approval criteria for a land use review include a requirement of adequacy of transportation services. The other situation where a TIS can be required is where the City Engineer identified potential safety or operational concerns that may be impacted by the layout of a site or the location or size of driveways for a proposed development.

In this matter the City Engineer identified potential safety issues with the original layout that included two parallel driveways onto NE 100th. The City Engineer required as a condition of approval the removal of one driveway. The City Engineer should have required a TIS as part of that analysis to make certain that a single driveway onto NE 100th is all that is required to meet the safety concern. Additionally, as we demonstrated in our May 11, 2012 submission, there are several other traffic safety and circulation issues that the City Engineer never examined. The site layout, as proposed, will introduced a number of buses, vans and passenger vehicles onto NE 100th. Most if not all of those vehicles will have to turn onto Glisan, which is a major city street. The portion of Glisan near the site is already heavily congested because it is one of the primary places for vehicles to enter and exit I-205 and I-84. There are safety issues, particularly associated with making a left turn onto Glisan that should have been addressed in a TIS.

In addition, the proposal includes 88 bicycle parking spaces indicating that the site will generate a substantial amount of bicycle traffic. In fact, the City requires that the site include 74 spaces for bicycle parking. The applicant has embraced that mandate, commenting at the design review hearing that the site will generate significant bicycle traffic. It is incongruent for the City to require significant bicycle use and not require the applicant to address a whether that bicycle traffic can come and go from the site safely. Unfortunately, tragic examples of bicycle/motor vehicle contact are not infrequent in Portland. The applicant did not provide any proposal on how the development will promote safe and efficient bicycle transportation in this congested area.

6. The impacts of the non-residential components are deflating the value of Mr. Fox's property.

As we previously explained, the location and design of the bus storage imposes all of the negative impacts from that use on Mr. Fox. There is evidence that the project and its design are already devaluing Mr. Fox's property in a manner inconsistent with PCC 33.833.210.I. The applicants, or the City on their behalf, paid approximately \$57.00 per square foot for the three parcels included in the proposal. Yet, the highest offer made to Mr. Fox was \$22.80 per square foot for property with the same zoning. That is compelling evidence that the proposal is not consistent with PCC 33.833.210.I.

Conclusion

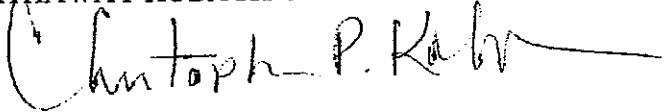
The applicant failed to provide the level of guarantee required by PCC 33.833.210.H, failed to provide any reasonable interpretation of PCC 33.910.200 to permit bus storage, failed to conduct

May 21, 2012
Page 6

a traffic impact study and failed to address the parking that is consistent with the purposes of the Gateway plan district. For all of the above reasons, we urge the Hearings Officer to deny the current application.

Very truly yours,

HATHAWAY KOBACK CONNORS LLP

A handwritten signature in cursive script that reads "Christopher P. Koback". The signature is written in black ink and includes a long horizontal flourish extending to the right.

Christopher P. Koback

CPK/df
Enclosures

May 24, 2012

To the City of Portland

Chris Caruso, City Planner

Design Review Commission

RE: LU 12-115245 DZ

Comments in opposition or clarification:

The following comments are focused on protecting the value of the property I own at the corner of NE 99th and NE Glisan. (9918 NE Glisan)

First please be aware that this project is missing a very valuable opportunity to become THE main building block for the 'to be energetically developed' Gateway Plan District. For this commentary, I believe all that is necessary is to call to the attention, a point that the Commission already knows – that being the importance of adding my land to the current development plan. There is an accompanying letter that further explains the detail behind this statement.

This letter of concern is predicated on the current plan going forward:

1. Bus Parking: The Commission, is missing an important element in the parking of the applicants buses and vans. More so the buses than the vans. The location of the buses is/will be in a near enclosed, lower location (only several inches) than surrounding property. While that is minimal in scope, it is true that 'heavy air' (a portion of vehicle exhaust) will tend to migrate to the low points of its surroundings. To give more definition to the enclosure: there will be a large "L-Shape", five story Building that is to house the future offices of RIDE connection and 67 residential units. That building will effectively deflect air flow from the south and the east. A future building, Phase II, will be a large six story building that will for the most part inhibit or block air flow from the north. And, due to circumstances of the current plan, it will be some time before there will be near equally large five or six story building on my land which will block air flow from the west, and impede air flow from the east. It is not good planning to create a 'pocket' of quiet air in which the mini-buses will be parked. And, contrary to personal communication with the primary developer, (Human Solutions, H/S), those buses will need to 'jockey' to park and to depart. Is this a 'huge' problem ... maybe not? But, is it fair and good neighborly, as H/S claims to want to be? No, not at all, since the only impact will be associated with tenants on my property, no impact on property to be owned by H/S and in the future by REACH. It is fair to point out that the applicant has carefully placed the residential portion of their development away from this area of concern ... I don't think that is an accident.

Further, there will be precious little opportunity for sunlight into that area, especially after the noon hour on. An issue the Commission correctly pointed out in the DAR meeting, but is not really being resolved under the current plan. There needs to be more thought and to search for a solution to this issue ... that, unfortunately only has a significant impact on my future residents (perhaps for only a couple/three stories and perhaps for only a dozen more or less units ...) though not a major issue in the big picture ... it is still a potential loss of revenue to the a future owner of a project on my land. There may be a viable solution to this issue that is modestly detailed in another letter that will be sent to the commission via my attorney. For continuity between this letter and the other one - the solution is: for my land to be incorporated into the project; for the project to have a 'structured parking garage'; a lower, five story building to the north, (no parking under its residential portion); buses parked near the 'garage'; van's parked in the garage; much more space opened up by transferring some of the density, if needed, to my property with three buildings and a parking garage, all widely spaced as possible, to offer more 'freedom' of light and air. For RIDE convenience, there can still be room to have 'visitor' parking nearby ... maybe 4 spaces for 'in and out' visitors.

I am aware that it is not likely the Commission will take action on the comments above to stop the process now and seek common ground on those comments; nonetheless, I think it fair to ask for your opinion to be made known and to have that opinion be supportive of the comments above.

2. **Vegetation:** The applicant has commented on a few occasions about vegetation. I am asking the Commission to provide me, and future owners of my land, the privilege of having 'input' and reasonable right of approval on the vegetation that will be planted along the boundary between the properties. Example concern is: planting trees in a five foot horizontal area is problematic. Trees canopy growth in the area of the current surface bus parking will only impact my property ... that is, it will ultimately be incumbent only on the owner/user of my land to trim, and care for the growth of vegetation, (with likely growth to be actually in contact with a building west of the parking area for buses. And the trees will block what little sunlight will be available, to the lower two or three floors, as well as obscure an open view to the east, from my land as the trees grow, as we know they will, upward to the available sunlight. While this may not affect a large number of residents on my land, it will impact the same residents as will be impacted by the noise/fumes/lighting associated with the buses.
3. **Lighting:** I want to call to the commission's attention that I am concerned about how lighting might affect each of our properties, both those to be built via the City Bureau of Housing and a future developer for my land. I ask that the commission provide as much certainty as practical that lighting will not be obtrusive or invasive to each other's property as development occurs.
4. **The Roof Deck:** I have tried to develop comfort and acceptance that the 5' planter on the deck surface will 'do the job' to provide reciprocal privacy. I just can't get that to work in my mind. Vegetation in the planter would need to grow to a very large height to help obscure visual

interaction for at least the two future floors that will be most impacted by the interaction between 'quiet enjoyment' of 'home' and the 'enthusiasm' of the open air environment area deck. There is no way to deflect noise or line of sight totally, but I think a 'Pergola' (Please see two attached to this email, Pergola image examples) structure has the best chance to accommodate that problem. That is an open – Slotted – structure that the overhead elements can be 'angled' to almost completely mitigate the line of sight both ways in this incidence. Especially in regard to the higher floors that will be on my land. A similar treatment can be done on the west side of the Roof Deck, on a horizontal plane to mitigate line of sight at the lower levels. I don't think either element needs to go full width or height. The goal can be accomplished by having the Pergola's structure cover 50 or 60 or 70% of the open air feature. And, it would be good to keep a smaller planter feature for vegetation to add to the environment.

5. Setback of the RIDE building on the west side of its property: There are at least two renditions of the setback: one showing a very small, 1 foot ? 2 foot setback?, the other, other recent draft, showing a larger, defined in the recent meeting to be 4 feet wide along that west side wall. I would be grateful if the commission would ask the applicant to provide assurance of the 4' setback, and provide a detail of how the "angling", or offset? would apply. Mr. Otte referred to an "angle" setback, in that area, in the recent meeting, that I am having trouble understanding.
6. If it is not too late, I think the commission should consider strongly recommending that, at the least, the applicant should re-explore the Structured Parking that would eliminate surface parking and seriously reduce the cost of the phase II building, thereby allowing for some money (probably not enough) to build a structured facility, the RIDE offices schematics show approx. 75 'cubicles' and offices ... if that number of offices are actually filled, parking is going to be difficult at best in the immediate neighborhood.. I don't think you saw the original plan that I saw in late November 2011 ... that plan had a structured parking of 120+ units, but a Neighborhood Association was not comfortable with that feature. It is too bad that parking plan didn't not work out.

Thank you for taking time to read this material, I really appreciate this opportunity to communicate and wish I was comfortable enough to do so verbally.

Mel Fox, owner of

9919 NE Glisan

