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Portland Planning and Sustainability Commission
City of Portland
1900 SW 4th Ave, Suite 1700
Portland, OR 97201

Re: Property at 430 NE Lloyd Boulevard

Dear Commissioners:

This firm represents Joe Angel, owner of the property located at 430 NE Lloyd Boulevard ("Property") which currently contains a Dutch Bros. Coffee and undeveloped land to the south extending into Sullivan's Gulch.

The CC2035 Proposed Draft recommended decreasing the maximum height on the majority of the Property from 250 feet to 70 feet. This is a result of the Scenic Resources Protection Plan, specifically viewpoint CCNE01 looking west from the 12th Street overpass crossing I-84. This letter identifies the practical and legal shortcomings of the City's analysis and scenic protections for this viewpoint and recommends an alternative approach.

PRACTICAL ISSUES:

1. The proposed height reduction does not result in preservation of the view in question.

The reduction in maximum height does not preserve the view that the City is attempting to protect. The illustrations of estimated build-out under existing heights and proposed heights are practically identical. The visibility of both the primary (Portland State office building dome and West Hills) and the secondary (downtown skyline and natural vegetation) focal features are not impacted by the proposed height limitations. This is exemplified by the following figures from the ESEE analysis.



Current view

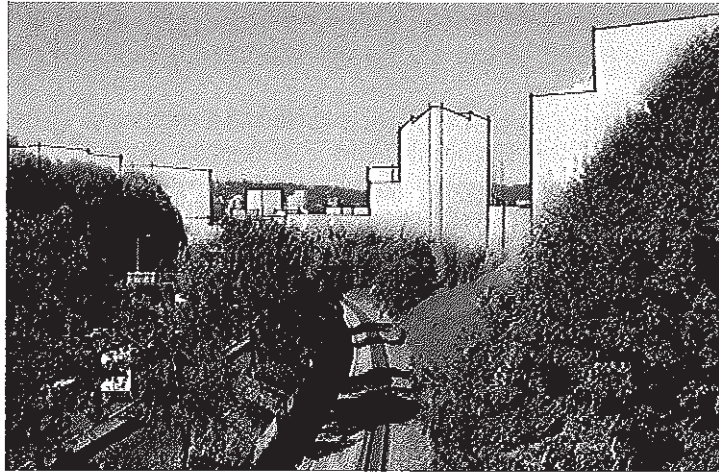


Figure 13: View of Central City from NE01 - Existing Bonus Heights

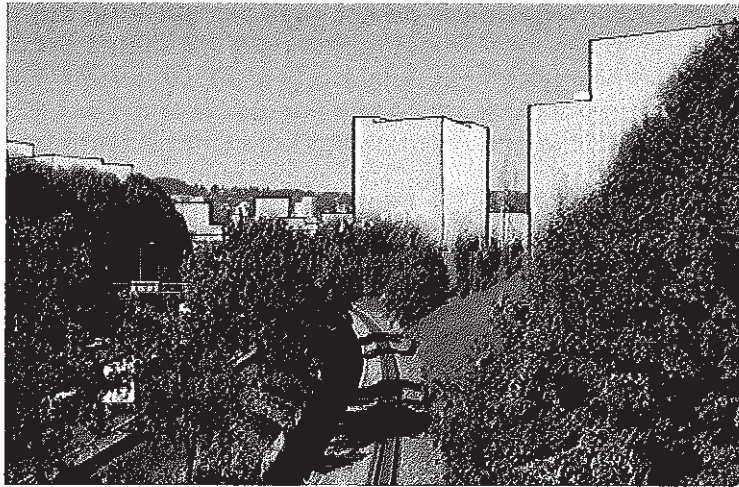


Figure 14: View of Central City from NE01 - Proposed Bonus Heights



2. The proposed height reduction has a significant economic cost.

As you can see from the above illustrations, the current proposal nets the City a barely noticeable level of visual preservation in exchange for a loss of \$16.25M in development value and 2,261 lost jobs. This does not seem like a beneficial exchange.

This bad tradeoff is not required by state law, as local scenic protections are discretionary to the City. OAR 660-023-0230. And as a practical matter, the resource in question is protected by the break in vertical development created by I-84 and Sullivan's Gulch, and no additional regulation is needed to retain views to the West Side. The City should decline to trade over \$16.25M and 2,261 jobs for negligible benefit.

LEGAL ISSUES:

- Implementation measures proposed by staff are inconsistent with the review criteria established in the City's ESEE analysis. The CCNE01 viewpoint is categorized as Upland Type 1, which the ESEE analysis indicates should result in a limitation of conflicting uses, or a prohibition only if the focal features include the Mt. Hood, Mt. St. Helens, or the Willamette. Thus, for CCNE01, the ESEE review criteria indicate that conflicting uses should be "limited" not "prohibited."
- Without identifying any additional criteria or contradictory information, the City to deviate from the ESEE analysis, the City proposed to prohibit (no limit) conflicting uses. This recommendation is inconsistent with the standards of the ESEE and OAR 660-023-0030(4). Further, no economic analysis is provided that supports prohibition of conflicting uses for CCNE01 as compared to limitation, as is required by OAR 660-023-0040(4).
- The currently proposed height restriction is based on a viewpoint for which the City has inadequate information to perform an ESEE assessment, and therefore is inconsistent with OAR 660-023-0030(3). The protected resource is apparently a view from a non-existent pedestrian bridge. Further, the ESEE does not contain any identification of ODOT, City, or other funds to construct the pedestrian bridge, or any proposed timeline for construction of such a bridge.
- The ESEE analysis fails to address the abundance of view resources, including the CCNE01 resource, which the City admits provides similar views to 4 other viewpoints. This oversight is inconsistent with the OAR



660-023-0023 requirement that information on the quality of view resources "shall include an estimate of the relative abundance or scarcity of the resource." Additionally, no economic data supporting the City's decision to choose heightened protections for CCNE01 over the other, similar views, as is required by OAR 660-023-0040(4).

Based on the above-listed practical and legal flaws with the current proposal, we request that the PSC recommend the City:

- (i) Not implement the proposed height limitations associated with viewpoint CCNE01;
- (ii) Wait until the proposed pedestrian bridge is constructed;
- (iii) Revisit this issue based on analysis of the actual viewpoint, and
- (iv) Determine at that time if there is any benefit to further amending the code.

We appreciate your time and attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "DRH", written over a horizontal line.

Damien R. Hall

DRH

cc: Client