



CITY OF
PORTLAND, OREGON

OFFICIAL
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 4TH DAY OF NOVEMBER, 1992 AT 9:30 A.M.

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

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

On a Y-5 roll call, the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

1844 Cash investment balances for September 24 through October 21, 1992 (Report; Treasurer)

Disposition: Placed on File.

1845 Accept bid of John Arnold for 16" water main at Willalation Tank Site for \$69,444 (Purchasing Report - Bid 45)

Disposition: Accepted; prepare contract.

1846 Vacate a portion of NE 67th Avenue, NE Multnomah Street and NE Clackamas Street, under certain conditions (Ordinance by Order of the Council; C-9814)

Disposition: Passed to Second Reading November 11, 1992 at 9:30 a.m.

Mayor J. E. Bud Clark

1847 Confirm reappointment of Julie C. Sterling to the Housing Authority of Portland (Resolution)

Disposition: Resolution No. 35071. (Y-5)

November 4, 1992

- 1848** Confirm reappointment of Robert W. Naito to the Housing Authority of Portland (Resolution)
Disposition: Resolution No. 35072. (Y-5)
- *1849** Amend contract with Linn Kuczek for Urban Services canvasser services (Ordinance; amend Contract No. 27229)
Disposition: Ordinance No. 165951. (Y-5)
- *1850** Authorize acquisition of property near SE 136th and Harold for Springwater Corridor (Ordinance)
Disposition: Ordinance No. 165952. (Y-5)
- *1851** Settle claim of Melford Reynolds (Ordinance)
Disposition: Ordinance No. 165953. (Y-5)
- *1852** Authorize contract with the Institute for Quality Service for customer service and business planning services to the Office of Finance and Administration (Ordinance)
Disposition: Ordinance No. 165954. (Y-5)
- 1853** Amend Code to reflect changes to the collection of money due the City (Second Reading Agenda 1811)
Disposition: Ordinance No. 165955. (Y-5)

Commissioner Earl Blumenauer

- 1854** Accept completion of the Lents Basin CSO Sump Project IV, approve the Certificate of Completion and make final payment (Report; Contract No. 27801)
Disposition: Accepted.

November 4, 1992

- *1855** Amend an agreement with Portland Development Commission and Tri-Met modifying project funding and construction management of the Portland Transit Mall Extension Project and authorizing acceptance of active consultant contracts (Ordinance; amend Agreement No. 24969)
- Disposition:** Ordinance No. 165956. (Y-5)
- *1856** Agreement with the Oregon Department of Transportation Highway Division and Tri-Met to provide for the Portland Transit Mall Extension Project (Ordinance)
- Disposition:** Ordinance No. 165957. (Y-5)
- *1857** Consent to transfer of Walker Refuse Hauling franchise to Hoffmann Sanitation (Ordinance)
- Disposition:** Ordinance No. 165958. (Y-5)
- *1858** Release public water and sewer easements lying within vacated SE 96th Avenue south of SE Washington Street (Ordinance)
- Disposition:** Ordinance No. 165959. (Y-5)
- *1859** Approve construction of private pipelines across vacated NW Front Avenue (Ordinance; amend Ordinance No. 146216)
- Disposition:** Ordinance No. 165960. (Y-5)
- *1860** Grant revocable permit to Portland Development Commission for irrigation system in NE Airport Way between NE 138th Avenue and NE 181st Avenue at NE Sandy Boulevard (Ordinance)
- Disposition:** Ordinance No. 165961. (Y-5)
- *1861** Authorize a maintenance agreement between City of Portland and Tri-Met for the Transit Mall Extension Project (Ordinance)
- Disposition:** Ordinance No. 165962. (Y-5)

November 4, 1992

- *1862** Authorize agreements between the City and various property owners along the North Transit Mall Extension Project to make modifications to existing vaulted sidewalk areas (Ordinance)

Disposition: Ordinance No. 165963. (Y-5)

Commissioner Gretchen Kafoury

- 1863** Amend Resolution No. 34868, Anti-Displacement and Relocation Assistance Plan, with regard to notice procedures (Resolution)

Disposition: Resolution No. 35073. (Y-5)

- *1864** Amend Ordinance No. 165596, which granted a Comprehensive Plan Map Amendment and zone change on property south of Tideman Johnson Park and north of SE Johnson Creek Boulevard, between SE 36th and 39th Avenues, from R7 and R10, Residential, to OS, Open Spaces, to correct legal description (Ordinance; 92-00106 CP CU EN)

Disposition: Ordinance No. 165964. (Y-5)

Commissioner Mike Lindberg

- 1865** Accept as complete contract with Frahler Electric to construct pathway lighting at Creston, Grant, Wilshire and Willamette Parks (Report; Contract No. 27622)

Disposition: Accepted.

- 1866** Accept completion of contract with Interstate Mechanical, Inc., for heating system replacement at Mt. Tabor greenhouse and make final payment of \$4,870 (Report; Contract No. 28041)

Disposition: Accepted.

- 1867** Authorize the Bureau of Parks and Recreation to donate a damaged pottery vessel from City salvage to the Interstate Firehouse Cultural Center Board of Directors to auction off for fund-raising purposes (Ordinance)

Disposition: Passed to Second Reading November 11, 1992 at 9:30 a.m.

November 4, 1992

***1868** Call for bids for the construction of an 8-inch water main in NE Rocky Butte Road, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 165965. (Y-5)

***1869** Call for bids for the construction of a 6-inch water main in SE Lexington Street and SE Malden Street, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 165966. (Y-5)

***1870** Call for bids for construction of a 12-inch water main in N Hayden Island Drive, Phase IV, authorize a contract and provide for payment (Ordinance)

Disposition: Ordinance No. 165967. (Y-5)

***1871** Amend Ordinance No. 165717 to increase grant funds from Multnomah County for the operation of an integration program for senior citizens who have mental retardation/developmental disabilities (Ordinance; amend Ordinance No. 165717)

Disposition: Ordinance No. 165968. (Y-5)

City Auditor Barbara Clark

***1872** Reduce sidewalk maintenance assessment to 8216 N Fessenden Street (Ordinance; amend Ordinance No. 165347)

Disposition: Ordinance No. 165969. (Y-5)

1873 Reduce sidewalk assessment to 150 NW Hermosa Boulevard (Ordinance; amend Ordinance No. 165814)

Disposition: Ordinance No. 165970. (Y-5)

***1874** Reduce sidewalk assessment to 1113 N Baldwin Street (Ordinance; amend Ordinance No. 164067)

Disposition: Ordinance No. 165971. (Y-5)

November 4, 1992

- *1875** Correct special assessments for certain properties in the Richardson, Englewood and Floyd Light Sanitary Sewer Local Improvement District (Ordinance; C-9700, C-9701, C-9702)

Disposition: Ordinance No. 165972. (Y-5)

REGULAR AGENDA

- 1842** **TIME CERTAIN: 9:30 AM** - Dedicate the City of Portland Archives and Records Center in memorial to Stanley T. Parr, Jr., and rename it the Stanley Parr Archives and Records Center (Resolution introduced by Auditor Clark)

Discussion: Barbara Clark, Auditor, described Stanley Parr's achievements in making the Archives and Records Center a model operation.

Disposition: Resolution No. 35074. (Y-5)

Mayor J. E. Bud Clark

- 1876** Authorize submission of FY 1992-93 Fall Supplemental Budget to the Multnomah County Tax Supervision and Conservation Commission (Resolution)

Discussion: Commissioner Kafoury asked if this covers the 19 Police officers Council agreed to add.

Tim Grewe, Director, Office of Financial Planning, said it does not. He said it will be dealt with in the first quarter ordinance coming to Council in about three weeks. He said the Blazer money is not a part of it either.

Disposition: Resolution No. 35075. (Y-5)

- *S-1877** Accept a planning grant from the US Department of Commerce, Economic Development Administration for \$100,000 and authorize the Portland Development Commission to administer (Ordinance)

November 4, 1992

Discussion: Cay Kershner, Clerk of the Council, said a substitute had been filed and distributed.

Commissioner Kafoury moved the substitute; Commissioner Bogle seconded and the motion carried. (Y-5).

Disposition: Substitute Ordinance No. 165973. (Y-5)

- *1878** Accept a continuation grant of \$38,822 from the State of Oregon Criminal Justice Services Division to provide drug resistance training to youth through the Police Activities League (Ordinance)

Discussion: Mayor Clark said this is a Police program to help endangered kids.

Disposition: Ordinance No. 165974. (Y-5)

Commissioner Earl Blumenauer

- 1879** Accept petition and adopt Resolution to institute proceedings for the street and storm sewer improvements in the SW Pasadena/37th LID District (Report)

Disposition: Accepted.

- 1880** Direct the City Engineer to prepare plans, specifications and cost estimates for the street and storm sewer improvements in the SW Pasadena/37th LID District (Resolution)

Disposition: Resolution No. 35076. (Y-5)

- 1881** Transmit report from City Engineer on proposed Ordinance revoking certain commercial driveway permits as part of the Transit Mall Extension Project (Report)

Disposition: Continued to November 12, 1992 at 9:30 a.m.

- *1882** Revoke certain commercial driveway permits along the Transit Mall Extension Project, stipulating certain conditions (Ordinance)

Disposition: Continued to November 12, 1992 at 9:30 a.m.

November 4, 1992

1883 Consider vacating a portion of NW 22nd Place north of NW Thurman Street at the request of Aratax Services, Inc. (Hearing; C-9804)

Disposition: Approved. City Engineer Prepare Ordinance

***1884** Accept a grant from the US Environmental Protection Agency in the amount of \$3,000 for FY 92-93 for the development of a "Kids Streamwalk" (Ordinance)

Disposition: Ordinance No. 165975. (Y-5)

***1885** Accept a grant from the US Department of Housing and Urban Development in the amount of \$900,000 for FY 92/93 for design and engineering of the Phase I Alignment of the Central City Streetcar Project (Ordinance)

Discussion: Commissioner Blumenauer said the City has had the cooperation of Senator Hatfield in making the downtown streetcar a reality, noting that this is the first time that HUD money has been used for such a project.

Disposition: Ordinance No. 165976. (Y-5)

City Auditor Barbara Clark

1886 Assess property for sewer system development changes through August, 1992 (Second Reading Agenda 1830; Z0201 through Z0210)

Disposition: Passed to Second Reading October 11, 1992 at 9:30 a.m.

1887 Assess benefitted property for the costs of constructing the Adventist, Montavilla and Linn Park Sanitary Sewer Systems (Second Reading Agenda 1834; C-9743, C-9744, C-9745)

Disposition: Ordinance No. 165977. (Y-5)

1888 Assess property for sewer system development charges through September, 1992 (Hearing; Ordinance; Z0212 through Z0219)

Disposition: Ordinance No. 165978. (Y-5)

November 4, 1992

1843 TIME CERTAIN: 10:30 AM - Authorize Mayor to enter into Development Agreement and certain related agreements regarding the Oregon Arena Project (Previous Agenda 1829)

Discussion: Kathryn Imperati, Senior Deputy City Attorney, said City Attorney Jeff Rogers has approved as to form four of the agreements, Exhibits A-D, which accompany this ordinance. However, there is an oversight on the exclusive site agreement, which lacks a correct signature page. Once the City Attorney approves a correct one, then other City representatives may sign it but until that time no one else from the City should sign.

Commissioner Lindberg asked if that affected their vote on the ordinance.

Ms. Imperati said no.

Mayor Clark said he understands the risks and is willing to go ahead.

Ms. Imperati said the documents have been slightly modified from those Council saw last week and a motion to amend the ordinance to substitute the attachments to the ordinance is needed.

Commissioner Bogle moved to amend the ordinance to accept the substitute agreements and the motion was seconded and carried. (Y-5)

Commissioner Blumenauer said this partnership between the public and private sectors will help the City meet its revitalization goals and provide for economic development. He said he believes it will set a pattern to be followed in other areas of the City. He said there is some risk but the payoff is very high and the City's investment is based on things the City needs to be building.

Commissioner Bogle said this project will play a significant role in the economy, bring more jobs and investment to the East side and benefit the entire region. It creates an estimated 1,100 construction jobs during the first two years and will generate nearly 900 full and part time positions upon completion. He also complimented Trailblazers owner Paul Allen for investing \$170 million of his own money.

Commissioner Kafoury said she believes this is very good news for Northeast Portland but wants to make sure that the jobs go to Portland residents, especially the unemployed in Northeast Portland.

November 4, 1992

Commissioner Lindberg said this project took thousands of hours of negotiations with each side making concessions. He said this is in the best interests of the City in the long run and the positives are overwhelming, including a \$205 million sports and entertainment complex and, after construction, an economic impact of \$25 million a year. He said he also believes this private investment will be a major catalyst for other economic activity in the area.

Commissioner Lindberg said if the City did not go ahead with this at some time in the near future major renovations would be needed or the public would have to pay for an entirely new arena. Among the tradeoffs is the \$4 million in additional costs for the seismic upgrades and some items which originally were expected to be covered from tax increment financing but which the City ended up having to pay itself. There could be other future costs to taxpayers which the City Attorney has identified. However, despite these tradeoffs, the benefits far outweigh the risks.

Disposition: Ordinance No. 165979 as amended. (Y-5)

At 10:43 a.m., Council recessed.

November 4, 1992

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 4TH DAY OF NOVEMBER, 1992 AT 2:00 P.M.

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

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Ruth Spetter, Senior Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

Commissioner Gretchen Kafoury

1891 Request Council to set date for the record to be reopened for a seven day period on remand of Adler v. City of Portland (Report)

Discussion: Commissioner Kafoury said this concerns a case remanded back to the City from LUBA. She recommended adopting option B-1, as outlined in the October 29, 1992 memo from Deputy City Attorney Adrienne Brockman, which recommends opening the record from November 9 through November 17 and then providing additional time for rebuttal. She said, however, that the report needs to be amended to add 9:00 a.m. to both dates.

Commissioner Kafoury moved to adopt Option B-1 with the addition of the 9:00 a.m. times. Commissioner Bogle seconded and the motion carried. (Y-5)

Disposition: Adopted Option B-1 as amended. (Y-5)

1889 **TIME CERTAIN: 2:00 PM** - Update on Metro's Region 2040 Project (Report introduced by Commissioner Kafoury)

Discussion: Bob Stacey, Planning Director, said this project helps address questions about how this area grows as a region and about what growth can and should be accommodated within the City limits.

Andy Cotugno, Metro Planning Director, said there are two phases to the Region 2040 process. The first phase, information collection and identification of concerns, has been completed and the next step is to define the preferred concepts in detail so that the public can decide which ones to adopt and how to implement them. He said Metro is still developing these concepts to identify the various development choices. To deal with the growth forecast for the area and the impact of an aging population, three

November 4, 1992

alternative growth plans have been presented. The first plan would extend the current comprehensive plans out 20 years and every five years the urban growth boundary would be reconsidered and, if needed, new lands would be added to accommodate that growth. Mr. Cotugno said they foresee adding 50,000 acres to the boundary under this scenario. Option B takes the opposite approach and freezes the boundary. In this case, very special attention needs to be focused on where growth would take place with the presumption that it would occur around transit centers and along major transit streets. Option C is a mix of the first two and acknowledges that all growth may not be squeezed in the current boundaries but proposes that it be specifically focused outside the boundary.

Mr. Cotugno said they have received feedback from other jurisdictions about the effect of growth and transportation improvements on smaller cities. Regarding boundary locations, both rural and urban concerns are being addressed and growth will be focused away from prime farm and forest lands.

Commissioner Kafoury said the question before Council is whether these are the right choices. She said she does not think that "no growth" should be one of the options but the City must explain the consequences of what that would be. She said she believes that to accomplish Option C funds must be available to purchase public lands.

Mr. Cotugno said a lot more information is needed about the nature of growth and the implications of limiting it. He said much of the growth is not due to migration but because of our own kids. What also needs to be understood are the ramifications for the people already here if we do not provide jobs, education or housing.

Commissioner Blumenauer said people need to understand the stake the community has in accommodating increased growth and who these people are who will be added to the population. He said nothing is more important for Portland than maintaining its vitality and suggested a public study of the no growth option so people would understand what is at stake. Each option has significant implications and investments must be made in the next few years if any of them are to become a reality.

Mayor Clark said he likes the three options and is most concerned about preserving open spaces.

November 4, 1992

Mr. Cotugno said green spaces are very important to counter balance increased population and reinforce the kind of growth that is desired.

Commissioner Kafoury said she would like feedback from Council members as to whether these three choices make sense.

Disposition: Placed on File.

Commissioner Earl Blumenauer

1890 Adopt the report and recommendations of the Bureau of Traffic Management for the NE 14th Place Traffic Management Project (Resolution)

Discussion: Commissioner Blumenauer said this plan reflects neighborhood concern with drug activity, disruptive behavior and speeding traffic on their streets. He said Transportation in this case incorporated plans for a pilot project for NE 14th Place with the drug house enforcement work group plan and has also involved people from the Police Bureau, Neighborhood Watch and individual residents. A temporary plan has been developed to address these problems which would close NE 14th Place, south of Killingsworth and north of Alberta. A speed hump would be in the middle of the two closures between Emerson and Sumner. Additional street lighting is also proposed.

Officer Kevin Modica, North Precinct, said neighbors expressed concern to Police about traffic and, in keeping with community policing goals, they decided to look at available alternatives. He said after numerous discussions, a two-phase program was agreed upon. The first phase would implement steps to immediately deal with the criminal problems associated with traffic. Police believe implementation of the plan will decrease transient traffic, cut off escape routes, and give the street back to the neighborhood. A partnership agreement is ready to be signed with the Police, Neighborhood Watch and Habitat for Humanity.

Commissioner Blumenauer said this plan initiates the use of traffic management to curtail criminal activity.

Earl Reid, Traffic Engineer for Office of Transportation, said they believe there will be some diversion to other streets. He recommended that Exhibit A be adopted.

Marilyn Keller, 5273 NE 14th Place, asked Council to make sure that access on the side streets, Emerson and Summer, remains free and clear. Currently

November 4, 1992

Emerson is barely paved and inaccessible in the winter while Summer is also blocked off by vehicles.

Grant Coffey, Fire Bureau Traffic Coordinator, said traffic management is also a good tool to help the Fire Bureau get back in touch with the neighborhoods. The Bureau approves this plan although the Chief has some concern about blocking off the streets and would like to limit parking at the ends of Emerson and Summer to prevent fire trucks from bottleneaking.

Jeff Merkley, Habitat for Humanity, said because of gambling, drug and drive through traffic and abandoned cars this neighborhood has been less than desirable. He said they wholeheartedly support this effort despite some concerns about access.

Other individuals speaking in support of the proposed plan included:

Evie Crowell, 5036 NE 14th Place, 97211
Luther Clendenon, 17400 SW Florence, Aloha
Mary Case, 13915 NE Sacramento, 97230
Maggie Gibson, 4741 NE 14th Place, 97211
Barify Purifoy, 4732 NE 14th Place, 97211
Hegazy Hussein, 5415 NE 14th Place, 97211
Kate Hussein, 5415 NE 14th Place, 97211
Lori Mayberry, 5265 NE 14th Place, 97211

Supporters said that the neighborhood has become unbearable because of the traffic and criminal activity which makes them feel like hostages in their own homes.

John McLean, 5245 NE 14th Place, 97211, objected to placing speed bumps in the streets which will keep him awake.

Commissioner Blumenauer said City staff will be on the street within the week to begin making the changes.

Commissioner Bogle said this has been a beautiful process, pulling together diverse groups, the Police and Fire station employees, to come up with a solution. He said he is optimistic about the outcome.

Commissioner Kafoury said a lot more attention needs to be given to this area.

November 4, 1992

Commissioner Lindberg complimented Commissioner Blumenauer and his staff for their creative efforts in fashioning this plan

Disposition: Resolution No. 35077. (Y-5)

At 3:18 p.m., Council recessed.

November 5, 1992

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 5TH DAY OF NOVEMBER, 1992 AT 2:00 P.M.

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

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Linda Meng, Chief Deputy City Attorney; and Officer Sheridan Grippen, Sergeant at Arms.

REGULAR AGENDA

Mayor J. E. Bud Clark

1893 Adopt implementation procedures to allow towing of vehicles operated by uninsured individuals (Resolution)

Disposition: Resolution No. 35078. (Y-5)

1894 Allow the towing of vehicles which are operated by uninsured individual (Second Reading Agenda S-1837; amend Code Sections 16.30.220, 16.30.520)

Discussion: Commissioner Blumenauer said he is pleased with the way this has been crafted and the sensitive way the Police plan to implement it. He said he hoped it will encourage state legislators to take a look at current vehicular insurance registration and enforcement issues.

Commissioner Bogle said he wished criteria could have been added to zero in on irresponsible drivers so this would not have a negative impact on poor people.

Disposition: Ordinance No. 165980. (Y-5)

1892 **TIME CERTAIN: 2:00 PM** - Appeal of Wilson Neighborhood Association and Bridlemile-Robert Gray Neighborhood Association against the Hearings Officer and Design Commission decisions to approve the application of Robert and Rafik Eskandarian for 14-unit PUD located at SW Terwilliger, near SW Westwood (Previous Agenda 1793; DZ 138-90/CU-123-90/S-61-90)

Discussion: Commissioner Kafoury said at the October 21st meeting she had promised people that she would file a rule change outlining how and

November 5, 1992

when appeal dates can be changed. The proposed ordinance is now available for review.

John Southgate, Planning Bureau staff, said the issues here pose density against preservation of natural resources. He said the first proposal, made in September, 1990, called for a 20-unit development. The Design Commission found that too intrusive for the Terwilliger Parkway and directed a revision. An 18-unit development was then proposed and the Design Commission instructed still further modifications. The final design calls for 14 units; all six on the downhill side are single family homes and are smaller in height and width than those originally proposed. It also calls for an aggressive landscaping plan with five tiers of landscaping. The final design received Design Commission and Hearings Officer approval with a number of conditions regarding tree preservation and maintenance.

Mr. Southgate said the main issues revolve around the call for more infill housing on such sites to maintain the urban growth boundary versus concern about natural resources protection. A more specific issue is whether this is consistent with the Terwilliger Corridor guidelines regarding the complete screening requirement. He said staff believes the development meets the guideline calling for complete screening from view. If it were completely invisible, it would not be subject to Design Review at all.

Justin Dune, representing the appellants, said the Parkway is already protected from such mega proposals as this one by the Terwilliger Parkway Guidelines. He said Terwilliger is not just a neighborhood park but a treasure for the whole City. He said this project is inappropriate here and is a test case to see if the City will break its own laws in order to encourage development. The guidelines specify that the development should be completely screened from view, which will not occur with this project. He noted that if this application were proposed today it would be turned down as the whole area would now be protected by an Environmental Zone.

Richard Stein, 9111 SW Westwood Dr., said in order for this proposal to win approval it should be: 1) small in scale; 2) completely screened and; 3) compatible with the neighborhood. He objected to the area proposed for clear tree cutting and having the buildings tower 75 feet or more above Terwilliger. He compared this project with the Casey Eye Clinic, stating that it is set back one half the distance of the Clinic and will fill 18 degrees of the viewing angle. He cautioned Council not to weaken the design guidelines.

November 5, 1992

John Holmes, 5544 SW Edgemont Place, said their reasons for asking for denial are shared by everyone who lives in the area and most of the general public. He argued that the proposed development would destroy the character of the Parkway forever, particularly the forest corridor. He contended that a planned unit development of this nature should not be developed on property zoned R7. Mr. Holmes said the development violates Comprehensive Plan Goals 2, 5 and 8, particularly Goal 2 which encourages housing while retaining the residential character of the neighborhood. The Terwilliger Parkway Corridor Plan and design guidelines, passed in 1983, should not be ignored and its goals violated. He said the development is clearly not completely screened from view as called for in the guidelines.

Jim Hibbard, SW Westwood Dr., said as areas are infilled special areas and parkways must be protected. He said once the City allows a PUD here, they are likely to spring up all over Terwilliger. He also raised the technical issue of whether the City can view the application for 14 units as a new application and require compliance under the new Code which places this area in an Environmental Zone.

Steve Janik, Attorney for the applicant, said the Comprehensive Plan designates this area for single family residential and what the developer is proposing here also complies with the City policy strongly favoring high density infill in areas close to the City. He said this was a designated site for development in the Terwilliger Plan which the opponents are stating must prevail, noting that the Hearings officer said this site is particularly well suited to a PUD rather than a subdivision.

Mr. Janik said a PUD is required here to minimize the impact on the land, allowing the developer to cluster the housing and leave 78 percent of the site untouched. He contended that the project does meet the Terwilliger Park guidelines. He reviewed the downsizing of the proposal from 20 to 14 units in order to gain staff approval and noted that the Hearings Officer and the Design Commission also approved it. Mr. Janik argued that the Terwilliger guidelines are not meant to prohibit development but to guide it and to balance development with preservation of scenic qualities. He said the guidelines are not intended to be prescriptive requirements, only suggested approaches and are not ironclad under state law. "Completely screened" is not the same as "virtually invisible" which would be an impossible requirement and if that is what is meant, an applicant would not even have to go to the Design Commission. What is intended is that there be a screen completely around the project, an interpretation that has been accepted by the Planning Bureau, the Hearings Officer and Design Commission. He

November 5, 1992

argued that this development would set a positive precedent for developers because of the extensive landscaping, the reduced density and the fact that 75 per cent of the site is undeveloped. Mr. Janik said the neighbors would not be happy with any significant development on this site even one such as this where the design responsiveness to a very difficult site is genuinely superior. He said this is a good project which balances density with protection for Terwilliger and which every prior review body has supported.

Mike Coral, Project Director for Olmtead Ridge, showed slides indicating the design, height and location of the project.

John Warner, landscape architect for the project, said they tried to respond to the spirit and letter of the Terwilliger Corridor Plan guidelines and have developed a concept that they believe will set a standard for further development on Terwilliger. He said complete screening is insured with the proposed plantings, noting also that the tall trees in front of the development will be saved.

Mr. Janik rebutted appellants' testimony, saying this in no way will be like the Casey Eye Center or the Uptown Heights project of 140 units. He contended that Comprehensive Plan policies are not site specific or legally applicable. He said the suggestion that a new application is necessary because of the new design overlay requirements has already been extensively addressed and found to be incorrect as lowering the number of units does not require a new application. He said despite the intensity of the opponents, Council should uphold the decision of the Hearings Officer and Design Commission.

In rebuttal, Mr. Dune said this is not a small scale development such as called for in the guidelines. He agreed that while it is probably impossible to make something completely invisible, the guidelines call for small scale development that is completely screened. The issue centers around scale and appropriateness.

Mr. Holmes, in his rebuttal, said this does not meet the guidelines as interpreted by the public. No one other than those hired by developer takes this tortured interpretation of invisible.

Commissioner Blumenauer asked, for purposes of public comment, if the appellants took any exception to the representation of the site plan displayed in the model shown in Council.

November 5, 1992

Mr. Dune said the model is very good.

Individuals testifying in support of the project included:

Helen Farrens, 3956 SW Condor, 97201

Ms. Farrens said she believes this development fulfills the requirements, will upgrade the forest corridor and complies with the Olmstead plan. This will upgrade the forest corridor.

Individuals testifying in opposition included:

Kay Durtschi, 2230 SW Caldew, 97219

Dirce Moroni Toulan, 2424 SW Sunset Blvd., 97201

Henry Lewis, 910 SW Westwood Dr., 97201

Jay Mower, 777 SW Chestnut, 97219

Marilyn Hoth, 911 SW Westwood Dr., 97201

Paul Shearer, 430 SW Hamilton, 907201

Chris Malcolm, 2851 Sw Montgomery 97201

Amanda Jacobson, 0245 SW Nebraska, 907201, read a letter of opposition from the Corbett Terwilliger Lair Hill Neighborhood Association

Tom Schlesinger, 3638 SW Comus, 97201

Steve Bricker, 2861 SE Tacoma, 97202

Baron Eberwein, 5639 SW Menefee Dr., 97201

Doug Morse, 1415 SW Westwood Dr., 97201

Carl Von Dreele, 736 SW Cheltenham, 97201

Doug Weir, 342 SW Hamilton Court, 97201

Catherine Dalzell, 14049 NW Cornelius Pass Road, 97231

Nina Weinstein, 1500 SW 5th, 97204

Wesley Risher, 1627 SW Troy, 97219

Elita Rausch, 2830 SW Fairmount Blvd., 97201

Bob Baldwin, 5043 SW 19th Dr., ex-Multnomah County Planning Director said the Council must itself resolve policy questions involving conflicts between infill and preservation of natural areas. He said staff can not resolve these policy questions and Council should not, as is occurring here, make policy through the appeal process.

Bob Metzger, 909 SW Vincent Place, a professional forester, contended that the screen will not meet the required standards within two years, arguing that the trees would have to reach 30-40 feet to do so, which would take 20 to 30 years.

November 5, 1992

Commissioner Bogle asked if a traffic safety study had been submitted.

Mr. Janik said there is a study in the record, approved by the Office of Transportation, which includes review of site distances and traffic onto Terwilliger.

Commissioner Blumenauer asked about the discrepancy regarding the vegetation. He said they have heard there will be 95 per cent opacity within two growing seasons from the applicant while the appellant says it will take until 2010 or 2020 to get there.

Mr. Warner said they calculate that everything will be screened out when the vegetation is between 18 and 20 feet in height. That is why they believe the foreground will be obliterated in two years.

Mr. Metzger disagreed, arguing that it will take at least 15 years to get to a 30 foot-height. He said 70 per cent of the trees are deciduous and will have their leaves only about six months of the year.

Commissioner Blumenauer asked staff to speak to the enforceability of the conditions.

Mr. Southgate said he believes another project cited by the appellants did not comply with conditions imposed by Design Commission regarding tree preservation. However, he said one should assume that most cases will not result in violation, adding that there is a tree preservation order in this case calling for the replanting of any tree removed and for review.

Mayor Clark asked about limb removal, which one of the opponents stated would occur here, leaving the trees looking like telephone poles.

Mr. Southgate said that was not anticipated by the Planning Bureau.

In closing statements, Mr. Janik said Mr. Metzger is not an urban forester and should not estimate the degree to which landscaping will screen the project. He noted that Mr. Warner, the project's landscape architect, was one of the original shapers of the Terwilliger Corridor Plan, and said Council should not accept one person's word against a plan which had both Design Commission and Planning Bureau approval. He said the applicants would be willing to agree to add a condition not to remove limbs.

November 5, 1992

Mr. Holmes said Mr. Janik's statements quibble with the regulations. He said this is the wrong development in the wrong place and clearly not in compliance with Terwilliger Plan because it is not completely screened and violates City goals.

Commissioner Bogle moved to tentatively uphold the appeal. Commissioner Lindberg seconded.

Mr. Southgate said the record would be left open for seven days for the submission of written material.

Commissioner Blumenauer said he was looking for a hook to deny this development, but believes that Council has to be very careful in its decision because this is certain to be appealed. He said he dislikes the Casey Eye Clinic and understands why people are disgruntled but does not see how the Council can support the appeal, noting that by scaling it down the City has tried to find a solution to the issues raised. He also agreed with Mr. Baldwin that Council should not horseback policy onto appeals. He said he believes that the Terwilliger Guidelines do indicate development here and that upholding the appeal will invite an overruling from LUBA.

Commissioner Bogle said he believes this violates standards for complete screening, would be detrimental to surrounding properties and is incompatible with the neighborhood.

Commissioner Kafoury said this is a balancing act. Private development rights cannot be ignored but must be balanced with the public good. She said the development community needs predictable policies from the City and this decision must not be based on the number of people who come in to testify against it. The hook she found, however, is the human decision part and she prefers to err on the side of environmental protection and save this resource.

Commissioner Lindberg said this is an extremely important decision and sets a course for future development on Terwilliger. He said he would vote to uphold the appeal because of the violation of specific guidelines regarding the design and scale of buildings and the failure to be completely screened.

Mayor Clark said it is clear to him that under current law the applicants have complied with the guidelines and regulations. He said he agreed with the Design Commission and Planning Commission and does not believe this will have a domino effect in the neighborhood. He said the property owners

November 5, 1992

have a clear right to develop this and he has never seen a project where the density is so clear. He added that a PUD is much better than a general development here.

Commissioner Blumenauer urged preparation of a tree preservation ordinance and clearing up ambiguities regarding the Terwilliger Parkway to make them more clear

Commissioner Kafoury said some of ambiguity comes because this because this was filed under the old Code. She said she will check and bring a report back as to what is allowed under the new rules.

Commissioner Blumenauer stressed the need to make policy decisions in a policy setting rather than as part of an appeal.

Commissioner Lindberg said he agreed about the need for more policy work in order to be fair to developers. Within the next week he said he will send a status report about the tree preservation ordinances which the Forestry Commission has been working on.

Disposition: Tentatively grant appeal. (Y-3; N-2, Blumenauer and Clark)
Prepare findings for December 9, 1992 at 2 p.m.

At 5:00 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland


By Cay Kershner
Clerk of the Council