

July 26, 2016

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VIA EMAIL (PSC@PORTLANDOREGON.GOV)

Ms. Katherine Schultz, Chair
Planning and Sustainability Commission
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**Re: Haithem Toulan's Testimony Regarding 306 SE Ivon Street:
Scenic Viewpoint Height Limit, Major Public Trail, and Housing Uses in EX Zone
CC 2035 (Proposed Draft, June 2016)
Miscellaneous Zoning Amendments Project (Proposed Draft, June 2016)**

Dear Chair Schultz and Members of the Planning and Sustainability Commission:

This office represents Haithem Toulan, owner of the three-acre property located at 306 SE Ivon Street (the "Property"). The Property is proposed to be rezoned EXd under the Central City 2035 Proposed Draft ("CC 2035") in alignment with the Comprehensive Plan designation approved by the City Council. The Property will have a 100-foot base and 250-foot bonus height limit. We strongly support this change and it is appropriate for the Property which is a five minute walk from a new light rail and streetcar station.

Unfortunately, the following changes are also proposed which will effectively eliminate the possibility to redevelop the Property, particularly when the Property's approximately five million dollars in environmental remediation costs are considered.

These proposed changes, shown on Figure 1, make redevelopment infeasible:

- 60-foot scenic view height limit through the center of the Property
- Major Public Trail alignment through the center of the Property
- Prohibition on housing
- 50-foot River setback
- New River Environmental overlay covering almost half of the Property

We urge the Commission to take the following steps to make redeveloping the Property possible:

1. Remove the draconian height limits associated with Scenic Viewpoint CC-SW46 (view of Mount Hood from Tilikum Crossing) or allow flexibility on the height limit in order to allow

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development while preserving views. This flexibility could allow elliptical shaped development or other property-by-property solutions.

2. Specify in the Code that the Major Public Trail Alignment can be placed anywhere within a site and is not required to follow the lines on the zoning map, consistent with the Bureau of Development Service's current practice.

3. Allow housing uses on the Property under the master planning requirements proposed for station areas, since the Property is within a five-minute walk from both a Streetcar and MAX station.

Please include this testimony in the record of the Central City 2035 and Miscellaneous Zoning Amendments Project proceedings, and provided us with notice of the final decisions.

Remove Scenic Viewpoint CC-SW46 Height Limits

CC 2035 proposes to update the existing Scenic Resources Protection Plan and add additional viewpoints with height limits that severely constrain development. Two of the most impactful view limits are proposed across the Central Eastside, where many sites are being up-zoned or allowed more floor area for employment uses to help satisfy the City's demand for projected employment uses. One of these, viewpoint CC-SW46 bisects the Property and limits height to 60 feet, which is *190 feet lower than the Property's maximum height*. We request that the City either eliminate the height limits for the Property imposed by viewpoint CC-SW46 to allow heights in accordance with the base zone, so long as development take steps to be compatible with preserving views, such as elliptical shaped buildings or building orientation changes.

CC-SW46 is one of two viewpoints that showcase a view of Mount Hood from Tilikum Crossing. The City's ESEE analysis states that the views from the bridge are particularly important due to the cultural significance of Tilikum Crossing and Mount Hood to native tribes. While we do not dispute that both landmarks may be significant, the viewpoints themselves were established in 2015 and should not necessarily be prioritized over other viewpoints without a stronger linkage.

According to the ESEE analysis, CC-SW46 was chosen for protection through height reduction over CC-SE21, the other view of Mt. Hood from Tilikum, because it impacts portions of larger properties. In theory, these larger sites could maximize development potential on their unrestricted portions leading to lower levels of economic impact. At least with regards to the Property, the view limit cuts the full-height portion of the property into two smaller pieces (see Figure 1), neither of which is well-suited to full height buildings.

As noted above, the Property requires environmental remediation that will cost approximately five million dollars for any structural development on site. Redevelopment will only be possible if this large cost can be absorbed. Therefore, by restricting the size of development, the view limits will

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effectively *prohibit* development on the site because 60-foot limits do not allow for development that could carry the costs of remediation. The ESEE analysis does not account for the height limits fully eliminating development on sites like the Property and therefore appears to be deficient.

The Property and other sites north of it are close to the new MAX line and streetcar stations. Development in these station areas was expected to be full height and density in order to maximize the value of the new transit infrastructure. The proximity to these new transit lines was the reason for up-zoning the Property and others like it nearby. Location of the viewpoint over newly-up-zoned sites frustrates the steps toward redevelopment. We urge the Commission to consider the impacts of undeveloped and underdeveloped sites adjacent to costly infrastructure and to adjust or remove the view height limits to safeguard development potential on these sites.

Clarify Major Public Trail Alignment

The current “greenway trail” is being renamed a “major public trail” and map alignments for this trail are proposed to change. While the changes to the trail section of the Code appear to be proposed as part of the CC 2035 revisions (Chapter 33.270), the mapping of the trail itself appears to be part of the Miscellaneous Zoning Amendments Project. To ensure that our comments are included in the appropriate discussion, we request that this letter be added to the record for both zoning projects.

The Property is undeveloped and therefore the trail has not been dedicated or constructed. As shown on Figure 1, the trail is mapped through the center of the Property. If the trail were required to be located at the mapped position, it would further shrink and constrain the development potential of the Property and would make development infeasible even absent the Property’s other constraints. Mr. Toulan has always envisioned that when redeveloped, the Property would have gracious public access and recreational opportunities, including a trail. Therefore, he does not object to the requirement that a trail be located on the Property. Rather, the proposed *location* of the trail is problematic.

City staff have assured us that their current practice is to require that the trail be located somewhere on an encumbered site, and not necessarily along the mapped line. We agree that this is the most reasonable approach to locating the trail. However, the Zoning Code does not specifically state this policy, so we are concerned that this interpretation may be lost in the future when different staff members interpret the Code. The proposed Code update frequently references “the trail” and “the location” in reference to the zoning maps, which might lead an unfamiliar applicant or staff member to assume that the line on the zoning maps requires the trail to be placed in that location.

To allow necessary flexibility in locating the trail and provide certainty regarding this flexibility to property owners, we ask that the Commission add specific language to Section 33.270 allowing the trail to be located on site in a position of the property owner’s choosing.

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Allow Housing to Maximize Use of Transit Infrastructure Near the Property

The Property is a three-acre site within a five-minute walk of the SE Water transit station, served by the MAX Orange Line, streetcar and bus lines. A City Bikeway is also proposed for 9th Avenue near the Property. We understand that through the SE Quadrant planning process, the City determined that the area owned by OMSI on the other side of this transit station would be appropriate for housing if approved through a Central City Master Plan (“CCMP”). This would require the applicant to provide sufficient evidence that the housing use “would not impact the local transportation system or conflict with the surrounding uses.” This CCMP requirement is carried forward in the CC 2035 Proposed Draft and we request that this CCMP option for housing be extended to the Property. As noted above, the Property requires environmental remediation at a high cost which can only be offset by high value land uses. Housing is the highest value land use in the City and can uniquely carry the cost of remediation for a large site like the Property. Without the potential to build at least some housing on the site, it is unlikely that the Property can be redeveloped due to the cost of cleanup.

The Property has direct, easy access to downtown via Tilikum Crossing through all of Portland’s public transportation options (MAX, streetcar and bus). These multi-million dollar infrastructure projects were constructed under the assumption that sites near station areas would redevelop with intense uses, and indeed, the Property and nearby sites are being up-zoned to stimulate just this type of mixed-use redevelopment. Development of large, vacant sites near the stations is crucial to maximizing the millions in public funds spent on transit infrastructure. It is important to allow a broad mix of uses (with appropriate checks, like the CCMP process) near stations to ensure that these sites do actually develop. Leaving the land near stations vacant is arguably the worst possible outcome. We urge the Commission to allow housing on the Property in order to make redevelopment possible.

River Overlay Considerations

The River setback is being increased to 50 feet within the Central City and a new River Environmental overlay is mapped on the Property. While the new setback will further limit the amount of buildable land on the Property, Mr. Toulan does not specifically object to this increase. The Riverward portion of the Property is well-suited for beach and other River-related uses which are allowed within the River setback.

The large amount of the Property within the River Environmental overlay is surprising, given the site’s contamination, lack of upland vegetation and elevation difference from the River. The Property is essentially on a cliff, and does not slope toward the River like most of the Central Reach. We believe that a finer grain analysis of the actual resources located on the Property and their functions and values should occur; either as a part of the overlay mapping or at the time of development upon the request of the Property owner

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In sum, the CC 2035 proposal stacks a number of unrelated regulations on the Property that will effectively prohibit redevelopment. Redevelopment will be possible, even with the required environmental remediation, if the scenic view height limits, property-bisecting trail location and housing ban are eliminated.

Thank you for your consideration of these requests.

Very truly yours,



Dana L. Krawczuk

DLK:crl

Enclosure: Figure 1

cc: Haithem Toulan (via email) (with enc.)

Figure 1

(Approximation of Property Constraints - Combined)

