

CITY OF TROUTDALE

AGENDA
TROUTDALE CITY COUNCIL MEETING
COUNCIL CHAMBERS
TROUTDALE CITY HALL
104 SE KIBLING AVENUE
TROUTDALE, OR 97060

7:00 P.M. -- SEPTEMBER 26, 1989

- (A) 1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE
- (A) 2. CONSENT AGENDA:
 - 2.1 Accept: Business License Report Month of August
- (A) 3. PUBLIC COMMENT:
 - Please restrict comments to non-agenda items at this time.
- (A) 4. RESOLUTION & PRESENTATION: Community Development Block Grants - Resolution Authorizing the Mayor to Enter into an Agreement for Participation with Multnomah County and Other County Cities in a Community Development Block Grant Program
Cecile Pitts
- (A) 5. RESOLUTION: Accepting Grade School Access Improvement Project
- (A) 6. PUBLIC HEARING/APPEAL #90-016: Request by Van Donelen/Looijenga/McGarrigle/Knauf for appeal of Planning Commission Decision File No. 90-005CU with admittance of additional testimony (McKnight)
 - o Public Hearing Opened
 - o Declarations or Challenges
 - o Summation by Staff
 - o Public Testimony: Proponents, Opponents
 - o Recommendation by Staff
 - o Council Questions or Comments
 - o Public Hearing Closed
- (A) 7. PUBLIC HEARING/APPEAL #90-007: Request by Michael Jacobs for appeal of Planning Commission Decision File No. 89-057MV of record only.
 - o Public Hearing Opened
 - o Declarations or Challenges
 - o Summation by Staff
 - o Recommendation by Staff
 - o Council Questions or Comments
 - o Public Hearing Closed

- (I) 8. INFORMATION: Public Works Department Preliminary Report Downtown Improvements and Revising L.I.D. Boundaries
- (I) 9. REVIEW: Multnomah County Capital Improvement Program Project Request
- (A) 10. MOTION: To Approve Request for Budget Modification
- (A) 11. DEPARTMENTAL REPORTS:
 - Public Safety
 - Finance
 - Community Development
 - Public Works
 - City Attorney
 - Executive
- (A) 12. COUNCIL CONCERNS AND INITIATIVES
- (A) 13. ADJOURNMENT.

Sam K Cox

Sam K. Cox, Mayor

Dated: 9/22/89

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MINUTES
REGULAR CITY COUNCIL MEETING
TROUTDALE CITY HALL
COUNCIL CHAMBERS
104 SE KIBLING AVENUE
TROUTDALE, OR 97060

7:00 P.M. --- SEPTEMBER 26, 1989

ITEM #1 - PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE:

Mayor Cax called the meeting to order at 7:02 p.m. Mayor Cox called on Councilor Schmunk to lead the Pledge of Allegiance.

Deputy City Recorder, Christina Thomas called the roll.

PRESENT: Bui, Cox, Fowler, Jacobs, Schmunk, Thalhofer
EXCUSED: Burgin

STAFF: Christian, Jennings, Chief Collier, Gazewood, Barker, Thomas

PRESS: Dave Pinson, Gresham Outlook

GUESTS: Jackie Barnes, Rovert Lowe, Mr. & Mrs. Michael Jacobs, Jim Wakeman, Walt Postlewait, Mike Flury, Karen Whittle

AGENDA UPDATE: Mayor Cox asked City Administrator, Christian if there were any agenda updates. There were none.

ITEM #2 - CONSENT AGENDA:

Mayor Cox read the Consent Agenda items.

MOTION: Councilor Bui moved to approve the Consent Agenda (2.1 Business License report for the month of August). Councilor Schmunk seconded the motion.

YEAS: 5
NAYS: 0
ABSTAINED: 0

Bui - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalhofer - Yea

ITEM #3 - PUBLIC COMMENT:

Mayor Cox called for public comment on non-agenda items. The was none.

ITEM #4 - RESOLUTION & PRESENTATION (Community Development Block Grants - Resolution Authorizing the Mayor to Enter Into an Agreement for Participation w/Multnomah County and Other County Cities in a CDBG Program) (777-R)

Karen Whittle, with Multnomah County's Community Development Division, gave some background information regarding the CDBG program. The CDBG program is administered locally using Federal funds. One of the program's purposes is to help meet the needs of low to moderate income citizens throughout the County. The intergovernmental agreement that Council is considering tonight is for a commitment period of two years.

Mayor Cox called for questions or comment from Council. There were none.

Mayor Cox read the resolution by title.

MOTION: Councilor Thalsofer moved to adopt the resolution authorizing the Mayor to enter into an intergovernmental agreement for participation with Multnomah County and other cities in a CDBG program. Councilor Bui seconded the motion.

YEAS: 5
NAYS: 0
ABSTAINED: 0

Bui - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalsofer - Yea

ITEM #5 - RESOLUTION (Accepting Grade School Access Improvement Project LID No. 89-003) 778-R

Mayor Cox read the resolution by title.

MOTION: Councilor Bui moved to adopt the resolution accepting the Grade School Access Improvement Project LID No. 89-003. Councilor Schmunk seconded the motion.

YEAS: 0
NAYS: 0
ABSTAINED: 0

Bui - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalsofer - Yea

ITEM #6 - PUBLIC HEARING/APPEAL #90-016 (Request By Van Domelen/Looijenga/McGarrigle/Knauf for Appeal of Planning Commission Decision File No. 90-005 CU with Admittance of Additional Testimony (McKnight)):

Mayor Cox opened the public hearing at 7:12 p.m.

Declarations or Challenges: Mayor Cox called for any declarations or challenges. There were none.

Summation By Staff: Barker stated that the applicant applied for a conditional use permit. A hearing was held before the Planning Commission in August. The Planning Commission adopted findings of fact recognizing that the proposed development was a conditional use and that the site was suitable for that use. The Planning Commission

began deliberation on whether to approve the development and what conditions to attach to it and discussed the future access onto Stark Street, improvements completed by Multnomah County, and the existing curb and the traffic light across from the hospital. After lengthy discussion, the Planning Commission voted to approve the conditional use permit without requiring dedication of a street to go north onto Stark Street at the lighted intersection at the hospital. The motion failed (three "yes" votes, three "no" votes and one "abstention") and the permit was denied. The applicants have asked that Council hear their appeal with additional testimony and evidence and reconsider the Planning Commission's decision. After the Planning Commission hearing, staff contacted Jim Jennings and had him prepare a legal opinion on other ways to gain access to the north. Based on the comments from Jim Jennings, Council has two alternatives: 1) Require dedication of a road by the property owner (McKnight) and compensate the owner for the value of the road. 2) Approve the conditional use permit and require that the access to the property be aligned with the existing lighted intersection (per Multnomah County's recommendation).

Jennings stated that any time there's an appeal to Council on a planning issue, Council has, at least in this case, several alternatives: 1) Deny the conditional use. Make a finding that the particular use that the applicant wants to put in the area does not fit within the conditions that are normally given to that type of zoning. 2) Approve the conditional use and impose some conditions on the use (aligning the access out of the mini-warehouse with the present traffic light). 3) Require dedication of a roadway through the proposed mini-warehouse property for access to the vacant property behind the proposed warehouse.

Jennings stated that because there were no other attempts by the Planning Commission to approve the conditional use, the applicant appealed the decision. The issue being appealed is the required dedicated roadway. Currently, there is no planned use for the property behind the proposed mini-warehouse site. The City and the owner of the vacant property cannot point out the need for a roadway other than some vague or idealized development in the future. It is Jennings' opinion that there has to be an existing and present need for the roadway before requiring the dedication of one. If Council decides to require dedication of a roadway, the City will be required to compensate the property owners on a square footage basis.

Proponents/Opponents: Mayor Cox called for proponents or opponents.

Proponent, Robert Lowe, McKnight's Attorney, introduced the Engineer, of the warehouse project, Jackie Barnes and Mike Flury, a partner of the developer. Jackie Barnes stated that there were no problems with the mini-storage part of the project. The only issues to be discussed is the roadway and the access. The existing curb cut will be utilized for the development's ingress/egress.

Councilor Bui stated that access would be regulated by those having a key to gain entrance.

Ms. Barnes stated that it would be blocked in if the rent hadn't been paid. There was very limited access.

Mr. Flury stated that the existing curb cut will be used only for ingress/egress of the patrons of the mini-storage development. The subdivisions surrounding the proposed development all currently have their own access points. Mr. Flury feels that the Planning Commission's only reason for denying the application was because of the roadway issue.

Mr. Lowe stated that he feels it is inappropriate for a roadway to be required through this particular property without cost to the City or compensation to the owner. The approximate cost for putting in a 60' roadway through the property would be about \$143,000.00 (figured at \$6.00/sq. ft.) for the length of the property and the width of the road. The alignment of the road will be a problem because it would cut off 62 feet of the property to the east making that piece of property almost worthless. If the City were to take the additional 62 feet left over, it would add another \$150,000.00 to the roadway cost. Altogether, the cost for the property alone needed for the roadway would be about \$300,000.00. He stated that the cost of the road a few years ago [for an LID] was projected at \$100,000. It is expensive to access a piece of property which lays dormant for several years. For the alignment, we are talking about using existing curb cuts, nothing new. It would be beneficial for this piece of property but what you are asking us to do is to create a frontage road literally across the property to be used for a storehouse. Then, across the southeast parcel - that could eventually be put to better use (office space, medical - that we're envisioning). It would be very hard for this buyer to use/sell this piece of property for that kind of use when the road runs right in front of it.

Councilor Thalsofer stated that as he understood it the City of Gresham installed a light to accomodate the hospital. Since Troutdale didn't have a street plan on the north side of Stark, they didn't consider Troutdale's wishes at the time it was installed.

Mr. Lowe stated that was correct, the City of Gresham literally ignored the objections of City of Troutdale. The City was involved in the process and did object to the alignment. Gresham stated that without a street plan we aren't going to require the hospital developer to go through additional expense to accommodate a plan that doesn't exist.

Councilor Thalsofer asked if that was Rene Avenue? Mr. Lowe stated that it was to the east.

Jennings stated that for clarity and for the record mark the diagram as Exhibit A - everyone will be talking about the same thing. Mr. Lowe could indicate where the light currently is, where they want access, and where staff would prefer access so the three proposals are clear.

Mr. Lowe stated for the record the signal, if you can see the parcel in the southeast corner that is marked future development, the signal is that access that can be seen coming in from the south. The proposed access of the mini-storage will be shared access with future development on the southeast corner and then you see parcel A which is the the which is proposed to be developed and will be a shared access.

Ms. Barnes stated that after the last meeting they proposed to go ahead and use the existing curb cut rather than the shared access, they wouldn't use the one that is listed as proposed curb cut. Rene is not signed...Rene coming onto Stark from the south is not signaled.

Councilor Fowler asked if the two dotted lines were the existing curb cut? Mr. Lowe - yes.

Councilor Fowler asked if when the rest of the development occurred would they use the present curb cut? Mr. Lowe stated that he couldn't speak for a future developer but it would be silly not to use the existing curb cut. Which there is at the signal.

Christian asked if they were proposing one entrance into the piece of property, aligned with the light?

Ms. Barnes stated that there would be one in the future development that would be aligned with the light and then where the dotted lines says existing curb cut to the left...that would be the entrance.

Christian asked if they would be maintaining that one? Ms. Barnes - right.

Councilor Fowler asked if the proposed road going from where it shows the curb cut straight to the north and cut through both parcels of land?

Mr. Lower stated that in looking at Exhibit A the signed intersection is the one going into future development the proposed road is going to go straight north to the top of the property line cutting through the middle of parcel B and cutting off that right hand top of the T-bar parcel A or the current proposed development.

Councilor Thalhofer asked what about a frontage road there? What about utilizing the existing light and the reference the Planning Commission had, an "s" type situation there?

Mr. Lowe stated that in the Planning Commission, we stated we were willing to work with staff on any reasonable proposal but it would still require taking a corner of future development. We suggested that one proposal would not "kill" the deal would be to try to "s" this access road north across the southeast corner of future development referring to Exhibit A and running up the line of the property that will benefit. Keep in mind the property surrounding Mr. McKnight's property is all under one ownership and has tremendous frontage onto Stark so it is not without access. It has all the

access in the world over there. The problem is that it doesn't have access with a signal there. That is the problem we are running into now. That was a suggestion as an alternative. Of course, we would prefer you not take any of the property. It is probably too expensive and it is sold. This is a nice piece of property for development in the future. We would like to see that happen.

Jennings stated that a frontage road and an "s". I think those are two different issues. The frontage road deals only with the question of access of the proposed development through the curb cut where the signal light is and the "s" was a possible accommodation if a dedicated road was mandatory.

_____ should there be an "s" there will be a substantial amount of land lost. Should there be no compensation we will have to back out of developing this property. We believe this is an excellent use of the property because it is an odd shape. A mini-warehouse is able to pick up the less desirable portions. We see the future development as a doctor's clinic.

Councilor Thalhofer asked why the road from the intersection going north has to cut through so much of the future development of the property. Why can't it go to the right more?

Mr. Lowe stated that he felt it was to do with traffic. If traffic would allow that, it would be great. There has to be stacking and safety requirements for ingress and egress so as not to create a hazard. He didn't have an answer to it. Multnomah County would probably have a problem with that.

Councilor Thalhofer stated he was trying to figure a way to utilize the signal due to the expense of them. If it could be utilized to provide access to the north, he thought that would be desirable. If you flatten out the road and make it a frontage road both east and west and make it an intersection and then run it down the property line, maybe it is the way to go? Is that not doable?

Mr. Lowe stated that it could be possible, as long as they could be compensated. They would join an LID should the cost of the access be shared with other owners. In actuality, he felt that a huge swath would be taken out of the property which would take close to an acre. There really isn't a need for an access point for the property in the rear along Stark. Stark is not a raised median, there is a turn lane throughout the length of Stark. Should there be residential property behind the small frontage commercial property that has not already been provided access, he could see the need. It is already accessed off of 242nd and 257th. He didn't see the need.

Councilor Schmunk stated that she couldn't envision that in the past the City has asked for a piece of property for a road this size. She couldn't imagine the City buying a piece of property this size for a road dedication for 3.5 acres. The property surrounding it is residential. There is access from the other residential areas to the north of it. The property to the east is also general commercial and

in the big picture, it has been envisioned that it would be things that would accompany the hospital. Those things also do not generate a great deal of traffic would probably have ingress and egress onto Stark. That ingress and egress is governed by the County. They have to agree to footage from the signal and other specification that they have to meet. She couldn't see the City asking for a dedication of future road for general commercial. That is what is zoned on the property to the east. The property north is zoned residential and would be served by the other residential areas. In a planning mode, she didn't see that there would be a great deal of problem with the ingress and egress off of Stark and, again, the County would come in and make some of those decisions. She thought it would be super if the light could be used from the City standpoint but, a light to serve that small a piece isn't reasonable. She wanted to go ahead and approve the conditional use before them.

Councilor Fowler agreed with Councilor Schmunk.

Christian stated that the packet information included a letter from Mr. Pemble, Multnomah County. That letter states that the County would require access to the mini-storage development to be aligned with the medical center signalized access in the event that the City opts to locate a new north/south street somewhere else. There was some opportunity for access to Stark into the residential property other than this particular light. They will allow only one more between 257th and the hospital light, one more signalized intersection and that they aren't telling you that you have to require road dedication at this point. They are stating the conditions under which they will allow a signed intersection to be placed on Stark between 257th and the hospital light.

Christian stated that the County will determine the access, they issue the curb cut permit for any of it along that street because it is a County arterial.

Mayor Cox asked for other comments.

Councilor Thalsofer stated that he favors this with an alignment and the access to the mini-storage be signalized intersection. That is the County's requirement.

Councilor Schmunk stated that she interpreted the Pemble letter to mean the north/south. He's talking about a road not an ingress/egress into it.

Jennings stated that if Council wants to approve the conditional use, require that the developers reach an agreement with Multnomah County on access other than dedication of a road. If they agree that the only way to get out of this property is going to be a frontage road onto the signal, then that's it. I think the County will say, if you are going to tell us that the parcel marked future development is going to have access out through the signal light (and that clearly is), then the City will let them use access to that existing curb cut which is already there for the mini-storage. That may solve

everyone's problem. If Council chooses to approve it, you deal with the County for access as part of the condition. If the County says you have to have a frontage road and come out on a signal...that's is the condition of approval.

Councilor Schmunk stated that the County has to approve it anyway.

Jennings stated we could say that you must comply with Multnomah County's requirements for access as long as they are not for dedication.

Councilor Bui stated that it was mentined that Gresham ignored Troutdale since there was no plan for that road area. Obviously, even though it is a County road, we will have a road plan coming up. Will Gresham have the opportunity to object to this?

Mayor Cox called for further comment from proponents. There were none.

Opponents: There were none.

Jim Wakeman, 1209 SW 26th, Troutdale, OR. Stated that he wasn't an opponent to the project. There were questions raised regarding future access to the property north of the McKnight property. The County and City of Gresham apparently felt that Troutdale wasn't going to grow. That area will grow with a volume of traffic that will have to come out onto Stark somewhere and it should be controlled from a light. That was the issue that the Planning Commission wanted addressed. Which is being done now. In the future and the purpose of planning is to think about the future. There will be people living there and they will want an access to Stark. That is what Stark is designed for. It should be controlled by a light. Whatever answer they come up with, whether it be to move the light down the street or whatever. It should be done at this time.

Councilor Schmunk stated that Council appreciates public comments and understand their concerns. It isn't Council's job at this time to build a north south road that will go through that property. That is something that will have to come with future planning. Council is aware that they will have to look at that.

Wakeman stated that he personally, nor the Planning Commission wasn't against the development at all. It was an issue that had to be addressed.

Walt Postlewait, 1624 SE 24th spoke. He wasn't an opponent. He stated that one thing Council should be aware. It is in the minutes of the Planning Commission. When Mr. Nicholas addressed the Planning Commission as the County Engineer, the City of Gresham not only ignored the request of the City of Troutdale but also ignored the request of the County when they placed the light in the position they did.

Christian stated she could support that since she met with the County and the County Commissioner and hospital representatives.

Recommendation of Staff:

Christian stated staff had no recommendations. She wanted Barker to comment specifically on zoning of this property to clarify the record.

Barker stated the property was zoned general commercial, interpreted as a conditional use permit under a specific heading. Jennings reviewed that and concurred with that use. Wholesale distribution outlet including warehouse is a conditional use permit.

Questions:

Christian explained that the City of Troutdale's conditional use permit is considerably different than any other jurisdiction defines as conditional use permit. What ours says and means is that it is permitted but can have conditions attached to it. In many other jurisdictions, a conditional use permit means it may or may not be permitted, it is on condition of approval for that use on that piece of property.

Councilor Thalsofer asked a question of staff on spacing requirements. He stated that the County's requirement is 1,300 feet between traffic signals for purposes of traffic flow and asked if McGinnis would be approximately 500 feet from the existing Mt. Hood Medical Center signal?

Barker stated that McGinnis is mid-way between 257th Avenue and the existing signal.

Christian stated that she feels that Council shouldn't be planning a street access for property that doesn't have any development plans for it yet because there are other options for access for this site. The property surrounding this proposed development is not development for access. The City will begin working with the County on coming up with some access points before the end of the year, but the issue should not be a part of this discussion.

Councilor Fowler stated that if it's up to the County to determine where access points to properties will be, how can the Planning Commission attach conditions regarding where access can or can't be or if a road should be dedicated or not? Shouldn't the Planning Commission's only concern be whether the use itself should be permitted or not? Why are they trying to decide things they shouldn't be deciding?

Christian stated that the City usually tries, for the benefit of the applicant, to get comment from the State or County (whoever's road or whatever utility it is) so the applicant knows all the requirements up front. Otherwise, the applicant might get approval for their project from the Planning Commission and then have the County or State deny the applicant's proposed access or whatever. Christian stated that she feels the City has a responsibility to inform applicants of all requirements.

Councilor Fowler stated that his problem with this roadway issue is that it shouldn't be made a condition of approval because it's something the City has no right to require of an applicant.

Councilor Schmunk stated that often times a developer, when planning a project for a piece of property, is also developing the roads within the scope of the project making sure they co-exist with the existing roadway system. The Planning Commission has to, to a certain extent, attach conditions for approval based on County and/or State requirements.

?Walt Postlewait? stated that when this conditional use permit came before the Planning Commission, it was a recommendation of staff that one of the conditions be dedication and construction of a roadway.

Councilor Fowler asked by what right did staff have to impose such a condition?

Christian stated that she did not recall such a recommendation by staff and asked Barker for clarification.

Barker stated that a memorandum from the Director of Public Works based on the existence of a light. the suggestion was to take advantage of that light at no expense to developers. The light was a logical extension point for a north-south roadway. The City could also take advantage of the County's improvements to Stark street as a whole, and a street could be designed to serve the residential property from that existing lighted access point in case the County would not approve another signalized intersection on Stark.

Christian stated that the memorandum was not made part of the 9/26/89 Council packet, but it should have been.

Mayor Cox called for any other questions or comment from Council.

Jennings stated that as a point of order, technically, before the minutes are closed and before final questions from Council, the proponents, since there have been two people have testified technically as opponents, be given an opportunity for rebuttal should they choose.

The applicant chose to waive rebuttal.

Mayor Cox closed the public hearing.

MOTION: Councilor Fowler moved to approve the conditional use permit application.

Jennings stated that as a point of order, the appropriate motion would be a motion to adopt findings....those which were found by the Planning Commission submitted in the staff report to Council.

Councilor Schmunk read the Planning Commission's Findings of Fact as

follows: a) The use is listed as a conditional use in the zoning district. b) The site characteristics are suitable to accommodate the proposed use. c) The proposed use is timely, considering adequacy of public facilities, transportation, etc. d) The proposed use will not alter the character of the surrounding area so as to preclude or impair the use of surrounding properties for permitted uses. e) The proposed use will provide adequate open space, landscaping, and aesthetic design to mitigate possible adverse impacts. f) the proposed use will not create a public nuisance or be injurious to the public health, safety and welfare. g) The proposal satisfies the goals and policies of the Comprehensive Plan and requirements of the Development Ordinance. h) Owners of property within 250 feet of the property boundary have been notified of the hearing.

Jennings stated that if, other than those Findings of Fact, there are other conditions which Council believes justify a finding of fact, they should also discussed and made a part of the entire motion made by Councilor Fowler. Jennings asked Councilor Fowler if there were any conditions other than the Planning Commission's findings "a" through "h" to be included in his motion?

Councilor Fowler stated that he could reword his previous motion to add adoption of the Planning Commission's Findings of Fact "a" through "h" and also add the applicant be aware that permits and so forth must be obtained from the State or County for whatever access required for that property.

Jennings asked Fowler if the motion could be worded something like: "The applicant be required to get adequate access by way of Multnomah County's permission", or do you not want to make that a condition? Jennings stated that there needs to be a second to the motion.

Council concurred that the addition of wording to require the applicant to obtain County permission for access should not be made part of the Planning Commission's original Findings of Fact.

MOTION: Councilor Fowler moved to adopt the Planning Commission's Findings of Fact "a" through "h". Councilor Thalsofer seconded the motion.

YEAS: 5
NAYS: 0
ABSTAINED: 0

Bui - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalsofer - Yea

Jennings stated that the Council now has to make a decision as to whether or not the conditional use permit should be granted.

MOTION: Councilor Fowler moved to gant the conditional use permit submitted by VanDomelen/Looijenga/McGarrigle/Knauf be granted. Councilor Bui seconded the motion.

YEAS: 5

NAYS: 0
ABSTAINED: 0

Bui - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalsofer - Yea

ITEM #7 - PUBLIC HEARING/APPEAL #90-007 (Request by Michael Jacobs for Appeal of Planning Commission Decision File No. 89-057 MV of record only):

Mayor Cox opened the public hearing.

Mayor Cox called for Declarations or Challenges. There were none.

Summation by Staff: Jennings stated that this matter has previously been heard so there was no need for summation by staff.

Mayor Cox stated that this was a public hearing to consider an appeal of a Planning Commission decision to deny a major variance to the required front yard setback Case File #90-007. The City Council will, on the record, conduct a review which includes the applicant's statement to the Planning Commission, photographs, Planning staff report, and all testimony received at the public hearing before the Planning Commission. An "on the record" hearing does not provide for additional testimony to be made or for additional evidence to be submitted. Council may, however, ask for clarification of anything in the record, if necessary, to make their decision.

Jennings stated that as a point of order, it would be appropriate to inquire of the Council if they have read the record, or ask if they require any clarification of the items in the record. Council may direct questions of clarification from either staff or the applicant.

Mayor Cox asked Council had had opportunity to review the record. All Council members answered affirmatively. Mayor Cox then asked Council if they had any questions of staff or the applicant by way of clarification.

Councilor Bui asked staff if he was correct in his understanding that Mr. Jacobs had taken out a permit for modification of the front of his home?

Barker stated that Mr. Jacobs did obtain a permit to modify the existing structure to bring it back into conformance with the entry structure that was originally constructed with the house....at that same distance from the house.

Councilor Bui asked if that was accomplished?

Barker stated that that was not done.

Councilor Thalsofer asked Barker to give a brief summary of the proceedings leading up to this appeal to Council.

Barker stated that early last year, Mr. Jacobs was notified that the

new construction was in violation of City codes...that it was in violation of the required front yard setback and that permits were necessary for that type of a structure. At that time, Mr. Jacobs came into City Hall and worked with staff to redesign the deck structure so that it would fit into the required yard. Mr. Jacobs obtained a permit to do the work. The permit expired and Mr. Jacobs was notified of that fact. Mr. Jacobs then applied for a variance to the standards. As part of that permit, because of the different development code in effect at the time the house was originally built, the deck encroached into the front yard approximately eight feet. Mr. Jacobs was allowed to use that same eight foot line....the City wasn't going to take away that right since it had been granted ten years ago, but the City can't allow the structure to encroach any further than that eight feet. Mr. Jacobs' application for a variance was denied by the Planning Commission. The Planning Commission determined that the purpose of the provision of a required front yard is to maintain an open, unobstructed space in everyone's front yard, and didn't feel it was wise to vary that required front yard for a specific case that was not a unique piece of property. The Planning Commission also felt that the development ordinance did not present unreasonable requirements.

Councilor Thalsofer stated that he would like to hear a brief statement from Mr. Jacobs.

Mr. Jacobs, 1313 SE 26th Street, Troutdale, Oregon, stated that he needed to replace his deck which was "falling apart". He stated that he wanted to build a better one. In doing so, he expanded the lower landing area which extended out to approximately ten feet three inches from the property line. The stairs were made wider in both width and length for easier access for the family. The structure is farther out into the yard than the old one, but he feels that it is much better looking than the old one. Mr. Jacobs stated that his neighbors think its better looking and don't know why the City is telling Mr. Jacobs to replace it. Mr. Jacobs stated that the photographs included in Council's packets show other structures similar to his.

Mayor Cox called for further questions of clarification from Council.

Councilor Schmunk stated that all throughout this hearing, the structure in question was referred to as a "deck". Schmunk stated that her interpretation of a deck is a structure used for recreational-type activities. The appropriate use of an structure such as this is for passage into the home. Schmunk stated that when reviewing the plans Mr. Jacobs submitted, the structure was labeled As a "landing". Schmunk stated that in her opinion, the structure is a deck and not a landing.

Mr. Jacobs stated that the structure was not intended to be a recreational deck, but supposed it could be used as one. Jacobs stated that there is room for chairs on the landing, but he didn't feel that there was anything wrong with sitting in a chair on your front porch. Mr. Jacobs stated that he had submitted a revised

drawing with the steps up against the house and with about a foot or so taken off the landing so that the structure would be narrower, but the City wouldn't accept that plan either because it still would have been outside that original eight foot setback line....about a foot farther out.

Mayor Cox called for further comment or questions of clarification from Council. There was none. Mayor Cox then called for a motion to close the hearing.

MOTION: Councilor Bui moved that the public hearing be closed.
Councilor Schmunk seconded the motion.

YEAS: 5
NAYS: 0
ABSTAINED: 0

Bui -- Yea; Fowler -- Yea; Jacobs -- Yea; Schmunk -- Yea; Thalsofer -- Yea

Mayor Cox called for a motion to adopt findings of fact.

Jennings stated as a point of order, that if the Council decided not to grant the variance, the motion should be to adopt the Planning Commission's Findings of Fact, or modify them, which would support their decision not to approve the variance. The Planning Commission's Findings of Fact are as follows: 1) The property in question is not unique in its neighborhood or subdivision. 2) The ordinance provision is not unreasonable and unwarranted in this situation. 3) The intent and purpose of the provisions of the Development Ordinance to maintain a certain separation between streets and other buildings would be violated. 4) The proposed development will adversely affect the neighborhood by introducing a very different design element. If the Council chooses to grant the variance, the Council needs to adopt findings that are the reverse of the Planning Commission's findings 1 through 4 by finding that: a) The property is unique in its neighborhood and subdivision; b) The ordinance is unreasonable and unwarranted in this situation; c) The intent and purposes of the provision to maintain a certain separation between streets and other buildings would not be violated; d) The proposed development would not adversely affect the neighborhood by introducing a very different design element.

MOTION: Councilor Thalsofer moved to adopt the Planning Commission's Findings of Fact 1 through 4 as stated in the record. Councilor Schmunk seconded the motion.

Councilor Jacobs asked if Council had to adopt all four Findings of Fact?

Jennings stated yes, that Council would have to adopt all four Findings of Fact whether they were approving or disapproving the variance.

YEAS: 4

NAYS: 0
(JACOBS) ABSTAINED: 1

Bui - Yea; Fowler - Yea; Jacobs - Abstain; Schmunk - Yea; Thalsofer - Yea

Jennings stated that now that the Findings of Fact have been adopted, a decision on the issue needs to be reached. The appropriate motion would be to deny the variance.

MOTION: Councilor Schmunk moved to deny the variance request by Michael and Linda Jacobs. Councilor Thalsofer seconded the motion.

YEAS: 4
NAYS: 0
(JACOBS) ABSTAINED: 1

Bui - Yea; Fowler - Yea; Jacobs - Abstain; Schmunk - Yea; Thalsofer - Yea

ITEM #8 - INFORMATION (Public Works Department Preliminary Report on Downtown Improvements and Revising LID Boundaries):

Christian stated that this item was only for Council's information and discussion, and if Council has questions she would answer them if she could, or she would take them up with Wilder to be answered at the next meeting in October.

Councilor Fowler asked if the division of the highway was to be sixty-eight feet with seven foot sidewalks on either side?

Christian stated that that question will have to be addressed at the meeting in October.

Councilor Schmunk stated that she had a number of questions, but would ask them at the October meeting.

Christian stated that one of the important things about this particular LID is that the scope of the project has been considerably reduced from the first one presented to Council in that it did take in a block-and-a-half width, and now it only takes a half block width. It has lessened considerably the total amount of money for the LID.

ITEM #9 - REVIEW (Multnomah County Capital Improvement Program Project Request:

Christian stated that this item is a letter to Multnomah County's Transportation Department listing Troutdale's requests for specific projects inside the City limits for inclusion in the County's Capital Improvement Program. During Council's 9/12/89 Work Session, discussions regarding both the State's Six-Year Planning process and Multnomah County's Capital Improvement Program took place. The City's

requests for including in the State's Six-Year projects has been forwarded as directed by Council. However, the City's requests to Multnomah County were not forwarded because there was not complete Council consensus as to its content. Christian stated that questions or concerns will be addressed to staff at the next Council meeting in October.

Christian read the title of the City's requests for inclusion in the County's CIP as follows: 1) Signalization at 257th Avenue and Cherry Park Road. 2) Improvements to Stark Street from 257th Avenue to Troutdale Road. 3) Widening of Troutdale Road from Cochran to Cherry Park Road. 4) Extension of Hensley Road from 262nd Avenue to Troutdale Road. 5) Improvements/reclassification of Halsey Street from 242nd Avenue to Historic Columbia River Highway.

Christian stated that a letter to ODOT in request for Title II Safety Project funds. This is a special project due to the high accident rate at the intersection 257th Avenue and I-84 North Frontage Road on-ramp. Recent development along Frontage Road includes the Burns Bros. truck stop and a McDonald's restaurant. Pending development includes a Flying "J" truck oasis and a shopping center. The City's initial request is for the State to conduct a traffic/safety analysis at this intersection, then, if determined necessary, install the necessary signalization and/or re-construction to provide for a safer environment.

ITEM #10 - MOTION (To Approve Request for Budget Modification):

Christian stated that this item is the summation of projects scheduled for City Hall building improvements approved by the Budget Committee. This is a request for Council approval to "redesign" the program originally presented to include additional work and storage space. The cost difference from the original plan to the redesigned plan is \$3,800.00 more. Christian felt that the new plan is a more productive and cost-effective use of the money already budgeted. By spending the additional money, the change will be the ability to centralize filing and record keeping functions and the Court functions, which are now scattered over the building. This request does not legally require formal budget modification (with the exception of \$3,800.00 overrun). However, it is believed that the Budget Committee review was completed with the idea of two separate projects and that a major adjustment in projects deserves acknowledgement and approval by Council.

Christian stated that the contractor for this project has allowed City staff to do a lot of the prep work, which saves the City money.

MOTION: Councilor Bui moved to approve the the Budget Modification Request. Councilor Fowler seconded the motion.

YEAS: 5
NAYS: 0
ABSTAINED: 0

Bui - Yea; Fowler - Yea; Jacobs - Yea; Schmunk - Yea; Thalsofer - Yea

ITEM #11 - DEPARTMENTAL REPORTS:

Public Safety: Chief Collier stated that he had nothing to add to his report. No questions from Council.

Finance: Gazewood stated that he had nothing to add to his report. No questions from Council.

Community Development: Barker stated that he had nothing to add to her report.

Councilor Schmunk stated that she liked the report because it gives a lot of information about development in the City.

Councilor Bui stated that once the new Development Coordinator is hired, City staff should look into the hearings officer issue discussed at the Council's 9/12/89 meeting.

Jennings stated that at the 9/12/89 meeting Council did specifically direct him to do research on the hearings officer issue. Jennings stated that a report is being prepared on both the legality of a hearings officer and the practicality of having one.

Public Works: Christian stated that there was nothing to add to the report. No questions from Council.

City Attorney: Jennings stated that he had nothing to add to his report. No questions from Council.

Executive: Christian stated that she and Mayor Cox attended the auction of Edgefield Manor property today. There was only one registered bidder, but he did not show up to bid. Christian stated that there were supposedly 30 persons who expressed interest in the property. Once the official auction date and time is past, bidding will be open for accepting offers for other than the minimum price stated. The City and the County has discussed an intergovernmental agreement and the establishment of a Marketing Advisory Committee. The City's representatives named were Marge Schmunk, Gene Bui, and Sharon Nesbit. Since the auction is over and has produced nothing, the City and the County will continue on with the agreement and the marketing committee.

ITEM #12 - COUNCIL CONCERNS AND INITIATIVES:

Mayor Cox called for Council concerns and initiatives.

Councilor Thalsofer stated that when Mr. Jacobs stated that there were other locations in the City with setback requirement violations, he felt that those situations should be corrected as well as Mr. Jacobs' situation.

Christian stated that Ken Prickett had been out all day making

inspections, and that a report would be submitted to Council with his findings.

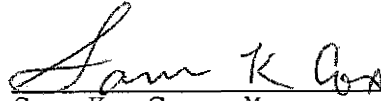
ITEM #13 - ADJOURNMENT:

MOTION: Councilor Bui moved to adjourn the meeting. Councilor Jacobs seconded the motion.

YEAS: 5
NAYS: 0
ABSTAINED: 0


Bui - Yea; Fowler - yea; Jacobs - Yea; Schmunk - Yea; Thalsofer - Yea

The meeting adjourned at 8:52 p.m.



Sam K. Cox, Mayor
Dated October 25, 1989

ATTEST:



Christina M. Thomas
Deputy City Recorder

CC4[9]