

FODOR & ASSOCIATES^{LLC}

Community
Planning Consulting

November 17, 2017

To: Ted Wheeler, Mayor, City of Portland, City Commissioners Nick Fish, Chloe Eudaly, Amanda Fritz, and Dan Saltzman, and City Auditor Mary Hull Caballero

Subject: Membership Violations on the Planning and Sustainability Commission

This letter is to notify you, on behalf of the Multnomah Neighborhood Association, that the City of Portland is in violation of State Law and the City Code in regard to the membership of the Planning and Sustainability Commission (PSC). We are requesting that the City act immediately to correct the membership violations by replacing at least three of the five members of the PSC who are directly engaged professionally in land development (or related activities) with citizens who can broadly represent the interests of the general public and who have no pecuniary interest in the work of the PSC.

Currently, at least five of the ten members of the PSC are professionally engaged in work that is related to land development.

1. Katherine Schultz (Chair), Director, Architect, GBD Architects
2. Jeff Bachrach, Land Use Attorney, Bachrach Law (land use and real estate)
3. Michelle Rudd, Partner, Land Use Attorney, Stoel Rives (land use focus)
4. Eli Spevak, Owner, Orange Splot LLC (developer)
5. Teresa St Martin, Principal EcoBroker, Windermere Real Estate

Oregon Revised Statutes (ORS) 227.030(4) states in regard to membership of a city planning commission:

No more than two voting members of the commission may engage principally in the buying, selling or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation, that engages principally in the buying, selling or

developing of real estate for profit. No more than two members shall be engaged in the same kind of occupation, business, trade or profession.

This requirement is restated and expanded in *City Code, Title 33, Planning and Zoning, Section 33.710.040 Planning and Sustainability Commission (B. Membership)*:

No more than two members of the Commission may be individuals, or members of any partnership, or officers or employees of any corporation that engages principally in the buying, selling, leasing, or developing of real estate for profit.

All five PSC members listed above appear to engage principally in the buying, selling, leasing, or developing of real estate for profit. If the City has any evidence already in existence demonstrating that any of these listed PSC members does not principally engage in these activities, we request a copy of this documentation. Lacking such evidence, we request that the City promptly take action to address apparent membership violations.

An additional matter concerns conflicts of interest on the PSC. Mr. Eli Spevak, a developer with Orange Splot LLC, engages in the construction of infill housing. He has been a leading advocate for "middle housing," according to the public record for Task 4 of Periodic Review. He also secured work from the State of Oregon writing a report on middle housing. The Middle Housing Policy is one of the key policies in the Comprehensive Plan supporting the Residential Infill Project, a primary project of concern to the PSC.

According to *Title 33, Planning and Zoning Chapter 33.710 Review Bodies*:

33.710.030 Commissions, Committees, and Boards Generally

I. Conflict of interest. A member of any commission, committee, board, or review body except City Council may not participate as a member in deciding any land use action in which the member has a direct or substantial financial interest.

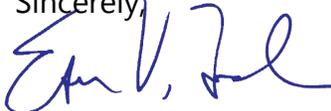
We would like to know if Mr. Spevak has recused himself during discussions and votes on the PSC in the matters of Middle Housing Policy and the Residential Infill Project. If not, we wish to know whether Mr. Spevak has unduly influenced the actions of the PSC. If his conflict of interest in connection with past and

ongoing work of the PSC is extensive, we wonder if he should be allowed to continue his role as a member of the PSC.

Finally, we would like to note that a recent commentary published on *Oregon Live* indicates that the issue of *conflicts of interest* may extend to many other City advisory committees.¹ Therefore, we encourage the City Auditor to engage in a thorough investigation of this matter.

Please let us know what actions the City intends to take to address the above membership violations and address possible conflicts of interest on the Planning and Sustainability Commission.

Sincerely,



Eben Fodor
Principal Planner

Cc: Susan Anderson, Director, Bureau of Planning and Sustainability
Eric Engstrom, Principal Planner

¹ "Portland needs more transparency from citizen advisers: Guest opinion," [Oregon Live](http://www.oregonlive.com/opinion/index.ssf/2017/11/portland_should_require_more_t.html),
November 7, 2017,
http://www.oregonlive.com/opinion/index.ssf/2017/11/portland_should_require_more_t.html.