



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 30th DAY OF AUGUST, 2000 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Hales and Sten, 4.

OFFICERS IN ATTENDANCE: Britta Olson, Clerk of the Council; Linda Meng, Chief Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

Item Nos. 1280, 1285 and 1293 were pulled for discussion and on a Y-4 roll call, the balance of the Consent Agenda was adopted.

- 1278** **TIME CERTAIN: 9:30 AM** – Approve Police Internal Investigations Auditing Committee (PIIAC) Monitoring Report for First and Second Quarters, Year 2000, per City Code 3.21.085(5) (Report introduced by Mayor Katz)

Disposition: Approved. (Y-4)

- *1279** **TIME CERTAIN: 10:30 AM** – Authorize acquisition of property at 1710 SE 39th Avenue for the Bureau of Fire and Rescue for Fire Station 9 (Ordinance introduced by Mayor Katz)

Disposition: Ordinance No. 74865. (Y-4)

CONSENT AGENDA - NO DISCUSSION

- 1280** Accept bid of Portland Freightliner to furnish one 33,000 gvw cab and chassis with bituminous asphalt distributor for \$87,499 (Purchasing Report - Bid No. 99837)

Disposition: Referred to Purchasing Agent

- *1281** Defer effective date of business property management license fee for Lloyd Business District and provide for refund of fee amounts already paid (Ordinance introduced by Mayor Katz and Commissioner Francesconi; amend Code Chapter 6.06)

Disposition: Ordinance No. 174840. (Y-4)

Mayor Vera Katz

- *1282** Intergovernmental Agreement with Multnomah County Purchasing Section to provide quick copy work and printing services (Ordinance)

Disposition: Ordinance No. 174841. (Y-4)

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- *1283** Authorize acquisition of property at 6629 NE 66th Avenue for the Bureau of Environmental Services (Ordinance)
- Disposition:** Ordinance No. 174842. (Y-4)
- *1284** Contract with Par-Tech Construction, Inc. to remodel Fire Stations 10 and 14 for \$901,526 and provide for payment (Ordinance)
- Disposition:** Ordinance No. 174843. (Y-4)
- *1285** Clarify Ordinances issuing Sewer System Revenue Bonds (Ordinance; amend Ordinance Nos. 160276 and 174679)
- Disposition:** Ordinance No. 174862 as amended. (Y-4)
- *1286** Authorize a Contingent Loan Agreement with the Housing Authority of Portland for the Lovejoy Station Apartments Project (Ordinance)
- Disposition:** Ordinance No. 174844. (Y-4)
- *1287** Extend Legal Services Agreement with Hoffman, Hart & Wagner LLP (Ordinance; amend Agreement No. 32205)
- Disposition:** Ordinance No. 174845. (Y-4)
- *1288** Pay claim of Armeta Cave (Ordinance)
- Disposition:** Ordinance No. 174846. (Y-4)

Commissioner Jim Francesconi

- *1289** Authorize an agreement with the Friends of the Children's Museum to provide payment for the President's position at the Children's Museum for FY 2000-01 (Ordinance)
- Disposition:** Ordinance No. 174847. (Y-4)
- *1290** Authorize an increase in commercial tree inspection fees (Ordinance)
- Disposition:** Ordinance No. 174848. (Y-4)
- *1291** Add \$50,000 to the Portland Freightliner, Inc. contract for fire equipment (Ordinance; amend Contract No. 40570)
- Disposition:** Ordinance No. 174849. (Y-4)
- 1292** Accept donation of \$500 from the Portland Wheelmen Touring Club for the Bureau of Fire, Rescue and Emergency Services (Second Reading Agenda 1188)

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Disposition: Ordinance No. 174850. (Y-4)

Commissioner Charlie Hales

- 1293** Adopt uniform policies on expiration of Oregon Specialty Code permits issued by the Office of Planning and Development Review (Ordinance; amend City Code 24.10.070, 25.05.050, 26.04.080 and 27.03.030)

Disposition: Passed to Second Reading, September 6, 2000 at 9:30 am

- *1294** Amend contract with Synertech Systems Corporation and CSDC, Inc. to expand scope of work, increase compensation and extend contract for software and hardware integration services (Ordinance; amend Contract No. 31939)

Disposition: Ordinance No. 174851. (Y-4)

- *1295** Revocable permit to St. Stanislaus Church to close North Failing Street between Interstate and Montana Avenues on September 22 through 25, 2000 (Ordinance)

Disposition: Ordinance No. 174852. (Y-4)

Commissioner Dan Saltzman

- 1296** Accept completion of the Tryon Creek wastewater automation project, Phase II, Project No. 6063, and authorize final payment to Olsson Industrial Electric (Report; Contract No. 32866)

Disposition: Accepted. (Y-4)

- 1297** Accept completion of the NE 47th and Oregon emergency sewer reconstruction, Project No. 6860, and authorize final payment to Nutter Underground Utilities Co. (Report; PO No. 1023878)

Disposition: Accepted. (Y-4)

- *1298** Authorize a contract with Tetra Tech/KCM, Inc. and provide for payment for the design of the Tanner Creek stream diversion project, Phases 3 and 4, Project No. 5501 and 5407 (Ordinance)

Disposition: Ordinance No. 174853. (Y-4)

- *1299** Authorize a contract and provide payment for the construction of Stark Basin Unit 7 infiltration sumps, Project No. 5427 (Ordinance)

Disposition: Ordinance No. 174854. (Y-4)

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- *1300** Authorize a contract and provide for payment for the construction of Alder Basin relief and reconstruction project, Phase 4, Ladd's Addition, Project No. 6069 (Ordinance)
- Disposition:** Ordinance No. 174855. (Y-4)
- *1301** Authorize a contract and provide payment for the construction of Stark Basin CSO infiltration sumps, Unit 5 and 6, Project No. 5425 (Ordinance)
- Disposition:** Ordinance No. 174856. (Y-4)
- *1302** Amend contract with URS Corporation to raise cost ceiling by \$406,925, expand services, and extend term beyond five years (Ordinance; amend Contract No. 29280)
- Disposition:** Ordinance No. 174857. (Y-4)
- *1303** Contract with PowerWare, Inc. to provide programming maintenance and enhancement services for existing systems for the Bureau of Environmental Services (Ordinance)
- Disposition:** Ordinance No. 174858. (Y-4)
- 1304** Approve annual agreement with Multnomah County for Vector Control services for the Bureau of Environmental Services and authorize payment (Second Reading Agenda 1212)
- Disposition:** Ordinance No. 174859. (Y-4)

Commissioner Erik Sten

- *1305** Contract with Ecumenical Ministries of Oregon for \$37,473 for the EMO-Shared Housing program and provide for payment (Ordinance)
- Disposition:** Ordinance No. 174860. (Y-4)
- *1306** Contract with worksystems, Inc. for \$524,467 for the Comprehensive Youth Employment Program and provide for payment (Ordinance)
- Disposition:** Ordinance No. 174861. (Y-4)

REGULAR AGENDA

Commissioner Jim Francesconi

- *1307** Approve acquisition of land adjacent to Gabriel Park for park and recreation purposes (Ordinance)
- Disposition:** Ordinance No. 174863. (Y-4)

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Commissioner Erik Sten

- 1308** Authorize an agreement to establish the Cecil Shumway Fund through the Oregon Community Foundation as a result of Mr. Shumway's bequest in his Last Will and Testament to the City of Portland (Ordinance)

Disposition: Passed to Second Reading, September 6, 2000 at 9:30 am

- *1309** Accept transfer of estimated remaining grant funds for the Portland Showcase Brownfield Program and create a staff position to oversee the program within the Bureau of Housing and Community Development (Ordinance)

Disposition: Ordinance No. 174864. (Y-4)

Communications

- 1310** Request of Ryan Lawrence to address Council regarding the City handling of parking enforcement (Communication)

Disposition: Placed on File.

AUGUST 30, 2000

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 30th DAY OF AUGUST, 2000 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Hales and Sten, 4.

OFFICERS IN ATTENDANCE: Britta Olson, Clerk of the Council; Kathryn Beaumont, Senior Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

1311 **TIME CERTAIN: 2:00 PM** – Appeal of Lois Wakelin, James Boehm and Phillip Moran against Hearings Officer's decision to approve the application of EJS Properties for a zone change from R5 to CN2 in order to build a 45-unit or less multi-dwelling residential development at 1636 and 1616 SE 39th Avenue (Hearing; LUR 99-01022 ZC)

Motion to waive the 120 days, direct both sides to enter into discussion and return to Council on October 12, 2000 at 2:00 p.m. Motion made by Commissioner Hales and seconded by Commissioner Francesconi.

Disposition: Continued to October 12, 2000 at 2:00 pm. (Later rescheduled to November 1, 2000 at 2:00 p.m.)

At 4:03 p.m., Council recessed.

AUGUST 31, 2000

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,
OREGON WAS HELD THIS 31st DAY OF AUGUST, 2000 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Hales
and Sten, 4.

OFFICERS IN ATTENDANCE: Britta Olson, Clerk of the Council; Linda Meng, Chief
Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

1312 **TIME CERTAIN: 2:00 PM** – Amend Planning and Zoning Code to establish minimum
and maximum parking ratios as required by Title 2 of the region's Urban Growth
Management Functional Plan (Previous Agenda 1120 introduced by Mayor Katz; amend
Title 33)

Disposition: Rescheduled to September 27, 2000, 10:00 am Time Certain

At 2:08 p.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland

Britta Olson

By Britta Olson
Clerk of the Council

For discussion of agenda items, please consult the following Closed Caption Transcript.

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Closed Caption Transcript of Portland City Council Meeting

This transcript was produced through the closed captioning process for the televised City Council broadcast.

Key: ***** means unidentified speaker.

AUGUST 30, 2000 9:30 AM

Katz: Good morning, everybody. The council will come to order. Britta, please call the roll.

Katz: Commissioner Saltzman is on vacation. There's been a request to pull 1280. 1285. 1293. Any other items that anybody wants to pull off the consent agenda item for discussion? Council or the public? If not, then let's do roll call on the consent agenda items.

Item 1280

Katz: Mayor votes aye. Who is here from purchasing? Anybody?

Olson: Purchasing asks that this be returned to the Purchasing Agent.

Katz: They want a return, any objections? Hearing none, so ordered. 1285.

Item 1285.

Katz: You want to let the public know what is the amendment? Is it substantive?

Olson: No, it was a scrivener's error.

Item 1293.

Katz: Mayor votes aye 1293.

Katz: Okay. Who pulled this? Linda, you did. Did you want to come and testify?

Ray Kerridge, Office of Planning and Development Review (OPDR): Mayor Katz, members of the council, I am ray carriage and I am representing the office of planning development and review. There are two main reasons why we would like to include these amendments entitled 24,25, and 26. First one is that over the years, the bureau has achieved a number of permits that are not being called, no final inspectors have been called, and we have these permits clouding up our system. The special codes require the applicants to call us for when the permits are ready for inspection, and when -- whether the permits. In many cases, many on housing projects, this doesn't happen, so the permits just kind of sit in the system. They are waiting for an inspection to be called. It never happens. We have permits in the inspector's -- sometimes for 10, 12 years, we are changing over to a new computer system, and we need to clear up a lot of the old permits. The other aspect is that in the -- this fiscal year, we are scheduled for an audit by the state and the senate bill 35, and in that review of the load, one of the first things they look at is how are you dealing with expired and unexpired permits. So we know that this is going to happen. We believe that by pulling these amendments into the titles, it gives us an effect way to deal with these permits. The only other thing that I would like to say about it, there are some issues where by expiring a permit that hasn't been inspected for a final inspection, there is a chance that think be some implications, it may be because no one is going to go back there. There may be some minor code violations that we will not be able to pick up at that point. But it is basically what we want to do, we just want to clean the system up. This will not occur in the future because our computer system will focus in, the system will hook into the computer system. We will know and have an accurate way to assess when the permits were not called for a six had six-month period. Can I answer any questions for you?

Katz: Questions? Linda, did you want to come up?

Linda Bauer, Chair, Pleasant Valley Neighborhood Association: Linda bouer, 6232 southeast 158th. It is my understanding that permits are 100% cost recovery. I am not sure if that's true. Okay. If that's the case, then after six months, why doesn't an inspection happen if the, if they

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simply forgot to call for an inspection, they could -- it could be filed. Or if they didn't do the work or they did it wrong, then they could be advised that the permit is expiring and they need to get a new one. As long as the system is paying for itself, why don't they get their final inspection like they paid for?

Hales: Oh, because, linda, somebody has to call for an inspection. If you have your kitchen remodeled and don't call for a final inspection, obviously, we just can't show up at your house. We are not going to be able to get into your kitchen if you are not at home. And so, we can't inspect the kip kinkel. So, there's got to be a connection between the permit holder and the bureau in order to arrange for that final inspection. If the permit holder never calls and says, okay, I am ready for my final inspection in my kitchen, then we are, you know, we have other things to do, we will go and inspect other people's kitchens who are calling us, but we are not going to go around tapping on the windows to see if we can get in and look in your kitchen.

Bauer: Don't they have a phone number that we could call them and let them know that their permit is expiring --

Hales: To call the applicant.

Bauer: Sure, rather than filing it in the round file, I mean, they have paid for that inspection. Why don't we do it?

Hales: Well, that's a good question. Why don't we get ray back up and talk about that.

Katz: All right, come on up.

Hales: So ray, that's a fair question, you know, before the permit expires, are we going to call the person who got the permit and say, we just want you to know --

Kerridge: First of all, commissioner, the state requires -- it is the applicant's recovery to call for the inspection. That's very clearly stated in the code. Also, we are dealing with a tremendous number of inspections here. We all are ready with the workload that we are dealing with, we already are having trouble dealing with the number of inspections that are called by contractors, and if we have to go out and call people just to ask them, if, in fact, their kitchen is ready for an inspection. This will be a tremendous burden on the bureau staff to do this. I just don't think that that's practical. Given the number of permits that we deal were and number of inspections that we deal with in a year. In any one year, the bureau deals with 157,000 inspections, and these are ones that are called for. So, if we have to track down people with that -- on the off chance that, you know, they may be ready for the inspection, this is just going to be a tremendous burden. So I don't think that we could -- we don't have enough resources or staff to deal with that.

Hales: Do you have a sense of what kind of permits these are? Is it all over the map or does it tend to be smaller tough?

Kerridge: Smaller tough. I would say about 80% of the expired permits that we have are on single family houses. Mainly remodels, either the job wasn't started or the job hasn't been finished, you know. But, there may be -- may be single family houses, very few commercial jobs. And the main reason being on a commercial job, under state law you are required to have a certificate of occupancy. There is no such requirement under the state building code for a one or two-family house, so there is no real -- nothing hanging on whether they get a final inspection and whether the applicant calls for a final inspection or not.

Hales: By single family houses, you mean typically remodels --

Kerridge: Typically, the new single family houses, they generally have a final inspection, but it is, as you mentioned, the remodels, the kitchen remodels, somebody wants to do something with the bedroom, it is mainly homeowners, they may get all their inspections up to the final. They get the framing inspection, the plumbing inspection. All the stuff that's going to be actually buried in the walls, people are fairly conscientious about doing that. But when it comes to the final inspection, you

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know, people have moved into the space, and you know, the urgency seems to disappear at that particular point.

Hales: Okay. All right. Thanks. Well, it would be my recommendation that we go ahead with this. I think that Linda is asking a legitimate question about customer service here, but it seems to me, as a permit applicant, occasionally, I don't want to pay for the bureau to chase people around and check to see if they have gotten the service that they paid for. It is a customer initiated system, so I am comfortable with leaving it that way.

Item 1278.

Katz: Mayor votes aye. All right, we are at our time certain, 1278. Okay. Sit down. This is a monitoring report. A quarterly monitoring report. And I just wanted to flag to the council that the task force that I appointed is still working on reviews and we may get not only a majority report, but a minority report, and then I am going to make some recommendations to the council, and we will probably have a council informal being but this is a process that we have been doing for years that have had some positive pay-offs in terms of the response of the police bureau and the police chief. Not every item that PIIAC recommends is necessarily adopted in the manner which they had hoped, but almost -- I would say probably over 90% are, and are satisfactory to the PIIAC advisors, and if they are not, you will see them come back in the next quarterly report. So, thank you.

Mike Hess, Police Internal Investigations Auditing Committee (PIIAC) Examiner: Okay. Good morning. Mayor Katz and commissioners, I am Mike Hess, the PIIAC examiner, and I just wanted to make a couple opening comments. First of all, we have a success, one of the successes, I believe, that might be over 90 percent, and I would like to tally monitoring reports and the number that have resulted in the police actually making the changes. Maybe I can do that before the in the case time that we appear. But, one of the things that our committee, the monitoring committee of PIIAC has been encouraging the police to do for a long time is not to leave motorists stranded when they have their cars towed. One of our appellants was a young lady, I think that she was 17 years old, and she was pulled over for a traffic citation on I-5 two or three treacherous curves, and she was left stranded. And her mother, of course, was very concerned, and now we have a new general order that just was signed by Chief Crocker July 12th, 2000, which encourages police officers to assist motorists and get them to a safe location if they do tow their car or for any reason, remove them from their car from their mode of transportation. So, that was a success that we had that I think is very good. And at this point, I am just going to turn it over to our chairman of our monitoring subcommittee, Mr. Bob Uland.

Bob Uland, PIIAC advisor: Mayor and commissioners, I am Bob Uland, and I serve on the PIIAC committee. I've been sent there by central northeast neighbor's coalition as a member. Our committee has gone through and produced a document which you have all received. I would like to talk about a concern which comes up every time in the document, and that is on the timeliness of the investigations and the closure of cases. We have been talking about this in every report that I have ever been associated with, and I've been on the committee now for over four years. This past summer, Dr. Sam Walker, who is a professor of criminal justice, came to Portland. He's the only expert that I know of who travels across the country and studies civilian oversight committees. And he is quoted on page 9 of your document on this timeliness issue. He says that an average of 13 months, which is what the Portland police bureau takes, is unacceptable. That other police departments and citizen oversight agencies complete most or all investigations in 90 or 120 days. On the next page, page 10, down in the middle, we, in view of these continuing chronic problems, regarding timeliness of IAD investigations, PIIAC again strongly recommends that at least three additional investigative sergeants and a lieutenant be immediately assigned to IAD. And I would hope that the council, which always agrees with -- with our reports and sends them to the chief, traditionally, and then the chief always agrees with our report, that something needs to be done. But,

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of course, the problem persists. And I assume that -- in our thinking, if these additional people could be assigned to work on the problem and could be left there for, say, a period of two years, with the understanding that they couldn't be touched or pulled off this assignment, or any special occasions have come up like the hire 80 program where iad sergeants were pulled off to do the background collection for several months. When we have specific cases that come up, like the overtime thing, and I know that it is a balancing act, and it is up to the chief and the assistant chiefs to figure out where these people are supposed to work and what's more. But, it seems like there problem isn't going to go away with a, say, a two-year period of time aimed at bringing down the back case load and getting us to a 90 to 120-day period of time, so I would hope that the council would strongly recommend that, and -- to our police commissioner, and that the commissioner could work with the chief on accomplishing those.

Katz: Before you go on, bob, let me just respond to that. The chief is very sensitive to this issue, and came to me with a request, resource request to do that. And it was a considerable amount 6 money. It was over a million dollars. There were really two requests. I told him, as I have told all of you before, the really -- today, there is no money for this. He understood that, and will probably move people around in the bureau. That has consequences on the street. But, he is committed to reducing this, this backlog and getting back on track. And he will be coming back very shortly with a recommendation on how to do that, so I want you to know that there won't be any additional resources to help him with that. He will have to make some internal reorganization.

Ueland: Thank you. Then I would invite your attention to page 15 of the report, which contains a list of -- which is a summary of our recommendations, and there are eight of them, and I am not going to go through them individually, except to mention number 5, which again, piac recommends the training techniques for lift and go transporting persons be reexamined in an attempt to come up with a practical solution for this problem. I met here last week to testify on a case which brought back this issue, again, to our attention, and I feel that until -- well, in that case, the chief's opinion was that without proper training, the officer could not be held responsible for any consequences that happened to the appellant, and it seems to me that we are still in the same position, that that could be the reason given that an officer can't be held responsible. And I am not trying to get officers held responsible for things, but it does seem to be something that needs to be revisited. We would like to hear back from the chief on that.

Katz: You didn't really mean what you just said.

Ueland: What did I say?

Katz: You said you are not here to hold officers responsible?

Ueland: Not trying to --

Katz: Because dan is writing that, so I want to correct it.

Ueland: Yeah. Well, yeah. I just -- the consequence of coming up with training could be that an officer, who then -- where a person was injured during an arrest, could be held responsible and would be held responsible, and that would be the consequence of the training. Based on the reason given last time, that the officer was not to be held responsible. Maybe that's kind of convoluted, but the point is there. It still needs to be dealt with, or it can happen again and we will come up with the same concludes again, but our city attorneys seem to feel that there was some liability there, because a good sum of money was paid out to this person. And other than that, if there are any questions about these, we would be happy to deal with them, and others -- I won't go on any further.

Katz: Let's open it up for counsel, if counsel has any questions, open it up for discussion.

Sten: I have one unrepresented question. I want to get a sense of where we are in the whole suggestion of the future structure of this organization.

Ueland: We are right in the middle of it.

Sten: Just kind of a -- not, not --

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Katz: Mike, why don't you talk about --

Sten: I don't want you guys to get on record what should happen, but just where we are in the process.

Hess: We are still examining the options. We are still meeting every tuesday night, and the public is invited. We have public input at every meeting. Tuesday night from 5:30 to whenever, usually until 8:00, and we don't have any definite conclusions. We've been doing what we call "straw votes" just to see how people are feeling about different issues, and we are really delving into the issues. We should have something for the mayor by the end of september, I believe. And then for, of course, for all of you. So --.

Katz: Describe the dynamics.

Hess: Okay. Well, we have people from a wide base of the cultural -- or the cultures and communities in Portland. We have people from the naacp, national lawyer's guild, metropolitan human rights office, the homeless transition projects, treat routes, cop watch, we have people who are on piiac right now. Former members, one of one of the appellants who was here last week talking to the council. So, we have a broad-based committee, and we have left this completely open to the public, and we are looking at all of the options. We are looking at what other cities are doing, what works at our cities. What doesn't work. We brought in sam walker, dr. Sam walker to talk to us, and we are not just looking at destroying what we have and building something new. We are trying to build from what the good thing that we have right now and make it better.

Katz: Thanks, mike figure a couple of things. A comment, I could save there for later, but bob, I appreciated your continuing interest -- etches on the time delay. And how we have to do something about it. And folks, I think, and I know that the mayor and the chief are working on it. We do need to do something about this. So, in this informal, when we have this discussion, we have to take this on, head-on, it has to be dealt with, even if it means resources we take from somewhere else. The second point is, I guess I wanted to thank the bureau. I made a big point earlier that the complaint forms were not translated in enough languages. I had not raised it at all recently, and they have done it just from responsiveness to the community, so I see it is translated into some other southeast asian languages on the initiative, apparently, of the police bureau, they also, so that was terrific. I don't know if piiac emphasized that.

Hess: We asked originally in the police bureau, went along with it immediately, and actually got, before we could come up with the resources, they found their own resources to get it done. So yes, accommodations from the police department, but it was our suggestion, initially. That there weren't enough languages out there on the complaint forms.

Francesconi: And I guess the other comment, and it is along with the chief, which I believe is trying to insert more discipline, and accountable, the emphasis on profanity and it is mentioned in here. I mean, you can try and do some things with some orders and regulations, et cetera, but it takes an internal command structure with discipline and consequences and training to deal with it. I think that the chief is trying to address this. Not just the cosmetic aspects. Figure but, it is good you pointed it out. The two areas that I wanted to ask you about, are diversity training, the whole, I mean, big issues about the police relationships with, especially the african, american community, and then an area not addressed in here, but the whole area in the use of excessive force, is, particularly regarding persons suffering from mental health disabilities, that's not addressed in this report, and that might be because no issues have come before you. But let's start with the latter. Have there been circumstances of cases where you have looked into this? Are there cases in the pipeline? Do you have some recommendations? What's the bureau doing in this regard? Those are questions for different people, but I would like to have a response.

Ueland: From my memory bank, I don't recall any that specifically dealt with what you are talking about. We did have some issues about how people who have disadvantages are referred to in radio

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transmissions and in reports, and we got that stopped. I mean, we got that cleared up, I believe. And I will and mr. Wells, who has been on the committee almost as long as I can, if he can recall any that are specific.

Robert Wells, PIIAC: Specifically, no, I can't think of any cases. Again, memory bank, but there has occurred this sort of thing, and it has been, as far as I can see, corrected.

Francesconi: Okay. Well, maybe in the informal, I need to know more from the police bureau, what training the officers received. Is it a problem. I know it is a perceived problem. Is it a problem, what the plan is to handle it? And where we are on that issue? I don't think that you are the right folks, but later on, we can do that. Okay. On the issue --

Hess: We don't have anyone here from the police department.

Francesconi: Okay. You recommend diversity training. And listen, I agree with that. But again, I also believe, and we will hear more from the chief later, through the blue ribbon committee that they have convened on racial profiling, but I believe there, it is a question of how you hold people accountable, too, for their behavior. But, also I believe it is in diversifying the police ranks, they also. Is that beyond your purview? You only talked about training, and I think that you only hit a very small part of the strategy. How come you didn't talk about other things?

Hess: Well, the reason the training issue came up was because one of our cases involved the type of language that was used that could have been interpreted as, at least the appellant interpreted it as disparate type of language, and mr. Ford, who is african, american, he is our chair. He asked brett smith if training was given to the officers, and in dealing with different cultures, and it was found that it was given to them but it was like a one-time thing. During the academy, and maybe a one-time thing. So what we were suggesting is that there should be some ongoing training cycled into their regular 40 hours that they get every year. Every couple of years to every two or three years, have a course like that, so that it is not just a one-time thing. Now, we did not look at the hiring aspects of it. That's something that we could have, but that's a little bit out of our purview, at this time.

Ueland: And captain smith, has, in talking about this with him, has pointed out that there are 40 hours a year available for inservice training for the officers, and those are guarded, they are very precious to the chief, and to the staff, the assistant chiefs as far as what can be done during those 40 hours. And so again, we have a resource situation taking officers off the street for 40 hours. And cycling that in, evidently, just there are higher priorities. So, again, that's a matter that -- but it is still there, and needs -- they need to continually look at it. If we have -- since we are having problems. I agree with you, that hiring practices, which they are working on very strenuous, it seems, could help a lot with that, but those specific items don't come up in our cases, so we don't have any recommendations to you.

Francesconi: I think the appropriate place for me to pursue this more is, I think the chief is presenting the. Strategic plan to the council, and this will be the circumstance, but I wanted you to be aware of this. I am not trying to get you outside, but if we could coordinate some of the strategies for a multi-pronged approach on some of these issues. Thank you.

Katz: Questions? Yeah. I think that commissioner Francesconi, that probably would be the best place. He is now redoing the strategic plan and really focusing in on the -- several key strategies that the bureau is going to have to develop to address community priorities in the prior years, it has basically been a work plan, as opposed to a strategic plan, and there is a difference. Thank you, gentlemen. Okay. Dan. Anybody else want to testify on this item?

*****: Good morning. I was wondering if I could request five minutes, seeing as --

Katz: Oh, dan. Go ahead. Three minutes, is fine.

Dan Handelman, Copwatch: Okay. My name is dan and I am with the world cop watch, 42456, Portland, 97242. Overall, we wanted to compliment this monitoring report. It has good recommendations. I am disappointed it wasn't read in more detail since the public generally doesn't

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get to see the reports or know what's in them, so I was hoping it could be read, at least all the recommendations into the record, particularly for people watching on cable access. But, I think that it contains good details. We strongly support the recommendation to make public records more accessible and less expensive. And we agree to the general orders. We think in addition the standard operating procedures should be on the internet. The quote from dr. Walker noting that if ppiac are to retain their credibility, it is imperative that the recommendations be acted on, not only doesn't underscore the problems, but it should also be applied to the two cases mentioned in this report that were sent back to iad that were sent back and were not investigated, in one case number, captain smith wrote a revised letter of disposition to the appellant but they are not privy to the contents and it was unclear whether it was forwarded to see if it satisfied their concerns. And the other case is number 002, which came before you last week, the iad commander simply stated he stood by the original decision to decline the case. And I know that, the review last week, happened outside the six months, this report covers, but I felt very uncomfortable that council took a formal vote last week when nobody from ppiac, who was on the majority that sent this back for investigation was here to explain why they sent it back. And I know that some of you are concerned about it, but not enough to postpone the vote. I also think that it was inappropriate that the staff person made the report to council based on his original analysis, which the -- when the majority of the votes went against that analysis. I've been to a lot of the meetings and made public comments and heard other people making public comments about language that is judgmental or bias when talking about the appellants that super some -- I have some examples, including sometimes the appellant's criminal history is being used in a way to discredit them, although whether or not police act wrongfully is a secret issue from whether the appellant has violated the law. This is something, if you go to the advisory meetings, you should observe and if the public comments were included in these quarterly reports, some of this might come to your attention. Also, ppiac, to its credit, voted on a number of recommendations to make itself. They treated reading a description of what they do at the beginning of their meetings. They also recommended, and I don't know why this is not in the monitoring report, that the staff person be applied full-time to ppiac, that the examiner's position is right now, doing other things other than working for ppiac, and I know that the advisors feel strongly about it, and we do, that the examiner should be full-time.

Katz: It is full-time.

Handelman: Another thing in the report is that the id statistics, they have recategorized things so it looks like 406 allegations out of 612 were addressed in the first six months. Of 2000, but, 157 were declines and 88 were suspended, so 60% of the cases that allegedly were closed were never dealt with, and there is a new category, that said revolved administratively, and I don't know what that means. And out of the 406 allegations, none were sustained so far this year.

Katz: Go ahead. Finish up.

Handelman: Okay. Finally, ppiac doesn't address their own issues of timeliness. We know that it takes 13 months on average for the iad to do it, but I know that somebody that applied for an appeal in may and that appeal is not going on the docket until october, which means that in addition to 13 months through iad, they have to wait five months to get before ppiac, and I am wondering if the city council can encourage them to meet more frequently to deal with that.

Katz: Okay. Thank you. Questions of dan? Michael, if you are doing anything else, I need to know what it is. Do you want to come up? [laughter]

Hess: Your honor, this didn't come from me. I am -- in my own mind, I am 100% ppiac, every once in a while, I will get a letter from them to answer, we all do that in your office, we all feel like we are part of your staff, and we have to all be a team player, as well as everybody who has a full-time job, also helps you in getting your job done. And I don't feel -- I put in extra hours, and I give more than eight hours a day to ppiac, as it is. So I don't agree with that myself. As far as the time, we do -- we

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meet once a month. These are volunteers. They are not paid. These are people with full-time jobs. We meet once a month, and it usually is about three hours, and besides the time that they meet, they also have to spend several hours reading the reports, and I don't -- sure, we are behind. The more cases we get, the more -- and right now, any case that I get, right to my desk today, it won't be until next year that we hear it because we go one-by-one, and we have reached about two or three cases each month, and this year, we have had almost 30 cases, and so far this year, and no other year that I have ever seen where there are more than 26 cases in a whole year, so we are getting a lot more complaints now. If we need more time to meet, I think that we are going to have to have another group of people. You can't very well ask volunteers to put any more time than that into it.

Katz: Thank you. Okay. Anybody else want to testify? All right. Roll call.

Francesconi: I don't know if I have ever thanked the piac advisories for the work that they do on this. It is it is a tough issue, there is no glamour in this, so thanks for the work you have done on this issue. The only other thing is, this is for the chief now, and I know that there's been budgets and I know that personally, because I have talked to him about it, that he wants to do this, but we need a specific work plan from the chief to reduce the time backlog. We need that. We need it and we need it now. Aye, accepting the report.

Hales: Thank you, aye.

Sten: My thanks, as well, and I look forward to seeing how some of these bigger issues develop over the next couple of months and look forward to working with you.

Katz: Again, thank you. I keep an arm's length with the piac office, for the obvious reasons, but I do know the amount of hours that mike and the advisories spend, not only do they read the reports, they also listen to all of the tapes. When they make the report to the committee. The letters that mr. Hess responds to are basically letters dealing with this issue. They are not anything else dealing with transportation or water issues or environmental issues. They are dealing with piac issues, so I also want to thank you. And you will be getting a report. I have told the advisory group that I am open to recommendations, but they are going to have to really study hard to see whether the changes that they recommend makes some sense, and whether they are workable, and what we need to do as a council in many of the cases, it will require changes in our collective bargaining agreement. If those changes are something that the council wants to proceed with. And I have asked them to please have, at some point, somebody going to the city's -- cities that have been modeled for us and to talk to everybody, the citizens, the bureau, the police union, the councils, the mayors, as to whether they think the model approaches work any better than what we have here in the city of Portland. Aye. All right. 1279.

Item 1279 (postponed as not 10:30 a.m. as yet)

Katz: Okay. Francesconi, commissioner Francesconi, did you want --

Francesconi: Yes, a couple of things, maybe could I could invite up, joyce cooper, who is the chair of the station's advisory committee, is she here? Nope? Greg keller, from the bureau? And then ron bergman, am I 0-3? Just myself here? Well, let's see here, susan, can you do me a favor, go back to my office and say, nobody is here, as I start doing this? Thanks. I don't know, mayor, I can handle this myself. Is there anybody who wants to testify? There may be some neighbors opposed to this. We might not need --

Katz: Anybody want to testify on this item? Go ahead.

Francesconi: Okay. Well, then, I don't need staff. Chuck, you can cancel that order. Here's what's going on, council. Let me lay it out, actually, it relates to the item that susan is going to testify. We have a philosophy in the city -- pardon?

Katz: It is a 10:30, okay. Sorry. Let's, let's hold off on it, is that all right? I wasn't looking at the watch. All right. Let's take the regular agenda item and we will come back to this at 10:30. Sorry, news. 1307.

Item 1307.

Francesconi: Part of our philosophy, both in the city file, use the same introduction, buying land, as soon as we can, buying land is a high priority, and that's what we are going to do and we bus more land in gabriel park, and susan is here to explain it. It is a good thing. We have been eyeing a piece of property that's actually a part of the park for a long time. Susan has been negotiating with the property owner. It is a good deal that adds something to the park. Susan, come on up. We are on the park property. I just introduced it generally.

Katz: I started too early. It was a 10:30 time certain, that's why probably nobody was here.

Francesconi: I just introduced it, so it is up to you. I just said that generally what we are doing. Do you want to add anything?

Susan Hathaway-Marxer. Parks Bureau: Susan, officer with the parks and recreation, we don't consider this to be a controversial thing at all. The reason that it is on regular is because it is being paid for with the special allocation of money granted by the council a couple of years ago. Two correct deficiencies in the neighborhoods in southwest, and outer east. And as you can see, if you have got the ordinance in front of you, I think it is in item 3, we are plugging away. We have acquired a piece in northeast Portland, and this little piece in gabriel is very important to us. It is an inholding. To flush out the park. And so we have 59,000 left, we will be back again until it is gone.

Francesconi: So, to refresh the council and my memory, so we got -- the council was very generous one year where we -- we contributed \$800,000 to the -- to allow us to create a fund to purchase park property, and that fund now let us get wilkes, and some other parks and it is down to \$50,000. We now, after that, passioned the system development charge, which we have now bonded. So, we have additional \$5 million fund that's now down to about \$3 million because we have been aggressively purchasing park land, so this was the original kick-off of that strategy which we are still pursuing. So, that's terrific to add to gabriel park, but there is nothing like that community center in gabriel park, aye.

Item 1308.

Sten: This is a good item and a nice story. I just wanted to take a few minutes and share with the council. Mr. Cecil shumway is a long-time Portland resident who passed away recently, and it turned out that in his last will and testament, he bequested his entire life's savings and his assets, which amounted to about \$58,000 to the city of Portland. It was not something is that we knew about, and I think his family may have known about it, but they didn't share it with us until as his wishes were, until he had passed away. And his sole request was that the money be used exclusively for the benefit of homeless men and women in the city of Portland. He was a strong supporter and I think volunteer of michael stoops back when he was active in this community, and he said that our instructions were to use the money to benefit the work that michael stoops had done, so we have had put together a group of experts and people who are in the field and wanted to figure out the best way to honor that request. As you can imagine, he was quite touched by that. Everything he had, he donated to this cause. We have come to the conclusion that the best thing to do is to set up a fund at the Oregon community foundation, which will be in perpetuity, and use the interest each year to make donations in mr. Shumway's name, and I did not know mr. Shumway, at all, for these causes, and we will set up an advisory committee of people working in the field. If things are appropriate, we will accept further donations to that you wanted that fund, which will be named after him, and continue his work in that way. Of course, it is, as everybody knows, most of our funds in this area tend to come with a lot of strings. They tend to be government funds, so any time that, even any amount of money that comes in this amount that can be used, however the providers see best, without all of the things required of funding the agreements is really a god send, so I wanted to put this on the regular agenda and thank mr. Shumway and his family, personal 8, and point this out to the council.

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It is really -- another remarkable tale of a long-time Portlander with a big heart who decided to do something significant on their own. And I think that scott is here. Did you want to add anything?

*****: Nothing to add.

Sten: Okay.

Katz: Is anybody here from the family? Anybody want to testify on this item? Well, thank you. It passes on to second. Was there any particular reason it wasn't --

Sten: Well, it is not an emergency. So --

Katz: Okay. All right.

Sten: One other thing, I didn't reel we were going to vote, she's not here, or scheduled, and but, I did want to point out rachel silverman is leaving us and today is her last day, and I wanted to publicly thank her. It is bad news for us. Not bad news for the homeless system. She's moving to the housing authority and will be the housing authority's lead planner on homeless issues. Oh, there she is. Good timing. And so. [applause]

Sten: Come on up. As you can imagine, I am very sad to lose rachael, but we are not losing her from the effort to fight homelessness in Portland, we are losing her from the city of Portland, so I was just thanking you for all of your hard work right when you walked in, and I think the real loss to the city is, as everybody knows, rachael has been our sighting coordinator and has done a variety of things, in addition to her job, coordinating the homeless issues, so that will probably be where the real gap is left for us to fill. Because we are going to keep making her do the homeless thinking with us on her new employer's time.

Katz: So rachael, what are you going to be doing?

Rachel Silverman, Bureau of Housing and Community Development (BHCD): I will be working at the housing authority, but be doing some of the policy and planning work, not just for homeless single adults, which is what the my position is, but -- For the other populations related to homeless families and homeless youth, and also I will be working to staff our citizen advisory committee. I just ran over here because I was watching the video, and I was going to make sure I got here in time to talk about the cecil shumway award. I was -- I will be working with the advisory committee on homeless issues and helping to staff that and be responsible for making sure that our application as a community in Multnomah county, city of gresham, city of Portland application that serves homeless people, applies for funds for homeless people, and I will be working on that and make sure that that gets into hud and gets funded.

Katz: Did you want to say anything on this request for placing the money into the Oregon community foundation fund?

Silverman: I think one thing that's been real exciting for me in working on that little, on that project is the idea that we can all do what we can do, and I was thinking this morning about how we are not, all of us, in fact most of us are not ever going to be bill gates, we are not going to be able to give \$40 million, but that to be able to make a change in any way that we can, is just so important, and I just feel like the opportunity that we get from this money is going to make small changes in people's lives every year for, you know, as long as we have that fund. And it just -- it makes me feel hopeful and optimistic about the world that we live in that people are able to make those kinds of gifts.

Katz: Thank you. Well, goodbye. And thank you for all your service to the city, and I guess that they paid you more, huh? [laughter]

Silverman: It has been my pleasure.

Katz: And I don't think that we have lost you.

Silverman: No, no, I am around.

Katz: But good luck to you.

Item 1309.

Sten: We put this on the regular to take a quick moment to do two things. One is to give an update, and I can see him behind the pole, on how the showcase program is going, and then secondly, the I wanted to personally thank, and it is not a thank you, like it is over, but thank mayor Katz and commissioner Hales for all the work that they have done on this to date. The brown's field program is a joint program of pdc and transportation and the bureau of housing and community development, and for strategy reasons, and I think because it just seems to make sense at this point, to tie it a little more closely to the work that bhcd is doing, we are going to move the program from transportation over to the bureau of housing and community development, and move mr. Bozwell, as well, who is the coordinator of this thing, and it does not mean in any sense that the transportation and pdc won't be continuing to do the work on this issue, but it will be an administrative change, which is not too interesting to people, but I think it makes sense at this time, and I wanted to ask him to give us a little bit of an update on where the program is and to tell us with the administrative transfer, the title transfers over to my side of the council, thank you commissioner Hales and mayor Katz for getting us this far along, and we will ask him to share where we will be in the next 12 months.

Domonic Boswell, BHCD: Thank you, mayor Katz and the city council, we have just completed a rather lengthy community involvement strategy that yielded five sites for the brown field program to work on. We will be taking these sites from various stages and development, doing site investigation work to determining what level of contamination are there and what it is going to take to clean up the properties, and taking through the full development process. They represent quite a range of the developments from a community park, small community park and park world to a day care and housing site, and right adjacent to the peninsula park overlooking the rose gardens, which I think is rather nice. We got off to a slow start, but a lot of people think that brown fields is about environment and environmental issues. It really is about community and community development. We think that at this stage of the game, it is really a great time to make this transition over to the community development department, the department of transportation, and pdc did a wonderful job getting this program off the ground and we are happy and excited to be pursuing these five properties.

Katz: Questions? Thank you. Anybody else want to testify on this? Roll call.

Francesconi: Thanks for everything. This is on the right track. I am interested in learning more about this, actually. Aye.

Hales: This is a good effort, and I appreciate the good work that's been done by community volunteers and our staff and mayor Katz and the others on the council that have worked on this issue. Erik, I am glad you are taking an interest, and I think it is a community development function, and now, really, the effort is at the point where it is getting down to cases. The grant warehouse intervention is one. Pretty dramatic example of the terribly contaminated site where this effort is, we hope, will ultimately result in the redevelopment and some positive use for that, for mlk. On 13th avenue and sellwood, there is now a new building rising on what was a super fund site, one of the most contaminated sites in the city. Former rose city plating site that's now going to have a Multnomah county library branch on the ground floor and condominiums above it. That's the kind of result that this effort is supposed to yield, and here in Portland, we are really doing a great job nationally of actually making this transition from abused land to reused land, really works. So dominique, thanks for your good work. I look forward to more. Aye.

Sten: Well, our job now is to execute the great start that's gotten going and thanks to everyone who has gotten it there, and I think that we will do it, aye.

Katz: Dominique, I will still be with you and I want to welcome commissioner Sten to this effort and thank commissioner Hales for he and the work that pdot have done. I am excited about the potential, as well, and with the grant warehouse, as many of you own, pdc owns another piece of property across the street, so we may have great opportunity to do something as an anchor at that particular intersection. Aye.

Item 1310.

Katz: Is mr. Ryan laurence here? Come on up. 1310.

Ryan Lawrence: My name is ryan laurence, and I live at 1530 northwest 28th and Raleigh over in northwest Portland. I really don't have the time or money that I have spent regarding this matter. I have some photos here if you would like some examples of many of my neighbors and how they park which are more extreme than I was parked in my own driveway when I received a ticket. Evidently, according to pdot's office from a neighbor that was complaining about me being parked in my own driveway again. I followed up on this. I went to court because there is no way to contest this, via the mail, without sending in money, so I don't like the structure of your bureaucracy and system. And I went -- the judge dismissed it, and saw it as a rather overzealous and frivolous, in my opinion, and I did talk to pdot and tully witmer, and all of them failed to return my phone calls, but after I got the ticket dismissed, no one has the audacity to call my neighborhood, my neighbor, who lives across from me, frank bird, who I assume that many of you are familiar with that name, being associated with the northwest neighborhood association. So, he, nolan took it upon himself to call frank and basically question my character and integrity, and find out more about me. Rather than return my phone calls. I don't think this is a good thing that neighbors are narking on each other for really silly little parking infractions. I think it is one thing if you are parked in front of a fire hydrant or blocking a handicap zone or, perhaps, parking in front of a hospital emergency entrance, but for a person to be parked in their own driveway and have a small portion of their bumper into the sidewalk, is not blocking the sidewalk. Blocking the sidewalk is completely blocking it, and so a person has to go around the car and into the street, in my opinion. Finally, I got tired and frustrated with dealing with pdot and no response and I contacted the mayor's office and spoke with joline and tommely and another lady named cecelia, I spent a lot of time on the phone and coming down here physically and also going to court, missing work and dealing with this whole matter over a silly ticket, which I don't need and i've been recovering from a head injury for two years and I don't have the time or money to deal with this overzealous pdot enforcement. Anyhow, I was told to speak with mark zolton. I called him and never got a response. I called him repeatedly. I saw him physically in person here, and again, nothing was ever done. Nobody has ever written me. No one has ever followed up on anything, and then eventually, after all there time and frustration, I was referred back to nolan, the original person, who, from city government, is calling my neighbors and asking about me over a parking ticket. Nobody will tell me who is calling in. So, I just think that it is ridiculous. And also, I find myself here, when I should be at work. Lastly, this is really a petty issue. But, I really -- my main two problems are nolan is calling my neighbors and asking about me. And that what's up with people can just call in and get special enforcement on a saturday afternoon to come and write me a ticket in my own driveway. I have a multiple infractions right here from walking around my neighborhood within less than a mile, and I could go and call on all my neighbors, but we have to live towing in the neighborhood and to call on my neighbors for a little silly parking infractions to me is a complete waste of everyone's time, bureaucracy, money, and everything.

Lawrence: So anyway, that's why I am here. And I am sick of it.

Hales: I want to say that I am sorry this happened, and my office will look into whether or not we are enforcing parking regulations even-handedly, and we should be. We are operating on a complaint-based system today, and that gives the potential for this kind of thing to happen for somebody to get cited for something that somebody else is doing worse down the street. Moving from a complaint-based system to anything else, I am not sure how we would do that, but I will at least look into what happened here. If you would leave me, or at least let me borrow the photos, I would appreciate that.

Lawrence: Yes.

Hales: Okay, thanks.

Lawrence: Like I said, I don't want to call and be a thorn in my neighbor's side.

Hales: Thank you, and we will get back to you.

Katz: All right. Let's get onto 1307. It has been read -- I am I am sorry, not 1307. 1279.

Item 1279.

Katz: So here we go.

Francesconi: All right, everybody is here. If I could call joy cooper on? Hi, joy. Who is the chair of our station's advisory committee. We may have -- I am.

*****: You are joy, right?

*****: Yes.

*****: There may be some other members here, too, so we would like to thank them for their work on this.

Francesconi: So, you know, as we all know, public safety is one of our highest priorities, and it is important to have facilities that respond to operational needs of the neighborhood. We have now purchased four, this will be the fifth, actually, station location, and we are making progress on the measures that the voters gave us the opportunity to do this. This is the fifth. This is the oldest station in Portland. It is over 100-year-old. In fact I am told if you go there, you can actually see where the horses have chewed on the wall. I haven't seen that. I hope it was the horses. [laughter So anyway, we have a great success story, I believe. There may be some citizens here opposed to it. The citizens advisory committee looks at a variety of sites with the bureau, and this one is in the middle of the fire management area. It is large enough to accommodate the needs, and it is located on 39th in an area that will give us quick access to the whole area, so this, in my opinion, I need to listen to the testimony, but this is a terrific site. So, let me first turn it over to joy.

Joy Cooper, Chairperson, Fire Station Advisory Committee: I am joy cooper, chairperson of the station advisory committee. And we went for a year, the committee was made up of neighbors from the management area of fire station 9, and we, with the help of candy cavanagh, from the general services bureau, and from the fire staff, members from the fire bureau were guided through a process of selecting property. The area that we are in is a very dense area, and we had a hard time finding the property that was both big enough and fit all the criteria for service. For the community. But, and we looked at 32 properties in the process. The members of the sack committee, personally, walked around the neighborhoods looking for possible properties, owners were contacted by city staff, and it took a full year before we found what we thought were two properties that fit the criteria. During the process, one of those properties was sold and no longer available. So, this site that we are now recommending today was the one selected. The neighborhood, we had several neighborhood people come to the last meeting when we were writing up the recommendation of this site. And I know that i've been involved in the processes before where there is a lot of my backyardism, I was very happily surprised that most of the neighbors were supported. They had concerns that they wanted to address during the design and other factors of this, but they were generally behind the site and going through the process. So, I know that one of my recommendations in accepting this site is that during the design process, we work with those neighbors in addressing their issues, which mainly are noise, privacy, and property values value. They want to have more information on this. So, with that concern, also, there is a historic registered home on the site, and it is in the letter. We recommend that we try to either find somebody that would buy this and pay for the movement to another site or destruction of the building, if there are -- we have been into -- we haven't been into the building yet, but if there are architectual questions of the building, that can be recycled, it is recommend that we work hard to save this building, because in the city, we care for old buildings. Otherwise, I would like to go ahead and recommend that we proceed with this site.

Katz: Let me ask you, with regard to the last point, do you have a site that you found available to move this building to?

Cooper: No. We have one committee member who is very concerned about this, and what we felt needed to be done, is to let the community, the local community know that this building was available, and if anybody was interested in this old home, that they would be helped in every way possible to work with the state in saving this house. Otherwise, contact one of the businesses that constructs the buildings and saves the wood and windows and those portions which are recyclable.

Katz: Yeah, I want to raise some issues with regard to that, but go ahead.

Craig Keller, Chief, Logistics Office, Fire Bureau: Mayor, commissioners, good morning, I am greg keller, I am the chief logistics officer with the Portland fire bureau, as commissioner Francesconi sued, station 91 not only the oldest station in the city of Portland, but also the oldest active fire station on the west coast. When the try-data study was done a number of years ago, the report said that the same general location of station 9 would be a good location to relocate, or to build a new station. But, they said an even better place would be closer to 39th avenue. 39th avenue is the main access for fire station 9. The property that we have selected and that the fire bureau endorses, as you know, is on 39th, so we have tremendous north/south access. We have easy access to the main east/west streets, hawthorne, stark, and so forth. The issue that always seems to come up is how is the fire bureau going to be received as a neighbor, and as I have had I have said and the fighter bureau has said, that we are good neighbors. And we will be good neighbors with the citizen that -- citizens that we protect. That we want to be part of the neighborhood. The issue comes up with sound, and noise. Yes, we have sirens, but we don't use them all of the time. There is traffic devices now that you are aware of that we can control the intersection or control the lights to where we can go through without having to use the sirens as often or as frequent. We -- as policy, go out of our way to not make a lot of noise when we are leaving the fire station or when we are traveling up and down to a call. And we just will be a good neighbor with the citizens there. The location of 39th and hawthorne will fulfill the requirements to maintain the 4 to 6-minute, or ideally, the 4-minute response time in station 9's fire management area. And also with the relocation of station 40, and into reactivating the station at 57th and sandy by moving the station 9 slightly south, and east to this new location, we will actually be a better location for those two fire management areas. With that, I will let ron continue.

Ron Bergman, Interim Director, Bureau of General Services (BGS): Mayor, commissioners, ron bergman, bgs director. I want to tell you a little bit about the basketball outreach efforts that we have gone through. We have worked with the neighborhood group. We have got notices in the newsletter about this site. We also felt that once this site was located, we needed to do a little more outreach, and we sent mailers to approximately 75 property owners immediately around this particular site to give them notice. We have had a few comments that have come back. Most of them are positive, but there are some concerns about the design issues around the site in terms of noise and impact that the operation of the fire station might have on the immediately abutting properties. We think that most of these issues can be dealt with in the design of the site and the structure, and as a result, we have asked one of the immediate neighbors to be on the station advisory committee to help with that design effort. So, I think that we can deal with those issues as they come up. In terms of the next steps, obviously, the issue of the structure on the site, itself, is an appropriate one. It is not actually on the historic register. It is on the inventory that, of potentially historic sites, so it is not quite up to that same standard as a designated historic site. The house, itself, that is there is a very large house. It will be difficult to move, unless it is done fairly close to the location that we have, so there is a limited radius of potential sites that might be available. Our next step will go -- we will go through architect selection, which will be in the next sum of months. If we go ahead with the purchase of this property, we will probably take the next year to do the design work, working with the neighborhood and the neighbors to make sure that all of the issues are dealt with and the needs of the fire bureau are

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dealt with. We will then move into a construction stage of 6209 months for occupancy, and in the spring to summer of 2002.

Katz: So, ron, the building that's at issue is not on the registry?

Bergman: It is not on the historic register, it is on the inventory of potentially historic --

Katz: Potentially. And do we have a policy here, as a city, on how to deal with, a, historic buildings that are on the registry, and those are, that are potentially on the registry? When we use our resources to develop this, this is the same issue that's with the abandoned shriner's hospital, that is on the registry, and we have to go through a process with the state. In this particular case, it is not, but do we have a policy that you are aware of?

Bergman: I am not aware of a particular city policy. There are regulations in terms of, before we could go through a demolition, we have to give notice. We have to go through a waiting period. There are particular steps that we have to follow that are prescribed because of its listing on this inventory. I think from a practical standpoint, all of us are concerned about preserving the historical character of these kinds of structures in the community. We are looking at trying to devote that amount of money that would have been earmarked for demolition cost to be used as some sort of grant to assist whoever might want to move that in order to retain that structure.

Francesconi: Speaking of historic structures, this is not relevant, really, because we are asking council to purchase this piece of property. But questions may be raised about what are we doing with the historic fire station that we have. We have a delicate balance here because we, I think, it is slated to be sold because we need the revenue, and we, when we said to the voters that we were going to do this, we also told them that we were going to sell stations, so it is part of our fiscal responsibility, but I think that you should address that issue.

Bergman: The current station, we do have plans as kind of a staging station for the next several years, as we are moving fire companies around to build and remodel the fire stations that are in the list of projects to do. And so it won't come up for disposal until -- towards the end of our project with this, but at that point, we will be looking at disposal of that particular site. That's the current station 9.

Katz: And is that on the registry?

Bergman: I don't know.

Katz: Okay.

Francesconi: I think that, I see tom here, I think that there is some people that would like that as a community center, and et cetera. The questions will come down to money, isn't it?

Bergman: Definitely. We have, in terms of the financial plan for all of the work that's being done, proceeds from the sale of that property have been calculated into the financial plan for doing all of the work.

Francesconi: Okay. See, whatever we do, whenever we make an adjustment, we end up spending more money than is planned for, and then we make a subtraction of something that we are going to do, because I won't be fire commissioner for ten years, but I want to make sure that at the end of all of this, there is money to do everything that we said that we are going to do for the voters. Okay. We can maybe take some more testimony on that. It is an issue we don't resolve today.

Katz: Okay. Let's have testimony on it. Thank you. Who is signed up, Britta? Does anybody here want to testify on this issue? Let's start with the neighbors. Okay. Are there neighbors who want to testify?

Francesconi: I thought that there are.

Katz: Come on up. Don't be shy.

*****: I live directly behind the site. I wasn't really prepared to testify.

Katz: Bring the mike closer to you so that we can hear you.

****: Anyhow, I just -- I know that the mayor, city council members, I know this committee did a real good job, and worked hard for about two years trying to find a site. I know the station 9 has been there for 111 years. And I don't want to just short-change, you know, another 111 years of picking the best site. There is another issue here, we are going to be here this afternoon to talk to you about, the apartment complexes going north of us. There is a lot going on in our neighborhood, and we care very much about it. Fire stations are probably a good thing, probably very good neighbors. We had the opportunity to meet with station 9, I think, back in June, and tell them what we thought. Anyhow, if we can make sure that it is really the right site, it is going to last us another 111 years, let's make sure it is right in the backyard, if there are things that we can do to make sure that we don't have noise problems and issues, that would be very much appreciated. You know, I guess I would raise the issues, can we make sure that it is in the character of the whole neighborhood and make sure that it serves the services of everybody that state number 9 needs to do. I have the same issue that you do about the station, when it is all done, and I guess that that's all that I have to say.

Francesconi: Well, if it is any assurance to you, on a pretty regular basis, I hear complaints from neighbors about what's going on in parks. I have not heard one complaint from any constituency, any neighbors about any fire station, noise, traffic, in the year and a half. I have to tell you. Just, if it is any assurances, and I hear about them. On the other side of it, I have heard repeated stories of firefighters helping with all kinds of problems that occur on such a regular basis, finding a cat. Finding a dog. Helping a shelter's person. A car accident or a traffic or repairs. All kinds of issues, so I just -- if that's any assurance.

****: I am sure that they are good neighbors and I really am very much an advocate of the fire department, and I just want to make sure that it is the right distinction for the long-term.

Tom Baddrick, Chair, Sunnyside Neighborhood Association: Good morning. Mayor, commissioners, my name is Tom, Sunnyside Neighborhood Association, 4216 Southeast Madison. I will keep my testimony simple. One, I want to thank the advisory committee that did an outstanding job. I want to thank the staff that did an outstanding job. I want to thank the neighbors that came at the end of the process when we actually had an address that we could tell people about who were willing, like this gentleman here, who were willing to actually keep an open mind about this. Commissioner Francesconi sort of stole one of the things I was going to bring up before I could say it, so I do want to mention that there is a great deal of interest in my neighborhood in what happens to that site in the future, whether it is a community center or any other aspect of what it could become, but I mostly wanted to come here and say what a great process it was. We sort of jumped in kind of late in Sunnyside, which is, ironic, since it is in our neighborhood. But, the committee did an outstanding job of putting together criteria and they did a great job of looking at properties, and my only regret is it would be moving out of our neighborhood and into Richmond, but it is close enough that it can count.

Katz: Thank you. Further testimony? You wanted to testify? Come on up now.

Veronica: Good morning, Mayor Katz, and panel. And everybody else. My name is Veronica. Woman's affordable housing -- I guess I can sit. Okay. Thanks. And good morning, fire personnel and everybody else. I wanted to bring one thing to mind just before we, you know, discuss this further. And that is that I do believe that there is a need for medical in that area. Ems support is really great. I think that your response time is really good in the area. Now it could be improved. And I would just like to suggest that they attach three paramedics, maybe four, to that station and one -- make one critical acls. What I am talking about is strategic ems, in an area that is largely pretty populated by a lot of families, children, young people and pregnant women. What we want to do is be ready in the event of some type of problems to, so that we can support it, and that means having critical ems, with acls, which means advanced cardiac life support. What we need is the

ability to respond, and that's just -- I want to do interject that there, and link it along with fire to get a better product and a better response time and a greater, overall affect for our citizens. Thank you.

Katz: Thank you very much. Any other testimony? Okay. Are you placing -- come on up for a second. Ron, come on up for a second. Are you placing any restrictions on the use of the old fire station? In other words, is it possible that somebody can tear it down?

Bergman: We have not planned the disposition of the current fire station at the present time. We have several years of continued use of that station as we stage other stations in there while we remodel their locations, and so we have not begun to do the planning yet on that.

Katz: Is tom still here? The neighbors, this would be a wonderful opportunity to begin thinking about finding somebody to purchase it for either housing, in the northwest, there is an old fire station that was turned into a housing opportunity, and it is really quite lovely. And/or move the other structure so that we can preserve some housing, so you have got a little bit of time. I want to make sure that we use it wisely. I would hate to see those two structures ripped down.

Francesconi: We won't rip it down, mayor, I promise.

Katz: Okay. And I also want to tell the neighbors, I also have a fire station a couple of blocks, and probably the most tense neighborhood in the city of Portland, and I have never received any complaints, so they are good neighbors. Thank you. All right. Roll call.

Francesconi: I want to do something different. I want to use a visual aid for closing argument here from my old life. Anyway, if we could come on up here.

Katz: This is the lawyer part of you.

Francesconi: I haven't done this for 2 1/2, 3 1/2 years. Okay, folks, what we have here, maybe you should do it in a way that our folks over here can see it. Why don't you come on over here on this side. There you go. Thank you. See, this is kind of what we are doing to make sure that there is adequate coverage across the city. From both the fire and an emergency services response, that -- the -- your testimony was terrific. Part of the design for this is not only to make sure there is accurate fire coverage, but because of paramedics in our stations and the training that they have, make sure that there is first emergency medical response, and by the way, we -- the west side, we are strengthening that through this process. They need more coverage in that regard. So what we have done here is we have -- maybe you can point these out, we purchased sites at 16,12,40, and 21 already. Greg, yeah, why don't you help, greg, because this is your job, thanks. It has been this partnership that's allowed it to happen.

*****: 16, and --

*****: At sylvan. I am sorry, what?

*****: 16,12.

*****: Which is actually at 86th, northeast sandy.

Francesconi: 40.

*****: Which is the old fire station 28, the beautiful two-story brick building at 57th and sandy.

*****: Which, by the way, is going to be renovated.

Francesconi: And 21. And that was last week, or last month. And now 9.

*****: On 39th and hawthorne, right there.

Francesconi: So as you can see, there's been gaps in each of these areas, so quick response time, in order to stop fires from spreading, is very important, but four-minute response times on heart attacks can make the difference between life and death, and that's why this is so critical that we do this, and that we can complete this. Now, to -- council and public, for the future, the next ones that we are looking at are one, okay, there is some work to do there. 18, and then 11 is part of a larger urban renewal process in lents, so that's kind of what has remained to be done in terms of relocations and major construction. There will also be some seismic upgrades. Okay. Thanks very much. I want to do alert the council, so we are systematically doing what the voters wanted, which is protecting

strengthening the structures for earthquakes, but also making sure that there is adequate coverage from both fire and emergency response. I would like to thank our team that continues to work together so well that maybe we should merge those two bureaus. But anyway, it has been a pleasure working with you. It has been actually terrific. Very terrific. But, I would also like to thank the citizens and the citizen action committee, and joy cooper and all. She said in her testimony, joy, you said something that I thought was very significant, and actually, happened at the last sighting, the citizens walked 32 sites. They took this -- they are so serious in their obligation, they went to 32 sites to examine it, themselves, personally. They just didn't rely on the expertise of our bureaus. And that shows the kind of dedication, because you want this to fit into the neighborhood, but you are also are aware of the public safety responsibilities to create -- be part of a network, so thank you. Aye.

Hales: This is a really good recommendation, and I am very pleased to support it. And I think that it is an excellent location for all of the reasons, jim, that you and greg described. I guess I want to just jump ahead for a moment, this is a decision about real estate and talk for a minute about architecture because the subject of compatibility, I think, relates, at least, as much to architecture to, as to the location, itself. And I don't know the history and detail, but it looks to me, just, you know, just from observation, that the city probably had a pretty significant fire station building era in the late 1800s, or early 1900s, thus, what's the cultural center and now the community music center, I think it is a private residence today, there was some great old fire stations built then, and then typically, municipal buildings, there was, apparently, a pretty big fire station building binge in the '50s and '60s, and we built a bunch of awful buildings, flat-roofed, ugly, sorry and then recent, we have had a chance in the '80s and '90s to build a couple more stations, station 10 is a nice piece of architecture, the one that we got to build while I had the responsibility for the bureau, station 17 on hayden island, really fits into the neighborhood. And hopefully, what we do in the next phase of this process is really pay some attention to the design in of these buildings. That they not just be functional, thus the boxes from the '50s and '60s, but they also be neighborly in their architecture. So I would certainly urge you, tom, and any other neighborhood, leaders, that are about to have a fire station design in the neighborhood, and obviously, the bureau is going to do this, go back and look at 10 on taylor's ferry, look at 17 on hayden island, and learn from what we did right, I think, there. I am proud of the architecture of those buildings, you know. Look at the ones, like 26 that were built in the '50s and '60s, and you know, they are just sort of generic boxes, and think about what's going to make sense, you know, on 39th in the architecture of that neighborhood. What's going to make sense, you know, at beaverton hillside or wherever we end up with it there in the southwest. But I think that the architecture of these buildings is going to matter a lot in terms of how well loved they are. I mean, certainly we have got examples, 15, the station up in Portland heights, you know, is designed to really fit into a bunch of single families houses and works really well there. 17 looks like hayden island in terms of being, you know, kind of a cape cod architecture. It is possible to have these buildings compliment the neighborhood, rather than just get by in terms of their architecture. So for the committee and for the bureau, that's going to be fun, I think, for you and also really an opportunity to correct the insensitivity of the city and all of the public agencies and the kind of junk that we built 30,40 years ago and do not repeat those mistakes. So I look forward to that chapter, as well. You have certainly picked the right location here, good job, aye.

Sten: Well, nice work everyone. It looks like absolutely the right decision, and I am sure that it will work out. I want to thank commissioner Francesconi for his leadership on this. Aye.

Katz: Thank you for the good work. I neglected to mention that there is another one in northwest, it is a restaurant. So, we have got a private structure and private dwelling in a restaurant, and I agree with commissioner Hales, let's make sure that we are sensitive on the design and let's make sure that we don't rip down the buildings that potentially would go on the historic registry. Thank you for your hard work. Aye.

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Francesconi: Just to let people know, this is a little out of order, mayor, but we have an oversight committee, which is over all the construction, including the design, so not only do we have local, the next step here will be to have a group look at the design, and you are welcome, sir, to be part of that. That's the next phase. But, also, we have an oversight committee that's looking at the design of all these fire stations, and we have three or four different architects on this. And they are also looking to incorporate our green building practices into this. And commissioner Saltzman and I have talked to the group about that, so your concerns that I just heard here are being addressed at two levels.

Katz: Okay. Thank you, everybody. And we stand adjourned until 2:00 p.m. Today.

At 11:01 a.m., Council recessed.

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Katz: Here. What we were just talking about is my intent and I need to double-check with all your offices first, tomorrow is probably to bring 1312 back when we are all here because I am not sure that we have a majority, and I really don't want to hear this. This would be the third time, and then there would be a fourth time. So I wanted to delay it and give us time to think through these issues, and bring the bureaus in, but other folks are going to be talking. I will let you know as soon as I get that information.

Item 1311.

Katz: Okay. Let's hear -- on its hear a staff report.

Kathryn Beaumont, Senior Deputy City Attorney: Mayor Katz, before we begin, I need to do the opening announcements.

Katz: That's right, it's been such a long time.

Beaumont: Before we begin the hearing, I have some opening announcements concerning guidelines in order of testimony. First, this, I would like to stress that this is an on the record hearing. This means you have to limit your testimony to material and issues in the record, and that during the hearing, you can only talk about the issues, testimony, exhibits, and other that were presented at the earlier hearing before the hearings officer. You can't bring up anything new. This hearing is designed only to decide if the hearings officer made the correct decision based on the evidence that was presented to him. If you start to talk about new issues or try to present new evidence today, you may be interrupted and reminded that you must limit your testimony to the record. We will begin the hearing today with a staff report by the opdr staff for approximately ten minutes. Following the staff report, the city council will hear from interested persons in the following order the appellant's will go first and will have ten minutes to present their case. Following the appellants, persons who support the appeal will go next. Each person will have three minutes to speak to the council. The applicant will have 15 minutes to address the city council and rebut the appellant's presentation. After the applicant, the council will hear from persons who oppose the appeal. Again, each person will have three minutes to speak to the council. Finally, the appellants will have five minutes to rebut the presentation of the applicants. The applicant and their supporters. The council may then close the hearing and deliberate. After the council has concluded its deliberations, the council will take a vote on the appeal. If the vote is a tentative vote, the council will set a future date for the adoption of find and goes a final vote on the appeal. If the council makes a final vote for today, that will conclude the matter before the council. If you wish to speak to the city council and have not signed up with the council clerk, please do so at this time. Finally, I would like to announce several guidelines for those people who will be speaking to the city council today. Again, this is an on-the-record hearing. It is not an evidentiary or de novo hearing much again, you need to limit your arguments based on the record compiled by the hear's officer. In presenting your argument, it is permissible to refer to evidence previously submitted to the hearings officer, it is not permissible to submit new evidence today that was not submitted to the hearings officer. Opdr staff and I will be listening carefully to your argument and if it strays from the evidence from the original hearing, we may have to interrupt you and remind you must limit your argument to the arguments in the record. If it includes new arguments, the council will not consider it and it will be rejected in the city council's final decision. If you believe a person who addressed the city council today improperly presented new evidence or presented a legal argument that relies on evidence that's not in the record, you may object to this argument. Finally, under state law, only issues which were raised before the hearings officer may be raised in this

appeal to city council. If you believe another person has raised issues today that were not raised before the hearings officer, you may object to the council's consideration of that issue. And that concludes my opening statements.

Katz: Okay. Conflicts of interest, decorations of ex parte contacts? Decorations of? Anybody in the audience want to question whether we responded correctly or didn't respond to either one correctly? If not, let's hear a staff report.

Ellen Wax, Office of Planning and Development Review (OPDR): Good afternoon, mayor and council members. On behalf of the office planning and development review, I am shelly siler, she's here and available to answer any questions. The applicants have applied for a zone change on a site with the neighborhood commercial comprehensive plan designation. The proposed changes from residential 5,000 to neighborhood commercial 2. The hearings officer issued a decision to prove the zone -- approving the zone change with conditions. The neighbors have appealed the decision. It has already been stated, this is an on the record hearing, and I will bring to your attention, if any new evidence is submitted.

Katz: Let me just ask you while you are having problems with your computer, when you said neighbors, if I recall seeing it, it was like a 3-2.

Wax: Residential neighbors.

Katz: A 3-2 vote at a meeting?

Hales: No, it wasn't a neighborhood association. It was individual neighbors.

Katz: Oh, okay. That's what I wanted to know.

Wax: This presentation will cite the approval criteria, describe the site location and neighbor, outline the decision, discuss the hearings decision and respond to appeal issues. The criteria is listed on the slide. The baseline changes for -- based on changes, the approval criteria found in 33855 applied to this review. This is a map -- the map on the left is the existing zoning. I am going to describe the zoning in the area, so you have a sense of the pattern. The residential 5,000 with neighborhood commercial comprehensive plan destination is located just to the north of the site and also to the west of the site across 39th avenue. Neighborhood commercial 2s is zoned to the south of the site, and the residential 5,000 with the residential 2500 comprehensive plan designation was located to the east of the site. The r-2.5 zone is a single residential zone that allows detached and attached residential development. To the north of the site, is commercial. This zone is centered along hawthorne boulevard. And then approximately 100 feet to the south of the site, the area is zoned residential, 5,000, with a comprehensive plan designation of residential 1,000 with medium density multidwelling zone.

The site is 34,543 square feet in size and consists of four lots. One lot is 3,850 square feet in size and the residential 5,000 meets the comprehensive plan designation of 4-2.5. This piece of property is not part of this review. It cannot be developed or used in association with or as an access over to a multidwelling development. This is because the lot is zoned for single dwelling development. And I will show you the slide where you can see the arrow is pointing to that piece of property, and again --

*****: I am sorry, it is not subject to the application of --

Wax: Right. Right. The three lots owned at the front, onto 39th avenue, total approximately a third -- well, 3,693 square feet. This is the, this is the site located on the east side of southeast 39th avenue. It has 180 feet of frontage on southeast 39th, and is 192 feet deep. On hawthorne boulevard to the north is a concentration of commercial zoning and development. This is looking west towards downtown, and the fred meyer store is on the right. This is a commercial zoning and development that extends north --

Katz: I am sorry, I was looking at the map. Could you just flap back for a second?

Wax: To this one here?

Katz: Yeah.

Wax: Okay. So looking west.

Wax: And then looking north, in commercial zoning, it extends approximately two blocks to the north of hawthorne boulevard along 39th avenue. This area is developed with offices, retail uses and the type of uses are the vehicle servicing, restaurants, et cetera.

Katz: Do you have a photograph of what's on 39th, the r-5 on 39th? Are you going to show that to us?

Wax: South of the property?

*******:** It is all houses.

Katz: I know. I know. I just wanted to --

Wax: This is looking south on 39th. I do have some that will get down that way.

Katz: All right.

Wax: However, yeah, I do, thanks. This is -- commercial zoning development extends to the south on hawthorne boulevard towards the site. There is one lot, a residential zoning that's approximately 50 feet wide, separating the Washington mutual bank that you see here on the left corner on this slide, and then a parking lot. The one lot, a residential development, has a comprehensive plan designation neighborhood commercial. This is the house that separates the commercial property from the site. The site that's on the right of the slide. This is across 39th avenue from the site. This single dwelling residence appears to have been convert to do a multidwelling development. And this is the site that's directly south of the property and it is zoned c-n-2, neighborhood commercial. This site is -- this site was rezoned through a similar process in 1982 from the rob marciano zone to a commercial zone. This is behind the site, on southeast 40th avenue. It is a neighborhood developed with single dwelling. The area zoned r-5 with comprehensive plan designation of r-2.5, and there is commercial zoning directly to the -- on the right of the side where you can see the corner of a parking lot. And this is back to the site. In 1991, a request for a zone change to c-n-2 was ultimately denied and appealed. Included with the zone change request was a development proposal for a restaurant with a drive-through. It was determined that the traffic safety problems that -- the traffic safety problems could not be adequately litigated without causing other problems, such as traffic intrusion into the adjacent residential neighborhoods. Like the previous review, this review is for development proposal. However, it differs in that it is for residential development of 45 units or less that traffic impact study was based on residential development. The hearings officer approved his own change from residential 5,000 to the neighborhood commercial 2 with two conditions. Development this site is limited to residential of 45 dwelling units or less. Development on this site may not occur until proof that a restrictive covenant has been placed in the Multnomah county deed records containing the legal description of the site and the following language or other language accomplishing the same purpose, which is approved by the city attorney or opdr. The language reads, "this property was subject to a land use decision by the city of Portland, which changed the underlying zone to c-n-2, but limited the view of the site to 45 units or less multifamily development." Commercial uses were specifically prohibited under the decision. The appeal issues are as follows -- the proposal does not meet the approval criteria related to transportation needs and traffic impact. The traffic impact study requires further analysis based on the development proposal submitted. Portland transportation analyzed the traffic impact studies submitted by the applicant and as I mentioned earlier, a representative was here to answer any questions. The study indicates that the existing

transportation system can safely accommodate traffic that would be generated by 45 units of residential development at acceptable levels of service. Transportation concurred with the conclusions of the study and the hearings officer found that the transportation related to the approval criteria for adequacy of the services. The following is a summary of the two relevant approval criteria for zone changes in the plans. Criteria a-1 states, when the comprehensive plan map designation has more than nine corresponding zone, it must be shown that the proposed zone is more -- is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of the surrounding land. The site is designated a neighborhood commercial. There are two corresponding zones. C-n-1 and c-n-2. Both allow commercial uses that support the neighborhoods. C-n-1 does not allow quick vehicle service uses or drive-throughs. It limits the size of retail and office uses and places a maximum on parking. To be consistent with the decision on the previous case, it made some sense to consider the c-n-1 zone or the site because it prohibits drive drive-throughs. However, since there is no other c-n-1 zoning in the area, such a change would be inconsistent with the existing map pattern, and whether development as commercial or residential, the zone limits park to go a maximum of one for every 2500 square feet of site area. Or approximately 12 spaces for this site. This could be problematic for an area -- for this area because there is no street parking available on 39th avenue. The second relevant approval criteria is adequacy of services. Adequacy of services is based on the projected service demands of the site and the ability of the public services to accommodate those demands. The code provides authority to review zone changes. Zone change requests for development proposals. Section 33-855050 reads, "the service demands may be determined based on a specific use or development proposal if submitted." As mentioned, Portland transportation reviewed the submitted traffic study for a 45-unit residential development and concurs with the conclusion of the study that the existing transportation system can safely accommodate the traffic that would be generated by 45 units. Because the traffic study was based solely on residential development, which is allowed by the zone, approval of this zone change request must be limited to residential development. Thus, the hearings officer included a condition of approval that limits the development of the site to 45 units or less. And does not allow commercial. Well, it may seem counter intuitive to change the zoning on the site to commercial and then prohibit commercial development, the zoning code allows it and the applicant proposed it. Other alternatives for development of this site include retention of the r-5 zoning, which would allow up to six single dwelling residences. What was approved by the hearings officer, or a new proposal for zone change, including traffic study that considers a wide range of development options. In conclusion, the applicant has extended the 120-day clock until October 2nd. A final decision must be made at that time. Do you have any questions?

Francesconi: It is just -- it does seem counter intuitive. So, do we -- does it mean that we need a change in our zoning code on the residential side to accommodate something like this? This doesn't make any sense that we had to do it this way.

Wax: Well, it is a -- can you ask that question again?

Francesconi: Do we need a different kind of zoning on a residential side to accomplish this so we don't have to go through this process?

Hales: Or maybe put the same question a different way, why not r-1?

Wax: Well, r-1 would be a comprehensive plan map amendment.

Hales: Oh, this is --

Wax: Yes.

Hales: So dealing with what was already there. Got it, all right.

Wax: It has a comprehensive plan designation neighborhood commercial.

Katz: Oh, okay.

Wax: So after you look at adequacy of service and map pattern, those are the criteria, then you would move to one of those -- the two zones that implement that.

Katz: Transportation, let's hear from you since the appeal is basically on your issues. Why don't you bring the mike closer to you, and identify yourself and don't look so panicked. [laughter]

Shelly Seyler, Portland Office of Transportation (PDOT): I am shelly from transportation, and -- I will have to say that I did review the traffic study based upon the trip generation for a 45-residential complex. I agree with the generation and distribution that they used. And it looks like the services, as far as capacity and level of service, in the area would accommodate this development. Do you have any specific questions?

Katz: Parking.

Seyler: Parking, the code allows them to -- there was no adjustment for parking. I would have to say that this area, because it is highly served by transit, could support a less than 1 to 1 ratio, but I guess it all depends upon how the complex is filled. And you know, that's, that's hard to say. If -- it is -- the proposal is for a development of studio and one-unit apartments, so, you know, whether or not people own cars, yeah, it is their right, but they didn't -- there was no adjustment with this one. So, it is really hard to go into detail and consider, you know, the outlook of whether or not people would own cars. But, the services are there. Transit is -- there is transit available on both 39th and hawthorne. So, I would say that transit use in this area would be higher than others.

Wax: I also want to say, that we don't have the development -- we don't have a development proposal submitted into the building and planning bureau to review, so we don't know --

Katz: You don't know what the composition is going to be in terms of the units. This is not an design review.

Wax: No, it is not.

Hales: Since it is a c-n-2 zone that's being requested and it is restricting the use of multifamily, what parking under the ratios that are in effect today, what parking restriction would there be? One per unit?

Seyler: One per unit. Under san juan -- or, under 2, one, and under 2, what I mentioned before, it would be by the square footage of the site.

Katz: And the site is?

Wax: 30,000 square feet. It was, I figured out, it would probably be 12 parking spaces under the c-n-1.

Hales: But they haven't requested the adjustment so they get 12 parking spaces?

Wax: The way that the figure of parking under c-n-1 is based on square footage of the site.

*******:** Right.

Wax: So it is 3 3,000 square feet, so whatever the math is on that would get us to 12.

Hales: Had not requested an adjustment?

Wax: No, no.

Hales: Because they are proposing c-in-2.

Wax: They are asking for c-n-2.

Seyler: One parking space per --

Wax: Unit.

Hales: That's what I thought. All right. That's the maximum, not the minimum?

Wax: That's the requirement, yes.

Hales: That's the minimum.

Seyler: But they have proposed bicycle parking to bring them up to the level of 42 spaces.

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Wax: The requirement of c-n-2 is for any residential development, it goes -- it would be one parking space per unit. There was discussion, even though, we don't have a development to review, but they would like to supply parking, reduce their parking and they can do that outright by giving us or supplying more bicycle parking spaces.

Hales: All right. So they have that much flexibility if --

Wax: Right.

Hales: All right, thank you.

Katz: Okay. Thank you. Further questions? Okay. Applicant, come on up. I am sorry, supporters, applicant, oh, sorry.

Beaumont: Appellant.

Katz: What we will do, we will give you ten minutes, and then we will open it up for three minutes each, if you have anybody else that wants to speak.

*****: Let me get this out --

*****: At least you are prepared. You brought your tools.

*****: I apologize for this. Very briefly.

Francesconi: Can you fix mine, when you are done? [laughter]

Katz: Can we have two wires so that we don't need to do that? That would be very helpful. Would you talk to -- I don't recall seeing any of you here before, except this gentleman who was here this morning. You have ten minutes, there is a little clock on the screen. So keep an eye on it.

James Boehm, appellant: 1625 SE 40th Ave., 97214. Thank you very much mayor Katz, commissioners. My name is James, and with me are Lois Wakelin and Phillip Moran, we are the three appellants. I have a few quick remarks based on some of the things I heard earlier. The transportation study rationale that we used that she just spoke to was based on the criteria as they were presented in the, you must respond in this way, form that we got from the original hearing. We raised some additional issues here regarding the topic of density, mostly, and we are raising them because of the way that the outcome of the hearing was. The specification of our restrictive covenant entailing a certain number of units or fewer that were allowed to be built. That doesn't fit directly with any of the criteria that you are allowed to respond to, whether there is adequacy of city services. However, it is it is -- those comments are directly related to the decision that was handed down.

Katz: Go ahead. She will holler if she doesn't.

Boehm: Okay. The next point would be, please excuse the comments that are --

Katz: Do you make these comments in front of the hearings officer?

Boehm: No, they were provided in a variety of written means to the hearings officer. There were approximately 10 letters received --

Katz: All right, then go ahead.

Boehm: From a variety of neighbors and they stated a number of concerns, and we have some of them here.

Katz: All right.

Boehm: I did make some remarks in written commentary provided to the council. I believe it was passed out by the council earlier in which I mentioned the fire station number 9 issue. Those are clearly out of context and should be disregarded. They are not proper and I apologize for that. I would please ask the commissioners and the mayor to recall the pictures you saw a few minutes ago about the residential area, and that's what we are talking about here, is the residential area surrounding this development. Okay, so the three of us are concerned neighbors and owners of property, which is adjacent to the site on various sides. We are concerned about the livability of

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our neighborhood, call the quality of life there. We are not opposed to reasonable development on this property. In fact of course we would like to see something developed on this property, as there are a number of nuisance issues with respect to its current state. We are appealing because of the transportation issues and the density issues that would be allowed by the restrictive covenant allowing those 45 units to be developed along with the c-n-2 designation on this particular piece of property. These are our key objections, and the reason that we are objecting is because of the quality of life and impact that would have upon our neighborhood. Okay, the transportation issues, the impact study does not address the parking issues. It plans eight units a park -- .8 parking per unit there much there is no available on-street parking, and 38th avenue is a very congested place, so we feel for those reasons, that parking is inadequate. The proposal plans to have less than one unit of parking her, in exchange for the fact this is near a major transit intersection and to encourage pedestrian and bicycle use. I am an vocate of all of those modes of transportation, but myself and my neighbors who use those modes, also leave cars parked behind when we use alternative transportation, we do not, not own cars because of that. The neighborhood is already impacted by parking for hawthorne boulevard businesses. Therefore, adding additional parking demands on that will present a bit of a strain. There are safety issues. First of all, the nearest off-street parking to this site location is going to be directly across 39th avenue on market and adjacent on 38th. Those are areas that are directly impacted by a number of businesses on hawthorne already. And there is no crossing on 39th avenue in the vicinity of this area. We feel that's going to be a tremendous safety concern as people try to park off-site and then get across a very busy street that does not have any crosswalks in the vicinity. There will be additional trips that the parking -- I am sorry, the transportation study does not consider for those in search of parking, whether they are entering and leaving the site and not finding parking there, or taking additional trips on adjacent neighborhood streets in search of parking that they could not locate closer. On the density issues, the zone change, as it states, allows 45 units on 30,693 square feet, or .79 acres. As was noted on the map, there are a number of comprehensive plan r-1 designated properties across 39th avenue and to the south of this site, the next couple of blocks on both sides of the street. With the exception of that one c-n-2 property that was mentioned. Are in the comprehensive plan as r-1, so planning was envisioned for this neighborhood at an r-1 density level in this general area. 45 units is far more than our one would allow for -- than r-1 would allow for that. It would allow between -- comparable apartment complexes in southeast and northeast neighborhoods that are anywhere near, either this, this unit count or on this size of a lot, are of much lower density, as I stated in my written report, we found anywhere from 24 to 34 units on sites that encompassed from .55 to 1.09 acres. So, none of them came anywhere near 45, and some of those parcels were considerably larger than this one, as well. So this proposal is very dense. And that density is out of character with the surrounding neighborhood as you may have noticed on some of those pictures. This will be imposing and it will tower over all of the adjacent properties if it is allowed to be built with minimal setbacks and a three-story height limit, it will tower over the one and two-story craftsman homes that are around this area. We really want this project with the character of the neighborhood and be compatible with those surrounding properties as opposed to tower over them and block the light and invade the privacy of several neighbor's back yards. We are really looking for development that's in character with the neighborhood with this early 20th century craftsman housing stock that's here, and it does not reduce the privacy and the quality of life for the neighbors on -- across the street or behind or up and down the block. Our suggestion, what we would like to see is the outcome of this. Would be to reduce the unit count allowed by the zone change that's specified in the restrictive covenant or I believe commissioner Hales mentioned, why not r-1 to

staff a few minutes ago, or, perhaps, to suggest a more appropriate zone that is in character with the surroundings. Okay. Thank you very much.

Katz: Okay. Keep going.

Lois Wakelin, appellant: 1915 NE 39th, 97212. Hi, I am lois wakelin, and my husband and I have owned the property at 1604 southeast 39th, adjacent north to the property for 15 years. I believe that the owners of the site have a right to develop the three lots south of us, the site had dwellings when they purchased it seven years ago. Since then one home was destroyed, one demolished and the most recent dismantled. Currently it is used by transients. The city planners have agreed with the developers statement of adequacy of services, such as transportation, sewer and water, but we wonder if more accident statistics than december of '98 were available. Planners have indicated that residential is allowed in c-n-2 zone and have limited the zone change to the proposed 45 units. However, we believe that since residential use is proposed, the density of r-1 designation, which is the plan for nearby properties is more appropriate. The 45 units would be roughly to 1.45 times that of r-1 density. The site with 45 units would require three-story buildings, two of which would be -- and they did submit a site plan with this. A proposal. Two of which are within 8 feet of single family lot lines, one directly on southeast 39th, and no apartment buildings adjacent to the one commercial site to the south. Naturally, the higher buildings would adversely impact the livability of the adjacent properties in terms of privacy, aesthetics, and solar. Please look at the architect's drawings that were submitted to the hearings officer. We researched the r-1 sites, as james indicated, within a one-mile radius and discovered only one had a three-story building and it was not adjacent single family dwellings. We believe that the units directly on southeast 39th, which are proposed, will be highly impacted by traffic with the resultant of higher vacancy rate, including livability for renters in the equation can only enhance the community. There are existing restrictive deed covenants dating back to the year 1900s on this site and adjacent sites, such as the proposed firehouse site. There are also c-n-2 setbacks relating to its location on the transit site, and we believe, or feel that the development should honor the historical character, as well as current character of the neighborhood by limiting the development to r-1 density. Thank you.

Katz: Or I can give you three, now that you are three.

Philip Moran: Thank you. Mayor, city council members, I am phil moran and we live at 1649 southeast 40th, just over the fence, southeast of the proposed site. I believe that the hearings officer made the wrong recommendation for a zoning change from r-5 to r in an n-2 because the real designation is something like r-1 or 2. The definition of r-2 completely fits with what the plan development of the site is. The city council must decided if c-n-2 is the appropriate zoning change for this site. What does c-n-2 mean? Does it allow retail home office use of all 45 of these units that he proposes? The allowable uses must cast doubt on this zoning change designation. The three points that are critical that I would make, and you raised an issue about parking, is there adequate parking? And do the traffic meet a c-n-2, with the customers come and go going, they are only proposing 37 parking spaces, I don't know where the other 12 park, and I agree with james that people do tend to ride transportation -- public transportation and ride bikes, but still leave a car behind. Before the c-n-2 is approved, an appropriate traffic study for the recommended designation must be formed. The study was performed in february of this year. I think that july would be a more representative month of how much, how many trips come and go. I know that the designation for the firestone 1 site north wasn't done at this time, but that, that probably would be something that's important to consider with 37 parking spaces and 45 units. It also -- the study did a comparison of what the r-5 traffic would be, given what it is right now, and the study did not do a

c-n-2 study of people coming and going from a c-n-2 site, but that's the designation that has been approved or recommended by the hearings officer. Second point, is the intent of the c-n-2 to allow the permitted uses for each of the 45 units to be c-n-2. The permitted uses by the definition of city zoning code for it include retail sales and services, office, quick vehicle servicing, manufacturing and production, with some limitation, parks, schools, colleges, medical centers, religious institution, and radio frequency transmission facilities, with limitation. The c-n-2 designation will allow a drive-through vehicle access site, which was specifically denied back when this was being proposed to be a burger king site. The city must answer this question, why are they putting a commercial designation on a multiplanned development. It is out of character with the rest of the neighborhood and community, it is very important to look at the characteristics surrounding homes to see if this is appropriate. C-n-2 is not. It is made up of traditional Portland homes built before 1920. The proposal would allow three-story buildings, and it is completely out of characteristic of the neighborhood and the houses around there. Privacy issues are not addressed by a 6-foot fence with an-foot setback and a 3-story complex. Where is the guarantee of the city has to make that this development will be consistent with those characteristics? How can you even remotely allow this development under c-n-2 if you require it to be consistent with the character of the surrounding houses by definition of c-n-2? We are willing with the developer, give our input on the appropriateness of, of what the development should be considering this the surrounding houses, we would be glad to do that. Those are my comments. Thank you.

Katz: Okay. Questions?

Hales: Have you met with the applicant?

Moran: Just briefly.

Hales: At your request? Their request? Under the auspices of the neighborhood association? How did that happen?

Moran: I think I met mr. Smith, I think, at the hearings, and I introduced myself for the first time, I guess, things have changed, you don't stick your head over and say, I have an idea, let's talk about it, but that was the only time, and at that time, I will mention one thing, we call it the nub, the piece of property over the center line closer to 40th was very clear back in 1992 when the final decision was made on burger king, that cannot be of any beneficial use for a commercial designation. I mean, the only way that they got it by was to say that we are putting up a fence, so at that point I was trying to say that christine is, was very interested in buying that, and they sold it to the wilsons years ago because it had a construction business that wasn't allowed at the time, but anyway. Just briefly, met.

Sten: Quick question. There is a bunch of things you made mention that all are thinking about, but the two key issues seem to be parking and transportation issues, and character to generalize, and I think parking is a matter of parking. Are the parking spaces adequate and then traffic to pass you on the street, and I think that we will talk about that. But in terms of character, my understanding is you say that the three stories is not in character but two stories would be, I mean, whether you say three stories towers over two stories is a little hyperbolic to me.

Katz: Identify yourself for the record.

Boehm: James boehm. The housing stock adjacent to this is a combination of one-story homes, bung low, which you can view at one and a half or two, and a few two-story homes. I would say that they are almost all lower than the height of a full, two-story building. And yes, we feel that it would tower over all of these adjacent homes, which are, of course, they are 1920, 1920, or so, centered on the lots, as opposed to this thing, which will be as close as setbacks will allow and as high as the maximum height.

Sten: It will be -- you are saying that the height is too much and then also the amount of foot-print that it will take up?

Boehm: Well, they are all allowed by the zone, technically. And but to answer your first question

Sten: I am sure I will get your objection to the character, but not so much what the zone allows or doesn't.

Boehm: Those are all the points what the zone would allow, and I believe that the site plan submitted, along with the zone change request, which may or may not reflect the final plan, but it presented something that made maximal use of minimizing the setbacks and maximizing the allowed height, and to -- I am sorry, I did not answer your first question, would two stories be more adequate? We absolutely feel so.

Sten: But you are objecting to a three-story height?

Boehm: Well, I think that technically we can't, but because, because the various zoning designations allow different heights, depending on what the outcome of this is with respect to which zone ultimately applies to the site, so they are within the allowance of the site, but they are decidedly out of character with what's around.

Francesconi: That's where I was kind of going. Is compatibility with the, of, grounds for appeal? I don't think it was.

Beaumont: While the appellants are here, I would like to make sort of three simple points. First, what the applicant is requested is to go from the current zoning to rn 2. The comprehensive plan designation is neighborhood commercial. The issue before the council is the thumb's up or thumb's down on the hearings officer decision that the cn2 satisfied the approval criteria, not whether there might be some comprehensive plan designation or zoning designation that might be more desirable or more appropriate. Second, livability and neighborhood character are not approval criteria for this type of zone change. To the extent that they are relevant, they are indirectly relevant in a very limited sense. In the first approval criteria, which says where you have more than one corresponding zone, for a comp plan designation, you have to show that the zoning you are proposing is the most appropriate, taking into consideration the purposes of each zone. And the zoning pattern of the surrounding land. So, you would look to the zoning pattern, not necessarily to desired development. And then timely, you have heard mention of development standards, development standards, compliance with development standards is not required at the time right now in considering this zone change. Compliance with development standards will be required when a building permit, for a specific development proposal, is presented to the office of planning and development review. So I want to make sure that we don't get too far afield. The focus of the hearing is pretty narrow based on the approval criteria in the code.

Sten: I understand that, but I guess I have a quick follow-up attorney question, it seems to me that that, at least as I view it, the question is a little more complex than you framed it because I read the hearings officer as having approved it with a substantially restrictive condition that the hearings officer used discretion to put on it, so I don't see this as a decision whether or not it just gets cn2 or not, because it is that with the restriction against all sorts of things that can be built in it, so that's why I am getting at some of these questions. I don't see it quite as simply as an up or down.

Beaumont: The code describes the functions of conditions of approval. I mean, it says that you can impose conditions of approval if those would be -- if you believe that those are necessary to insure that the approval criteria are satisfied. I understood the hearings officer to have imposed this condition to address concerns that were expressed by neighbors, and as a way to conclude that the approval criteria in the code were satisfied.

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Sten: One argumentative, all we can do is go up or down, but that's different than what the hearings officer chose to do, was to go up with substantial conditions, so I don't see why we couldn't explore whether or not other conditions are of interest at this point.

Beaumont: Certainly. I think that you can do that.

Sten: That's all I will doing on this.

Beaumont: Okay. I understand.

Francesconi: But just to follow up, before I give it back to commissioner Sten, so that means that we have the legal power to add conditions to the restrictions on the deed?

Beaumont: Your power, on review of the hearings officer's decision, is to affirm it, reverse it or modify it.

Katz: Modify it, okay. Back to you, commissioner Sten.

Sten: I am done, thanks.

Katz: I think that commissioner Sten, you are absolutely accurate on that because I think that the hearings officer was very cognizant of the fact that he didn't want anything other than development of no more than 45 units. He didn't want to drive in, drive-through, or whatever. All right. I can wait. All right. Thank you. Further questions? All right. Supporters of the appeal. Anybody in the audience want to speak for three minutes? Britta, do we have anybody signed up? All right. Applicant. Can we see the site plan as you are talking?

Winterowd: Actually, there is no site plan. That's the --

Katz: All right. Why don't you start. You have 15 minutes.

Greg Winterowd, applican'ts representative, Winterowd Planning Services: I am greg winter, I am a land use planner, I am at 310 southwest 4th, Suite 1000, 97204. in Portland, and I represent the applicants in this case. Who are requesting a zone change in conformance with a comprehensive plan. With me today is tom lancaster, the traffic engineer, should you have any questions of him. I provided two -- to you probably this morning a memorandum that goes through the case as I see it.

Katz: I don't have that.

*****: Britta --

Katz: Wait a minute. Folks, if you provide us stuff in the morning --

Olson: It was passed out.

Katz: It wasn't on mine.

Olson: It says wps memorandum on the top.

Winterowd: I tried to deliver it early this morning so that you would have a chance to look at it, rather than deliver it at the hearing. The first thing is what is the nature of this application? What did the applicants apply for? The designation is c in an, applied for c in an-2 after discussing the issues with staff, and also specifically applied for 45 units or less of residential development. That's why the hearings officer put the condition on. In their minds, I was not part of the original application, but in talking with the applicants and staff, in their minds, weighing heavily was the burger king case in 1990, because as you recall, council denied that cn2 zone change because of the terrific traffic impacts it would have on the neighborhood. And without going into new evidence, it was greater than substantially greater than the impact from as many as 45 residential units. In response to mayor Katz's question, we have not provided a site plan because there is no specific development application before this council, and the hearings officer made it very clear in his decision that they did not want to get into the details of development review because it was a zone change. The applicants will be submitting an application later. An initial drawing that was presented, and this is probably what some of the neighbors have concerns about, would have

required several adjustments, but that is being looked at now, and will be changed through the process. In terms of parking impacts, it would not -- at this point, asking for any adjustments or special treatment of parking that would not also be given to every r-1 development in that neighborhood, and I point out, if you look at the character of the neighborhood, even though it is single family residential and even though character of neighborhood is not a criterion, it is designated to the south and to the north, as north is commercial, for the most part, and south, it is r-1, 10 we are looking at fairly a large amount of change over time in this neighborhood. The neighborhood response was a 3-3 vote to have no position. The applicants met twice with the neighborhood association, if you look at the minutes of those meetings, there is a spirited discussion, and those three who said, who voted in favor of this proposal said, look, it meets the criterion. Criteria that applies. The three that voted against felt that it was an intrusion in the neighborhood, which is not the subject of this hearing, I don't believe. There are two review criteria. One is that, does it comply with the comprehensive plan designation, and two, are services adequate? Those are the only review criteria that apply and with respect to the commissioner Sten's query of the city attorney, it seems to me that if there is some deficiency in the application with respect to services, clearly you have the authority to impose a condition, but I don't believe that, with all respect, that you have the authority to impose a condition that relates to neighborhood livability or design of a building or anything like this, at this point. Why cn2 versus cn1? The neighbors are correct, 2 allows drive-through restaurants and 1 does not. A lot of the testimony before the hearings officer addressed this issue. The hearings officer reasoned, I think correctly, that the cn2 zone is okay if and only if we have this restriction to 45 residential or fewer units, and there is a big advantage in the cn2 zone, it requires a minimum of one parking space per unit. Whereas the cn1 zone has no parking requirement and has a maximum of one space for every 2500 square feet. So, in terms of neighborhood impact, even though it is not a criteria, cn2 is a lot better zone and has the same standard for parking as does r-1 zoning. In terms of adequacy of transportation, services, the long and short of it is that the service level c in the morning and peak hour at 39th, and hawthorne, that is not going to change as a result of this development application. And that is the principal reason why there is no impact on transportation services. No significant adverse impact adequate to services there. So, what is the nature of the appeal? The one bit of information that was brought up today, which may be new evidence, but I don't want to -- I don't want to quibble about that issue, but there -- while there may not be adequate parking provided for the 45 units. It may spill onto neighborhood streets, that I would suggest to you that that is at least as true of our r-1 development as this development, r-1 development that will be, would be allowed outright in the future. If you go further south on 39th street. And if that was anticipated by the city of Portland for years, that there would be one parking space per unit required so that there isn't overparking, so I don't believe that this is a legitimate issue, or point of inquiry in this new zone. We are willing to meet all applicable standards at the time that the application for multiple family is met. In terms of whether this land should be zoned r-1, it can't be without a comprehensive plan amendment. It has to be zoned either cn1 or cn2, at all, and the r-1 zone simply would not be permitted under this plan designation. In terms of commissioner Francesconi's question about the counter intuitive nature of this application, it would be very difficult, in my view, to get any traffic intensive cn2 use approved at the site because of the burger king history, and so the reason that this was thought of as residential is because that has a much lower impact than most commercial uses, and we know that there are traffic issues at this intersection, so you had to come in under considerably under burger king traffic impact or this council simply wouldn't have approved it based on past history, and it is important to note that

residential is a permitted outright use in this zone, so that's why, why the rob marciano in the commercial zoning. I think that that's really all that I have to say at this point, I will be happy to answer questions.

Hales: I have a number of questions. I am going to be kind of hard on you, so brace yourself. I like you and I think you do hard work, but I am very frustrated on this proceeding. We haven't had to do a hearing like this in a long time, and that's probably a good thing, but frankly, I have lost my patience for the game of hide the ball. Why are you here? With this request without a design? Are you not proposing to build anything? Is the applicant going to flip the property? What's going on?

Winterowd: Okay. Fair question, and I will attempt to answer it. There was an initial design prepared with the application. The applicants were not playing hide the ball at all. That was not their intent. They took it through the process. The hearings officer said, look, it is not my job to view the details of the development application that --

Hales: Why didn't you consolidate it, excuse me for interrupting, why didn't you consolidate your operation, your development approval and your zone change conformance?

Winterowd: I was not --

Hales: Susan, can you help me?

Winterowd: I was not part of that process at this point, but perhaps susan can help.

Susan Feldman, OPDR: Susan, office of planning development and review. We actually discouraged them from doing it because we didn't know -- you get a proposal from multifamily, and we didn't know how many units would come out of this. And the multifamily that they were proposing at the time -- I think that the original proposal required some adjustments, and so we said, we don't know what your adequacy of services, if it is going to be for 30 units, for 35 units, for 80 units, and to have a proposal that may be over and then not meet, say it was a proposal for 45 units and they were only granted 33 units, we would have had to are thrown it out anyhow, and it seems to me that when we rezone land, we really prefer it just to be clean, to say, okay, if you are rezoning it, to a certain zone, and then we want it to be that zone and have another, you know, any developer could come in and build it to 45 units, or change the housing type or if this developer walks away, then we have somebody that comes in and in a year or two with a development proposal that just basically meets the base zone standards. And we don't -- often, it hampers things, in our point of view, that when you tie a comp plan, I mean a zoning map amendment to a proposal that if they wanted to change that, you have to go back through a type 3 to amend your development proposal.

Hales: Done that anyway with the unit restriction as a condition.

Feldman: Well, the -- and that isn't something that we are terribly comfortable with but the code very specifically says you can apply for specific proposal and the city has to respond to your specific proposal.

Katz: It comes back to us?

Hales: Well, let me --

Feldman: We are trying to avoid it coming back to you with a specific proposal. Anything more specific than 45 units.

Hales: We may have had a process failure in my bureau rather than hide the ball ploy by the applicant. But the reason that we don't have very many of these hearings is that what most developers, this ain't beaverton or clark county. This is Portland, and this council has approved every single case where higher density was proposed, but appealed, and where it was designed well, but we don't know if this is designed well or poorly. So, we can't -- we are playing shoot in the dark, and I have no interest in that. Have these folks waved the 120-day rule? Have they?

Okay, then I will have a suggestion in a minute. What works in Portland, and you know this, greg, I think, is for the applicant to design the building, and sit down with the neighbors and I know catherine, sit down with the neighbors.

Katz: I will let you talk in a minute.

Hales: And work out the design issues and then come to us for approvals, whether it is a zone change in conformance or not. I mean, earl downs showed how well this can be done with the lloyd place development and everybody that I know in the development business has done that ever since, and that's what ought to happen in this case. We have reasonable neighbors with reasonable concerns about whether the units are going to be compatible with the surrounding neighborhood or not, and nobody knows, and we are playing this game of hide the ball with the zone change. And again, I may be -- maybe it has been so long since we played this game that I have lost my patience for it. But I really have. I mean, I think that you, you have the opportunity to get to a yes here, a city council that's approved project after project where it was designed well. Neighbors that sound reasonable but are worried, and yet, we don't know what we are approving, just a bunch of numbers. So, you know, ultimately, I am going to make a recommendation that we set this over and give these folks an opportunity to design a building and sit down with their neighbors and see if they can get the yes, but I don't know if the council wants to do that or not.

Katz: I think the problem is the council, or at least members of the council are in one place and our codes are in some other place, and the paradigm is slowly shifting in terms of what are the expectations, but the code hasn't caught up. Now, catherine, you are telling us that we can't do this?

Beaumont: No, no, no. I wanted to just clarify a mistake. The applicant has not waived the 120-day limit. The applicant has granted a 45-day extension from august 18th. Which, I believe, staff indicated spire on october 2nd. So, there is still some time, but it is not unlimited.

Winterowd: I am going to attempt, commissioner Hales, to address your issue as best I can, and I think -- let me tell you the first questions that I asked when I got involved with this application. Is it for a specific development? No, staff said that was not a good idea, they wanted it separate. Did you meet with the neighborhood. Yes, we did. We have no recommendation. There was a split vote. What were the concerns? There was concerns about the impacts on the traffic impacts, what one normally hears. Where was the neighborhood? Most of the neighborhood was split, so they are neutral on this. What is the design of the project like? Is the next question that I asked. What we are doing is putting the park in the back and the building in the front, as we are required to do along a major transit street, and so there won't be parking visible. The design requirements, do they apply to this site? Is there the overlay? No, there isn't. And I said, well, in that situation, you, like any person, who is zoned residential, or in this case, commercial, which allows residential, simply going for building permits. That's the way it is structured now. There is no design review. And so from the applicant's standpoint, this is difficult for me to say, but I will say it, it seems like what you are doing a little bit is second-guessing whether you should have applied a design review overlay on this, on the site, which may have been a good idea, especially for hawthorne and 39th, but one isn't there so the applicant is faced with this series of regulations that apply, and so they are a group of them that are trying to meet the standards that apply to the rezone, so that's why we are here, but we sure weren't playing hide the ball in this situation at all. Nor would that have been my recommendation because the first thing you do, as you know, is go to the neighborhood and talk with them and try to work out the issues. I think these guys did that in their own way, they got half the neighborhood but not the other half.

Hales: But they don't have a design? How could they --

Winterowd: They did have -- and I don't mean to mislead you, there is an initial design that, if you look at the staff report in the back of it, you can see a foot-fingerprint print of a building, but that has to be, because it would have required seven adjustments. This is new information that can be stricken. Seven adjustments is too many adjustments to get approved by the city. That's why the staff and I, when I heard about it, and the hearings officer said, we can't get this many adjustments, that gets to a different body anyway. And probably takes some kind of a design of the structure. Let's just do a zone change separately, and we will limit it to a maximum of 45 units. That doesn't mean 45 units can be fit on the site. But, a maximum, and if you look at the impact of the maximum 45 units, it falls well within the thresholds of code acceptability. But, that's, that's the difficulty, if the council would like to continue this, for further discussion, I would need to definitely caucus with the clients and see what their views are on this because from their point of view, they have been following the rules and have met their criterion and brought me on simply to address the criteria, that this was somewhat unexpected, although not entirely, knowing the council, as I do.

Francesconi: Well, while you are caucusing, which I think is a good idea, if you could follow the suggestion -- if you would also talk to them about, is there anything else that they can voluntarily add to the restrictions on the deed that could address some of these issues? For example, now, I am adding a bunch of things, but there was a lot of concern there. There used to be a community garden on the location, for example, in the past. Is that something that they can do? Some people -- it hasn't come up in testimony, but that's in the record. There is always -- the council has always been concerned about affordable housing, and then you have got the questions of design that have been raised. Now, I understand your point of view, and especially in life the staff testimony that the staff kind of directed you down this path for legitimate reasons. I can understand you not wanting to do any of that. But, I would like you to at least raise it in your conversations with the folks. And if the answer is no, the answer is no.

Sten: Can I ask one question? And then I have a comment. I mean, is the plan to build one unit of -- one parking spot for every unit?

Winterowd: I honestly am not sure what the plan is now.

Sten: But the code requires you to do that because I was confused.

Winterowd: I am sorry, it requires that, it also, the code includes a number of not adjustments but reductions that can be provided if you do other things. That applies to all residential developments, not just this one, so one thing that they are looking at on a major transit is possibly putting in some transit amenities, which would allow fewer spaces.

Katz: Bicycles and --

Sten: So that's how they came to the conclude --

Winterowd: Because the original plan, they saw, they are absolutely correct, showed .8 spaces per unit, and the units were all small, one-bedroom efficiency units and also very affordable. Much more affordable than say the last application that we were here on. And all of this stuff, we didn't put in the record because it didn't seem to be relevant. If you start building bigger units, you will -- and make them more attractive to the neighborhood, the affordability will go down, and you will --

Sten: I guess my comment, I understand, commissioner Hales, where you are coming from, but I am not there. I see this as a simple request to change the zoning, and I don't find -- I was looking at, when I was asking about restrictions, you know, should there be something extraordinary put into the deed on parking and on number of units, because those seem to me to be the only things that are relevant and I am not at all willing -- whether it is substantively a good idea or not, to insert on the fly, my opinion on design. Into a zone request, especially when the staff asked him not to

put a design in. I don't want -- I am not willing to say to them, will you come back with a design in two weeks or I am not going to approve this. Okay.

Hales: No, no, that's not where I was going, erik. What avoids these kinds of hearings is when the applicant has a design and sits down with the neighbors and works this out, so they don't dig deeply

--

*****: Are you suggesting we hold the decision on this until we get a design?

Hales: I might suggest that, the other option that occurred to me, I want to get susan up here, is to apply the do overlay, I mean, if somebody is going to come in here with a blank sheet of paper and not be willing to put anything on it.

Katz: Well, hold on, hold on --

Sten: Let me make sure I understand this case, isn't this a, get not guilty conformance --

Hales: But, but the hearings officer, you know, got halfway into micromanaging the development, either we are going to tell people, this is not a change of conformance, it is a semi-administerial --

Katz: We have got to continue with the hearing --

Hales: Or it is an open discussion, and I think we got halfway into that --

Katz: We will come right back to this. We are in the middle of a hearing, so is there anybody else that wants to speak in support of the applicant? All right.

Hales: I would like to get susan up here.

Katz: Susan, come on up. They have a rebuttal on this. But maybe what we can do is listen to where the council -- or at least a majority of the council might want to go and I will give you a five-minute rebuttal so that you can rebut something --

Francesconi: I would also like to give him time to caucus with his client.

Katz: The client is -- they are here. All right. Susan, come on up. By the way, you are technically correct, but I think that the expectations -- okay.

Feldman: Did you have a question of me or do you want me to --

*****: Go ahead. If I have questions --

Feldman: Um, as far as applying a design overlay, I don't think that we have a nexus to do that, and what we have consistently told neighbors and applicants that when a neighborhood wants that, and the applicant is willing to do it, they have to offer that. And then I think we can have an additional discussion about just when we do zone map amendments and conformance, whether this were for a commercial proposal, I mean, if it was just for straight-out, cn1, we, we typically do not see a building because often people -- it is a speck piece of property. People don't know what's going to be on there, and I think that, again, in this case, we were relying on the fact that the base zone development standards would set the setbacks and the height and the transit street orientation and that they would have to build within that. The proposal that we did see, again, had those seven adjustments, and we said, you know, you want -- we are not going to approve this, and this is a zone change, and it is probably better to look at that, if you want adjustments on a smaller scale, later on that what we want to see here now is, you know, sort of the, the, looking at just the approval criterion, and the other thing I want to say, is I don't think that the hearings officer, that we should consider that a condition that he put on. He was responding to the approval criteria, which says if the applicant gives a certain proposal for, you know, in this case, you evaluate the adequacy of service against that proposal, and in this case, it was okay, 45 units, and so we -- all of our evaluation had to do with the impact of 45 units on services, not how it would look because that wasn't one of the approval criteria, so that's why, it is a condition, I mean, in some ways, he didn't arbitrarily try to condition the heck out of this. He said, okay, we evaluated this based on 45. We didn't evaluate it on a 20,000 square foot commercial complex, office complex, and if we had, if

they had come in and said, okay, we want to put 20,000 square feet of office space here, we would have said, okay, we are going to do our evaluation based on 20,000 square feet of office space and all the traffic counts any other kind of adequacy of service impacts that would have on, you know, any other services. So that's basically how we look at a zoning map amendment in conformance with a comp plan.

Hales: You say they are not conditions?

Feldman: Well, I think that -- I wouldn't term it as, he sort of conditioned it to get what we wanted. That's, that's just part of the approval.

Katz: So what would happen -- is the development on this site, it is limited to a residential up to 45 units or less, that sounds like a condition to me, and then --

Hales: And then, the first criteria was all conditions imposed here, so when is a duck not a duck here. It looks like a condition to me.

Feldman: I think that he approved the proposal, and the proposal was for 45 units. He approved 45 units, and for us to insure that nobody can put commercial on that property because we didn't evaluate it against any impacts of commercial development, we want a deed covenant that says that you can never use this property for anything other than --

Hales: He imposed that condition.

Feldman: Okay.

Hales: Did he not? I think he did.

Katz: Because that was my question. If we provided the zone change and they walked away and resold the property, then they could only still put -- so that's a condition.

Feldman: It is a condition.

Katz: Susan, you are not a lawyer, come on, work with us here.

Feldman: There is conditions and there is conditions. Okay.

Hales: Well, let me go on another front here. It is cn2 with these conditions, I will persist in calling them that, the development standards that apply, give us a summary, the building has to be at the street, it can be three stories tall.

Wax: It has to be within -- ellen, can you grab the development standards, please? It has to be within 25 feet -- 50% of the frontage of the building being I believe, has to be within 25 feet of the curb. You can't have any parking and maneuvering within in front of the building, basically. The parking will be in the back.

Hales: Or underneath the building.

*****: Or underneath the building.

Wax: Maximum height is 30 feet.

*****: Maximum height is 35. R-1 is 45 feet.

Katz: 30, she said.

*****: 30 feet.

Feldman: Right, I am saying that r-1, which they have talked about, which limits the number of units, that has a 45-foot height. So relatively low. Our guess is that they can't get the 45 units on this site. Because the original proposal that they came in with will so many adjustments that we said, I mean, we just, as a staff, said it doesn't look good as far as, you know, sort of evaluating against the adjustment approval criteria, but that's unofficial, but I don't know that they could actually get the 45 units on there, given the development standards. Okay.

*****: Or the underground parking, which isn't going to happen.

*****: It is not going to happen.

*****: So, and --

*****: So basically transit setbacks has to be built toward the street, maximum height of 30 feet.

Hales: What's the setback in the rear?

Wax: It is a minimum building setback is 10 feet.

Feldman: Which would be about any, any residential development. I mean, r-2 allows, I think, 40 feet height. So, it is actually, you know, it is pretty low, and --

Hales: Any screening requirements?

Feldman: Yes, there is screening, landscaping requirements, any kind of separation between where the commercially zoned property abuts residentially zoned property, there is landscaping requirements setback. Landscaping around the parking lot.

*****: It is basically kind of an r-2 development standards, but lower. When you think about it. Lower height.

Katz: I have no problem with 30 feet. I do have a problem with what it is going to look like. And I think that that's what the community is saying, and that's where the council has mixed feelings on it, and technically, that's not in front of us, and I understand that. But, as I said, we are in one place. The code is somewhere else. The community's expectations are in another place. And that's why when we have issues like this, there is this tension.

*****: I understand that.

Katz: We have talked about that, I am sure, over and over again. All right. Rebuttal, five minutes, come on up.

Hales: No one else wants to testify, and the applicant is not going to testify, is that right?

Katz: Does the applicant want to testify? Don't be afraid of us.

Hales: I don't know why we are so scary.

*****: I think you are grumpy.

Hales: I am only that way to staff and consultants.

Katz: Come on up. You have one more chance, do you want to come up and testify? No. All right. You don't want to tell us what the building is going to look like, do you?

*****: He doesn't know.

Boehm: I want to thank the council for your time and attention to this. I realize this is frustrating. I was surprised that you haven't had one of these come before you in a fair length of time. There were a couple of points that I want to address that I heard earlier. Commissioner Hales concerns about the process and kind of the -- this whole thing doesn't seem to fit any particular really structured procedure for how you move forward with what the developer reasonably wants given the zoning impact and what the comprehensive plan says it ought to be and so forth. And it sounds like, the process is far from perfect. Staff may attempt to guide the developer down a certain path, thinking that it was easier. I would want to caution the council, I don't want to make this sound inflammatory, but I want to caution you, we have with whatever the outcome is, and I caution the council if they feel it is really flawed, to please not approve something that's flawed by virtue of the fact that, just a lot of hard work went into it, and it may have been city staff who potentially have further confused the situation. We have to live with this for years and years, and I appreciate that if, you know, I am sure that nobody wants to do this over again from the beginning, but if that appears to be the right approach, that's certainly what we would like to have a happy outcome, because I don't think that any of us are planning on moving any time soon. We like living in this city. We like living in our neighborhood, and we want to stay there. I didn't catch your last name. Greg? All right. One of greg's opening comments was about a very, very firm insistence that we stick tightly with the criteria, and that a site plan had not been submitted. In fact I received a site plan and a copy of the staff report before the hearing and I was informed that went out in error.

Nonetheless, I believe what I saw is probably what the hearings officer and other people saw in order to come up with this decision that involved the 45-unit number. There was clearly something that people got to see that set the stage for 45 being that number. And we can't just stick with the very clear criteria that the transportation and et cetera when the decision very clearly states that there are these restrictions placed on it and they came from somewhere, and I believe that they came from something, that some the documentation, clearly said on it, site plan, it may not have been official, but that's what it said, and we have been referring to it because that's what it says. On the subject of the neighborhood being neutral or having a split vote on this issue, several people testified and wrote letters to the meeting on may 8th in that meeting, two motions failed, one motion to approval of this motion, and one to deny it. I would like to be clear all the neighbors present, whether submitting written or verbal testimony, were against it as it was described and as it stood. My interactions with the original neighborhood association secretary indicated that the neighborhood association did not completely side with the neighbors because they thought that the developer in good faith, was meeting with them and explaining what he intended to do and that brought a level of -- bought a level of trust from them.

Wakelin: Lois wakelin. I was at that meeting, also, and one of the reasons why they chose not to say yes or nay on the development was they felt that they could deal with services, whether there was adequate services or not, and the staff had said that there was. So, they felt that they were totally limited by that issue.

Katz: Two minutes.

Moran: Phil moran, just the points I would make, I don't think that we are a scary group of neighbors, we would be delighted to work with the developer to come up with something that's acceptable to you, to us and to him. The points that I would make, there is a difference between hawthorne and the pedestrian nature of hawthorne and a comprehensive plan probably picked out and pegged hawthorne correctly. 39th, as intrudes, further south changes and actually the cn2 predates the plan, that was a lawyer who had a house in a traditional Portland neighborhood with a traditional neighborhood house that was serving traditional neighbors. The cn2 for 45 units, I think, opens up a whole bunch of problems that potentially exist. There is a method under r-2, r-1, cn1 and 2 to determine how many parking spaces and I think that's the problem, determining how many parking spaces, so we would be happy to work with them, and I think that parking is really the issue. We are willing to work with them and I think that there is a way to do it, but those are my points. I would like the city, if it is the right thing to do is to draw that line of where the comprehensive plan should be, you know, somewhere between lois' house and further on south, and help solve this issue forever. That's all I have.

Sten: If parking is a critical issue, do you have a position on how much parking is enough?

Moran: I am not an expert on why the code says that you get so many for cn1 or cn2 or r-2, but all of them -- somebody has done good work, r-1 provides 1 parking spaces, and I think it is probably the reason that's that way, and I think that that's a good suggestion. I don't know, I mean --

Sten: This one required 45 units plus or minus some adjustments but r-1 would only require 12. Is that right?

Moran: I am not sure. Cn1, that's a whole different -- again, I think that there is a reason why there is a ratio, and I don't know what the reason is, but I think that all of those other zoning changes would allow him to develop it in a way that is appropriate, and I mean, again, if it is one dwelling unit and one parking space and the maximum is 15, there is probably a reason why that is appropriate. I mean, our neighborhood is a neighborhood of families. We have had a lot of people who have grown up on the 40th street and been real contributors to the community. I guess that the

hearings officer, and I have got his decision, really puts this condition, conditions b and c to limiting it to a 45-unit thing, so it is kind of confusing, and I do have the site plan, and I think that that's part of what was prepared --

Sten: Pardon me, but these are confusing, so sounds like the way I hear you, it comes across to me that you are more worried about the number of units than the parking spaces because, my hunch is, for a small apartment building, one parking space per unit is going to do the job. In terms of -- that's just my guess, we would have to consult on that, but you are saying that you would rather use 15 units so it isn't -- parking spaces so afternoon as too many units there?

Moran: Again, I mean, I think that there is probably a magic formula, and we would be glad to work with the developer to make sure that it satisfies, you know, the see's needs, but I think that there should be enough parking for whatever the development is. I think that cn1, I don't know if that's the right thing or not, but it has more dense building --

Sten: Do you have an opinion on whether or not 45 units is too much, one, and --

Moran: Definitely yes.

Sten: So that's too much in your opinion?

Moran: It is three residential sites. Have three driveways, this is turning it now into 45 units. One driveway, so that just doesn't -- that's too many units.

Sten: Do you have an opinion on, on the number of units that are determined, how many parking spots are needed per unit to, to --

Moran: I won't second-guess all the zoning restrictions.

Sten: I mean legally, I mean, what would make you happy?

Moran: I wish I didn't own two cars, we have one driveway, two cars. I would expect that probably, on average, practically speaking, I don't know who is going to live there, you know, if it is cn2, it is a commercial business, potentially, that everybody has two cars. I bet you if you just do one-to-one ratio, that probably -- because I am encouraging this use of transportation. Hawthorne is a bicycle street and 39th is not. I wouldn't recommend anybody ride a bike on that street, but in any event, 1-1, if I had an opinion.

Sten: I am starting to get a feel for where it -- I don't know if it is possible, I am just trying to get a feel, if it was possible to have something that everyone agreed on, kind of what the parameters of that might look like, hypothetically, it is probably a different question than we are voting on today.

Katz: We are having a discussion here on process for design. Versus the design. Further questions?

Hales: Maybe just a comment before you go. Don't misread, I don't want the development community to misread our interest in a different kind of proceeding where a developers and their architects sit down with neighbors and a blank piece of paper before they come to the city. City council, while i've been here, I think that this is pretty consistent, is frankly not persuaded by arguments like the ones you made about units. It has been our -- about units. It has been our experience that, you know, we have all said this too many times, that density is not the issue. It is design. Ask the neighbors of the belmont dairy, whether there is too many units, it is about how well those guys, who don't want to talk about the design right now, design the building to fit in with your neighborhood. We will give them all the units that they want if they do a good job with that, frankly. If past behavior is any predictor here, and we are unpersuaded by arguments from neighbors. We heard them a lot, about the number of units. Don't take this personally. I mean, this is just, we have been here before, you haven't, but we have. We are persuaded by a concern that you have articulated well, you are not quite sure of what you are getting. But, density is not the issue. The issue is how well, how well the building is designed to fit in this environment.

Height, frankly, is not the issue. 35-foot building can look a lot better across the street than a 25-foot building, depending on how well it is designed. So, we have been aggressive as a city through the legislative process, not what you have in front of you today on a single site. Applying design review over more and more of the city because we know that people can do this. There are lots of developers in the city. I don't know if these people are in that category or not. There are lots of places where they say, it is great, once it is built, and what we are trying to do is have a outcome happen more often than to have people win, and so, that's why I am so frustrated and took it out a little bit on my own staff, mr. Winter, out here that we are having one more of these hearings where we are doing it on the legal side and they have got this technicality on their side that we haven't approve the zone change in conformance on the plan based on services and nothing else, but what we know works is to not take that legalistic approach and spend less money on traffic accounts and more money on architecture, and get ds on a design. This is an exception, in that we used to have a lot of those kind of hearings where everybody had babbling consultants but nobody will a plan, so we don't -- I don't enjoy them any more.

*****: Can I respond briefly to that?

Katz: Not really, no. Thanks. Thanks. Gary, come over here. Greg, sorry. So, you heard from the council, three stories could be okay. I am not as concerned about the parking or the three stories or even the 45 units. I am very concerned about what it ends up looking like. I have gone on too many design tours in southeast Portland and out of southeast, and I stood in shame about what we approved because we were placed in these kinds of situations. And I said to myself and to the planning folks, I am not going to be involved in that any more. I was embarrassed for the city. And so were the citizens in the community, embarrassed, and they had to live there for many, many years. That was their home. So I asked you a question, are you willing to ask your developers if they would support a design overlay because I think that the neighbors would? If the answer is yes, then I have no problem with this, otherwise I can't support it. And I know you are going to tell me that's not the criteria. I will figure something else out.

Winterowd: What I would appreciate at this point is the five-minute recess to allow me to talk with my clients because --

Hales: There is another option, before you do that. There is a 120-day clock that runs out october 2nd or something.

Winterowd: Approximately.

Hales: Another option, council, and participants would be to continue this hearing until september 27th. Not make a decision at all.

Winterowd: Could I ask the council a question because I don't -- this may come up in our little caucus. If there were a design, the problems we don't have design standards now so it is hard to, for me to guess what might be, I mean, I have my own view of what a good design is, certainly, and we can all point to what a good design and bad design, but we do lack criteria, at this point --

Katz: No.

Hales: They are in the code.

Winterowd: So you are suggesting if we were to go through.

Katz: They are not great.

Winterowd: If we were doing to go through the design process, in other words, a self-imposed design overlay, is that what you are asking?

Hales: That's what the mayor is asking. That's what that option might look like, is for your architect, your applicant to sit down and draw a building, and see how the neighbors react to it, and maybe revise that drawing. You are not talking to a city council here that's going to water down

the unit count. You are not -- you are not talking to a city council here that is going to shrink from making major boulevards like there urban streets, but how well that building fits into the context of the neighborhood is a big factor for us as the mayor just described in how well this whole equation works. Does the code match up with that philosophy? Not very well.

Katz: And we have -- the criticism right now, we are in a quandary, and I say technically, you are right. One of the ways out of it is to do what commissioner Hales has suggested, go back and work with your client and with the neighborhoods, would be an option. The other is a process that we have available to us, is a, a joint agreement on the design review process. What that really means is, you sit down and you work through some of these elements. I am not asking you to lower it from 45 units, unless you want to. But, I want -- I want it to look like it fits in the neighborhood, and that we -- we are proud of it.

Hales: Another way to state it, maybe a little more succinctly, is I am confident that if we approve this decision in front of us today, that it is quite possible to design a 45-unit building that fits well into this neighborhood. And it is quite possible to design a 30-unit building that fits poorly into this neighborhood. We want you to do the former.

Sten: Well, I want to, everybody is making their comments, there is no council policy because there's been no council vote, and you know, before you have your recess, you guys are killing me. I don't see the code as a technicality. That we just don't agree on, and I think that there is property rights still whether we like them or not, and I am just not --

Katz: They don't have to agree.

Sten: I am just saying, you guys say where you are, I am saying where I am. I generally think that the hearings officer was right. That this is a reasonable -- it is in conformance with the comprehensive plan. I think that neighbors who live right next to it have some very legitimate concerns, and I would send a signal to you that if I uphold the hearings officer and you run into trouble trying to make this thing fit, and I think that you are, and you have to ask for adjustments and all kinds of things that are appealable and you haven't worked it out with the neighborhood, I will be really, really unlikely to give a hand, I think you need to work it out with the neighborhood. But this whole idea that somehow we are going to impose somebody's taste that I don't even know what it is without even on a zone change --

Katz: Wait a minute, we have standards, it isn't taste. There are some standards, and they are not as good as I would like to see them, but there are standards that other communities have overlays and will meet.

Francesconi: I want to tell you what I think but I don't want to tell you now, but I would like you to take the time and see what they can do, if anything, okay? And then I want an opportunity to address this. [recess]

Winterowd: I have some statements on behalf of the clients and we would like to talk about how we want to respond because I think that my clients felt that there has been somewhat of a mischaracterization about what happened and they did go twice in the neighborhood association. They did show the design. There were some adjustments made with the neighborhood association as a whole, and I was not a part of that, so I wasn't aware of those details. Not to the satisfaction of the immediate neighbors, and banned, they believe strongly, as do I, that we have met the approval criteria, having said that, that's getting out of the way. What we hear this council saying is that you are concerned about how this project might look. You are worried about really the legacy of Portland. The appearance, the impact of the neighborhood. You recognize those are not criteria, but you would sure appreciate it if we would go back and work with the neighborhood, so that's what we would offer to do. But here's the, the limitations that we respectfully request that be put

on the negotiation, so it isn't open-ended. We would like for height not to be an issue, per se. We would like for density not to be an issue, per se. And we would like to be able to rely on the parking standards and the code in the c-2 zone, one space per unit, as the base standard, so we are not talking about those issues. They are not on the table. And we would like to meet with the neighborhood association as a whole, and not to attempt to satisfy both immediate neighbors and the neighborhood association, so that we are not grip-sawed, and we would then hope to set a date specific hearing with you to come back with the hope, neighborhood support, it happened before, it might happen again, for a proposed -- any design changes that we have. There is a problem in doing this, though, a technical problem, is that it is possible that we could come up with a design in the neighborhood -- that the neighborhood likes and that we like, that still needs adjustments that might not be approved by the city, with that understanding, we will try to keep code requirements in mind, too, but there is still that possibility through this process, and so was he would offer a 45-day extension, which would be through november 15th. That puts us under the gun you also means we can't drag out the process. We would like to build this in the spring, so --

Hales: I appreciate your suggestion, and I am going to put that in the form of a motion. That we -- and I will comment on the issues because we are back in this legalistic world here, but I will comment on the issue we talked about, but I would like to move that we, that we -- based on the applicant's request for a waiver of the 120-day rule, continue this hearing until november -- what did you suggest?

Winterowd: I would suggest we continue it until sometime in early to mid october so that, depending on the outcome of the hearing, there is time -- there is time to craft findings before the 45-day extension to november 15th inspires -- expires.

Hales: Okay, so pick a date in october, about 60 days from now. That was we need to do? So --

Winterowd: 60 days okay?

Hales: So how about october 25th?

Winterowd: I think that we would like to stick with 45, if we need an additional 15, we can so stipulate.

Hales: So how about october 11th?

Olson: That afternoon is filled.

Hales: October 18th? -- the 12th is open. Thursday the 12th. Okay, so that's my motion, that we continue it until october 12th.

Katz: With the understanding of the conditions that greg outlined. Is there a second?

Francesconi: I will second.

Katz: Any objections to that motion? We ought to -- Let's vote on it.

Francesconi: I will support the motion because of the applicant's willingness to do this, but I want to be clear about something, to the neighbors, first of all, it would be better if we had a process and a procedure and a code which required this to happen simultaneously, so that you can see what's happening. That's the better way to proceed. And commissioner Hales is absolutely right on that, so that's the better way to proceed. That's not why I am supporting the motion. I am supporting the motion because the applicant voluntarily agreed to do this. If they had not voluntarily agreed to do it, I would have supported commissioner Sten's position. The reason is, what one commissioner's technicality is the law now. Here we have a case that the applicants followed the law. They met the application criteria. They did it. On top of that, they followed the proper procedure in the code. Plus, they followed the advice of our own bureau and staff. They did absolutely everything correct. And we have, substituting our own personal desires, which are, in fact, correct, that we need design criteria, but our law doesn't require it, and we inject it into the process, is no way to do

business in the city. It is not fair. So, I am supporting it. But only because the applicant voluntarily agreed to do it. Aye.

Hales: I hope I haven't offended anybody here, including you, greg, including you, gentleman, who I don't know, but the reason this hearing is an exception is that most of the development community in Portland, I think, I thought, until today, had figured us out, and that is, although, maybe this does seem a little capricious today, I think this city council has been very clear, at least over the last six or eight years, and I don't think that there is any real diversity of opinion about the fundamental issue that I am going to describe here, and as you know, greg, you get it, and that summary, you included, is where we are, and that is, although we understand neighbors' initial reactions to high density projects often focus on the number of units, we don't agree with that concern, frankly. I am being blunt. We -- it has been our experience that the number of units is not the issue. It has been our experience that no building designed around the number of parking spaces is a good building, and the less parking spaces in the building, the better that you will like it, five years from now. I mean, being a little bit outrageous here when I say that. Tell me a place designed around adequate parking that you like to go. There is no such place. So, our standards are changing there, and we are requiring less and less parking because people are living that lifestyle where they have one or maybe not any cars, and people are building buildings to accommodate that lifestyle, and we are setting maximum parking ratios, not minimum. But, in all of these issues, our code amendment process has not caught up with the, I think, again, pretty consistent philosophy, that if you design good buildings, they can be taller than their neighbors. They can have lots of units if them, and they can have very few parking spaces, and the neighbors will like the building, but the design and the sensitivity to the context in which that building is cited matters much more than all of this technical gobbledygook about traffic counts and square footage and all of the rest, even setbacks, so the council's interest is pretty intensely developed main streets and multifamily districts. But, that our code development process is not caught up to that. But what you and the development community need to rely on is that we will back that philosophy in cases. Eventually, we will back that philosophy in code. So, thank you for your patience with our incomplete transition, and I look forward to seeing a great building on this site with 45 units in it, not very many parking spaces, and around 30 feet in height. Aye.

Sten: I agree, council has to do some work on this because we shouldn't be putting applicants in this kind of cross fire where staff says do it one way and we go off on the way the staff said is the way to do it, and I frankly, I think that council needs, you know, the taste, I don't think, is clear. I think that taste is heavily debated and one person is as ugly as another person is good looking, and frankly, I don't know once the council agrees, that it is going to be -- it is okay to be 30 feet tall. It is okay to have 45 units on a three-lot site. I guess that we are dealing with treatment, but I am lost at what's being implied. What I do think, I think you made a little mistake because it is always good to do more outreach, and I am glad you are willing to do this, but I think that before this council starts implying that the code, as written, which is relatively clear, is not the defining rule of what you should do as a private property owner, we better be a heck of a lot clearer in our deliberations, and I think that those of us who think that it is clear, where the code errs on dictating taste need to articulate that, because it is anything but clear to me, or that a lot of our design requirements have been a success. I think that sometimes they make it better and sometimes they make it more homogeneous, to tell you the truth, so I think if we are going to take a stance, which I am open to taking but not signing onto, that we need stricter design review on every case, or we need much stricter design standards, and we owe it to the neighborhoods and the developers to articulate that, and otherwise I wish that we could do a little clearer job when we are acting -- we

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are a legislative body when we act as one, and it takes three votes of five people to change the code. And if people have ways that they would like to change the code, I would like to explore those. When we are acting quazi-judicial, we are there to interpret and to vote based on whether or not this person has met the code, and I think that we have got to be a little more careful because I think that we do both sides a disservice. I am glad you are going to talk and I hope it works out, aye.

Katz: I do appreciate the applicant, commissioner Sten is right, commissioner Francesconi is right, commissioner Hales is right. The code is there, but we pushed, we pushed a little harder than probably normally we would. We pushed harder because quite frankly, my role, and I think the role of the council is to leave a legacy for this city that we are proud of, and after touring site after site of even our base standards, I was -- I felt that we had lost faith with the community in that we missed the boat. Now, what are we doing about it? Commissioner Sten, we brought to the snout house ordinance. We had arguments about that. When I looked at some of these houses, I asked the question, could these have been built with our snout-house ordinance, and the answer was no. So at least we moved a slight step up on the ladder of design. But there is still more to do, and we will bring it to you, and it is hard work and we certainly want to involve the developers and architects and the neighborhoods and landscape designers to the discussion of how do we improve the standards, where do we want to put a overlay, and other issues with regard to taste. So, I appreciate your concern, and legally, you are absolutely correct. And I want to thank the applicant. You didn't have to do it, we, we couldn't force you to do it, but you are going to be here, and you developers, you are going to be building a building that I hope that the neighbors feel proud of, and that you feel proud of, more importantly, you feel proud of it because this is part of your city, as well. So, we are not telling you to build it smaller. Or lower. If you can do it with 45 units and you can do it with 3 feet, for me the parking on this particular site is not really the issue, go ahead, but when you are finished, be proud of it and answer the question, would I live in it, you, as developers, and if the answer is yes, then you have a good building. And if the answer is no, going to leave it for somebody else to live in it, then you don't have a good building. Aye. Okay. We stand adjourned until tomorrow at 2:00.

At 4:03 p.m., Council recessed.

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AUGUST 31, 2000 2:00 pm

Item 1312.

Katz: Okay. We've discussed the one issue remaining twice now. This would have been the third time, and I think it's time now that we have the entire council here, because quite frankly I think we wouldn't get anywhere this go-around. I just want to remind everybody that this is required by the urban growth management functional plan, so maybe this will give us a little time to hone in on what the functional plan really requires us to do, and how we treat different parts of the city. And it will give us a little bit of time to sit down with transportation and with planning and with pdc, who's been working with the central eastside industrial area, to figure out what really -- what we have to do as a council. We may not agree, and it will -- it may come down to a vote that's split, so be it. But I think having discussion over and over again without having everybody here is probably not terribly helpful. Susan, do you want to add anything? No? Anybody else want to add anything to it? We've had a good time, commissioner Sten, with -- the three of us here, but we haven't gotten the closure yet, and by our rules we can't do it with three people.

Francesconi: Two out of three had a good time. [laughter]

Katz: But we couldn't push the agenda according to our rules. And that was something we still need to discuss that maybe -- maybe some day we'll have an opportunity to do that. So we're going to -- if the council approves, we will bring this back on a day when everybody is here, and that day is --

Olson: September 27th at 10:00 a.m..

Katz: September 27th at 10:00 a.m. Thank you. And we stand adjourned.

At 2:08 p.m., Council adjourned.