

Moore-Love, Karla

From: John Hollister <jhollister@greatergiving.com>
Sent: Wednesday, February 28, 2018 5:31 AM
To: Council Clerk – Testimony
Subject: Re: LU 16-278621 DZM GW, PC #16-262122 (Fremont Apartments)
Attachments: PDNA Open Record Letter to City Council 2-28-18.pdf

Karla,

Sorry I forgot to attach.

John

On Wed, Feb 28, 2018 at 5:21 AM, John Hollister <jhollister@greatergiving.com> wrote:

Karla,

Please enter this into the record and acknowledge receipt

thank you,

John

--

John E. Hollister

Regional Sales Manager | [GREATER GIVING INC.](#)

C:(503) 956.6294 | jhollister@greatergiving.com

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John E. Hollister

Regional Sales Manager | [GREATER GIVING INC.](#)

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JEFFREY L. KLEINMAN
ATTORNEY AT LAW
THE AMBASSADOR
1207 S.W. SIXTH AVENUE
PORTLAND, OREGON 97204
TELEPHONE (503) 248-0808
FAX (503) 228-4529
EMAIL KleinmanJL@aol.com

February 28, 2018

Mayor Ted Wheeler and Members of the City Council
City of Portland
City Hall
1221 SW Fourth Avenue, Room 340
Portland, OR 97204

Re: LU 16-278621 DZM GW, PC #16-262122 (Fremont Apartments)

Dear Mayor Wheeler and Commissioners:

I am writing on behalf of the Pearl District Neighborhood Association (“PDNA”) pursuant to the schedule established by the Council for open record submittals. PDNA also enters the attached exhibits into the record:

Exhibit 1	Photographs Establishing Context
Exhibit 2	George Galster Letter
Exhibit 3	Peter Gramlich Letter
Exhibit 4	Kurt Sorensen Rebuttal Testimony
Exhibit 5	Glenn Traeger Rebuttal Testimony
Exhibit 6	Greenway Trail Easement
Exhibit 7	Map from Portlandmaps.com Showing Property Lines
Exhibit 8	Printouts from Portlandmaps.com Showing Status of Related Casefiles

PDNA respectfully adds the following comments.

I. COMMISSIONER FISH’S QUESTION

In answer to the question posed by Commissioner Fish at your hearing on February 21, we can answer that PDNA would indeed prefer a taller structure, serving as a possible precedent for other taller structures, under the Central City 2035 Plan (“CC 2035”). A 250-foot slender tower set back the required 50 feet from the river would not only obscure far less of the Fremont Bridge, preserving important view corridors, but would better preserve the usefulness and attractiveness of the Greenway. At the same time, it

would have the desired public benefit of supplying inclusionary housing at a location providing the scarce amenity of open space and views of the Willamette.

Simply stated, the answer to the commissioner's question is "yes."

II. THE STACKING OF UNJUSTIFIED MODIFICATIONS; BONUS F.A.R.

As the applicant points out in a letter submitted the day before your hearing,

"Three modifications are proposed that directly impact building height, massing, and placement on the site. These modifications are to the specific standards for the North Pearl Subarea. * * *" Reynolds letter, February 20, 2018, at 6.

These are Modifications 3, 4 and 5, although Modifications 3 and 5 (as well as Modification 1) are of the greatest concern. Modification 3 addresses the North Pearl Subarea Height Opportunity Area, seeking authorization for a 175-foot height, exceeding the normal maximum base height of 100 feet. The proposed modification would also allow the length of the facades above 100 feet to exceed 120 feet in length, with the proposed facade length on the southwest and northeast facades of the building to be 125 feet 2 inches long, and the southeast and northwest facades to be 142 feet 8 inches long, thus adding lateral massing to a height modification which already exceeds the 100-foot standard by 75 percent (before adding 10 more feet for the utility-screening parapet.

Modification 5 proposes to exceed the North Pearl Subarea waterfront development standards both as to setback for development from the Willamette River, and maximum building dimension. This compounds the accumulated modifications. The applicant proposes to allow portions of the building over 35 feet in height to violate the required setback angle from the Greenway, and for the maximum building dimension to exceed the permitted 200 feet perpendicular to the river by nearly 31 feet.

We would contend that Modification 1 also impacts building height, massing, and placement on the site. The applicant states that this modification "allows the screened mechanical area to cover 73% of the Tower's roof surface and to be set back 5 and ten feet from the Tower's roof edge along the Naito frontage. * * *" *Id.*, n4. This would demonstrably increase the visible massing of the structure, and increase its effective height by 10 feet, adding an additional story to further diminish the public view of the bridge. Thus, what is proposed is effectively a massive 18-story market-rate tower, crowding against the Greenway. By way of comparison, the two buildings at the

Waterfront Pearl are widely separated, are set far back from the river, and are only 10 stories in height.

Taking these modifications together, we refer Council to the statement of Design Commission Chair Julie Livingston, contained in a hearing transcript prepared and entered into the record by the applicant's counsel:

“Chair: Yeah. OK. I will open the record again and we can have some conversation with the applicant. It sounds generally as though majority of commissioners are largely supportive but there's still a lot of hesitancy around the massing, which hasn't changed since you were in for the first DAR. For all intents and purposes, it hasn't changed since you were in for the first DAR. And my sense is we appreciate the efforts that you have made to revise the skin and push towards C5 coherency pretty significantly, but there are just some basic issues with the way the building is massed and the way that it really does try to maximize the number of units on the site and it drives the architecture in a way that may not be appropriate in this context. So I invite you to again address massing and why it is necessary to retain this piece, especially. And why, also if you don't mind, touch again on not methodology that you used to land the L, but why an L shape plan is appropriate in this location. Given the surrounding context of the Pearl District of other buildings at the waterfront that generally tend to be very simple forms.”

Design Commission Transcript, November 16, 2017, at 29. (Emphasis added.)

Then, at the same hearing, Chair Livingston stated:

“Chair: Ok. So I agree with Jessica. I think the massing has been unresolved since the beginning and it remains unresolved and given the prominence of the site and to how visible the building is from so many locations, you've got a split vote on that issue, on context and massing. How about public realm guidelines that address issues about public realm.

* * *

Chair: So I'll say from my perspective, it's a very complicated issue. The massing of the building is performing a lot of gymnastics to make the proforma work and those gymnastics require a long laundry list of modifications. So typically to receive approval of those modifications, the massing of the building,

the contextual response, public realm, as well as quality and permanency, you know, kind of every bucket of guidelines, the proposal would need to just hit it out of the park. And in this case, given what they are asking for to make this work, I don't feel that it did that level of guidelines compliance has been achieved.”

Id. at 31. (Emphasis added.)

Any design changes which may have been proposed after the date of the November 16 hearing were insufficient to address the above concerns, and Ms. Livingston accordingly voted “no” on the application.

Under PZC 33.825.040, the above modifications can only be allowed if the applicant has met its burden of proof to show that the as-modified project:

- A. **Better meets design guidelines.** The resulting development will better meet the applicable design guidelines; and*
- B. **Purpose of the standard.** On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.*

The record is clear in demonstrating that, as Chair Livingston found, the applicant did not meet its burden in this case. PDNA reiterates the matters set out in its Proposed Findings, filed on February 21, 2018, as further modified below:

A2 EMPHASIZE PORTLAND THEMES

Finding: The City Council finds that the proposed structure’s massing concept does not properly take the view of the Fremont Bridge into account and inappropriately shifts much of the mass to the north. By exceeding the normal height limitation of 100 feet by a total of 85 additional feet, the proposed structure actually obliterates a key view of the bridge itself from the Fields Park and elsewhere, which would not be impaired if the applicant complied with the 100-foot limit.

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A3 RESPECT THE PORTLAND BLOCK STRUCTURES

Finding: The City Council finds that this proposal does not respect Portland's typical 200-foot block pattern. The placement of the building so close to the southern property line violates the typical 200-foot Portland block pattern, setting a precedent for future development on the adjacent parcel to create a combined development far in excess of 200 feet in length along NW Naito Parkway

A3-1 PROVIDE CONVENIENT PEDESTRIAN LINKAGES

Finding: The City Council finds that this proposal blocks off pedestrian access to the Willamette River and the Greenway path for a full city block.

A4 USE UNIFYING ELEMENTS

Finding: The City Council finds that the proposed design does not use unifying elements but, as noted by the Design Commission's chair, creates a visual mishmash. It is not internally unified, and its design is discordant with surrounding and nearby development.

A5-1 REINFORCE SPECIAL AREAS

A5-1-1 REINFORCE THE IDENTITY OF THE PEARL DISTRICT NEIGHBORHOOD

Finding: The City Council finds that this proposal does not reinforce the identity of the Pearl District Neighborhood, but serves to substantially detract from it. It creates its own neighborhood along the river almost entirely for the benefit of high-rent tenants. In cutting the neighborhood's connection to the river physically and visually, and in cutting it off visually from the landmark Fremont Bridge, it significantly harms the neighborhood's identity.

A5-1-5 REINFORCE THE IDENTITY OF THE WATERFRONT AREA

Finding: The City Council finds that the wall-like design proposed by the applicant, with a narrow open space area confined to one end, does not reinforce,

but minimizes, this key waterfront area. We have compared this proposal with the design of what we would previously have considered a significant, large development on this stretch of the Willamette—the Waterfront Pearl condominiums. These are comprised of two large, landmark 10-story structures, much lower in height than the proposed building, which are surrounded by open space on all sides and by a large water feature wrapping around and between the buildings, creating a broad space between the structures and the Greenway trail. The Waterfront Pearl provides the city with the amenity of a true water feature, with moving water in ponds large enough to attract ducks. It is open and engaging to all. It reinforces and enhances the identity of the waterfront and the Greenway. It shows what *can* be done to build out a large project while meeting this design guideline.

In this case, however, the applicant contends that the Willamette is its water feature and it need not do more. The developer of the Waterfront Pearl did not have the temerity to suggest the same. It chose compliance over defiance.

This project in no way integrates an active mix of uses along the waterfront and fails to make development open and accessible in order to maintain the publicness of the Greenway. Instead, it turns the riverfront into a private benefit and amenity.

A5-3 INCORPORATE WATER FEATURES

Finding: As explained above, the City Council finds that proposed project does not incorporate water features which enhance the quality, character and image of the River District. The stormwater planters are not a legitimate water feature and in no way form the focal point for integrated open spaces. They do not take cues from the river, bridges, or the historic industrial character in the design of structures and/or open spaces. No legitimate water feature is incorporated into this project—the Willamette River is already there, and does not count for this purpose.

A5-4 INTEGRATE WORKS OF ART

Finding: The City Council finds that this project fails to integrate any works of art, as required. The supposed structural effects of the proposed benches should not and do not comprise works of art in compliance with this guideline by

any rational definition of the term. These effects simply call into question whether the benches will be sufficiently comfortable to be of use to members of the public.

B4 PROVIDE STOPPING & VIEWING PLACES

Finding: The City Council finds that the proposed plazas, parks and open space are not successful. The proposed plaza/open space has minimal engagement with the existing three-story office building to the north, and a planter and grade change between the proposed plaza and existing sidewalk adjacent to the office building would block off all but one connection point on NW Naito Parkway.

C4 COMPLEMENT THE CONTEXT OF EXISTING BUILDINGS

Finding: The City Council finds that this proposal fails to complement the context of existing buildings. It fails to use and add to the local design vocabulary, as described above with particular respect to the Waterfront Pearl, or as to historic Centennial Mills, or to the Bridgetown Lofts apartments just beyond the Fremont Bridge (which top out at six stories and step down from there to the Greenway), or to the McCormick Pier condominiums, or to any other relevant development.

In this instance, the applicant proposes a gated, walled stair entrance to a second floor roof terrace. The developments north of the Fremont Bridge have residential entries, gardens and balconies opening directly onto the Greenway trail. There is no visual connection to the Greenway trail in this proposal.

NOTE: With regard to this approval standard, a question was raised at the Council hearing as to what really constitutes “context” under this guideline. As the guideline itself states, it is the “the context of *existing* buildings.” These are the residential structures along the Willamette, plus Centennial Mills. As the nearby low-rise riverfront office buildings are to be demolished, and are not residential in nature in the first place, it seems reasonable to omit them.

The dominant, proximate residential developments are the Waterfront Pearl, at a bit more than half the height of the proposed structure, and the even less tall Bridgetown Lofts. Photos of these projects are attached as Exhibit A. Among other things, these demonstrate a strong sensitivity toward and respect for the Greenway. The proposed project is lacking in both characteristics.

C5 DESIGN FOR COHERENCY

Finding: The City Council finds that due to its F.A.R.-maximizing, unharmonious mix of design features and wall-like cutting off of the riverfront and Greenway from the surrounding community, the proposed project is not designed for coherency.

* * *

The City Council finds that each of the proposed modifications violates PZC 33.825.040.A for failure to better meet the applicable design standards addressed above, and PZC 33.825.040.B because each is inconsistent with the purpose of the standards in question.

With respect to proposed Modification 1, for height under PZC 33.140.210.B.2 (enclosures for rooftop mechanical equipment), we note that the normal maximum height for this site (excluding bonuses) is 100 feet. Even with all the requested bonuses, the maximum height would be 175 feet. However, the applicant has requested more, seeking a further modification to allow rooftop mechanical equipment screening to extend an additional 10 feet. This will further obstruct the view of the Fremont Bridge. We find that it fails to better meet the applicable design guidelines than would adhering to the 100-foot height limit, or even to the requested 175-foot height with modifications. It results in further violation of the River District Design Guidelines discussed above.

By the same token, proposed Modification 1 fails in any way to be consistent with the purpose of the standard. It conflicts with both the applicable design guidelines and the purpose of the height standard.

33.510.205.H. North Pearl Subarea height opportunity area.

1. *Purpose. In the North Pearl Subarea, additional building height may be appropriate to support the goals of the North Pearl Plan. The regulations of this subsection:*
 - *Promote the use of development bonus and transfer provisions to create and support a range of community amenities to serve the diversity of residents and employees in the Central City;*

- *Create a skyline and urban form that is visually permeable by providing visual access to locations within and beyond the subarea;*
- *Encourage the development of taller buildings that may accommodate a range and diversity of land uses;*
- *Result in a dynamic and varied skyline and urban form that contributes to the health, vibrancy, and livability of urban living;*
- *Shape building massings that allow light and air to penetrate to the street level, enhance pedestrian scale, and create a pleasant, versatile, and active public realm; and*
- *Provide flexibility to allow a range of uses and building types to be developed in a manner that fulfills the design objectives of this purpose statement.*

Additionally, along the waterfront of the North Pearl Subarea the regulations of this subsection also:

- *Increase access to sunlight along the greenway and within public and private open space areas developed along the waterfront;*
- *Develop a dense, active urban waterfront with a vibrant public realm;*
- *Work with the open area and waterfront development provisions of the North Pearl Subarea in the creation of well designed public and private urban open space amenities;*
- *Facilitate visual and physical access to and along the riverfront for all members of the public;*
- *Create expanded opportunities for views of the river as viewed from Naito Parkway and Front Avenue, landward portions of the subarea, and locations west of the subdistrict; and*

- *Ensure bonus height granted to sites adjacent to the Fremont Bridge does not significantly affect views of or diminish the aesthetic qualities of the bridge or its iconic stature in the Portland skyline.*

- 2. *Additional building height above the maximum height limits shown on Map 510-3 may be approved as a modification through design review if H.2.a and b are met, and either H.2.c or d. Except as specifically allowed, adjustments and modifications to this paragraph are prohibited.*
 - a. *The site must be in the height opportunity area shown on Map 510-16.*

 - b. *The floor area of the building above the maximum height limit shown on Map 510-3 must be:*
 - (1) *Earned through bonus FAR provisions;*

 - (2) *Transferred by a Central City Master Plan; or*

 - (3) *Transferred from an Historic Resource in conformance with 33.510.200.H, Transfer of floor area from Historic Resources in specified areas.*

 - c. *The regulations of this subparagraph apply to sites northeast of SW Naito Parkway. Building heights may be increased to 175 feet in the height opportunity area if the following are met:*
 - (1) *The floors of the building above 100 feet are limited to 12,500 square feet in area or less; and*

 - (2) *The length of any facade above 100 feet may not exceed 120 feet. However, a dimension of up to 150 feet may be requested as a modification through design review.*

- d. The regulations of this subparagraph apply to sites southwest of SW Naito Parkway. For sites in the height opportunity area where the maximum height allowed for the site by Map 510-3 is 100 feet, applicants may choose to increase height using one of the options of this subparagraph.*
- (1) Option One: The height may be increased to 175 feet if the length of any facade above 100 feet in height does not exceed 150 feet. However, a dimension of up to 180 feet may be requested as a modification through design review; or*
- (2) Option Two: There is no maximum height limit if the following are met:*
- The floors of the building above 100 feet are limited to 12,500 square feet in area or less; and*
 - The length of any facade above 100 feet may not exceed 120 feet. However, a dimension of up to 150 feet may be requested as a modification through design review.*

(Emphasis added.)

Findings: Modification 3 addresses the North Pearl Subarea Height Opportunity Area, seeking authorization for a 175-foot height, exceeding the normal maximum base height of 100 feet. The proposed modification would also allow the length of the facades above 100 feet to exceed 120 feet in length, with the proposed facade length on the southwest and northeast facades of the building to be 125 feet 2 inches long, and the southeast and northwest facades to be 142 feet 8 inches long.

The City Council finds that each of the above modifications is substantial and, under the applicable code provisions, should have been denied. Instead, Modification 3 was approved, resulting in the maximum adverse impact upon the North Pearl Subarea and the River District. The Purpose Statement of this code section states that in “the North Pearl Subarea, additional building height *may* be

appropriate to support the goals of the North Pearl Plan.” Thus, the proposed building height may also serve to defeat the goals of the North Pearl Plan, and may not be appropriate, and does so here. Contrary to the Design Commission’s conclusion and the applicant’s argument, this provision expressly makes the goals of the North Pearl Plan directly relevant to review of this application. (PZC 33.510.205.H(1) expressly provides that in “the North Pearl Subarea, additional building height may be appropriate to support the goals of the North Pearl Plan.” Thus, those goals are directly relevant to the question of whether such additional height may be allowed.)

With respect to the specific purposes set out here, the City Council finds as follows:

- The requested additional height will in no way create and support a range of community amenities.
- It will not create a visually permeable skyline and urban form providing visual access to locations in and beyond the subarea, but will have the opposite effect.
- It will not result in a dynamic or varied skyline or urban form contributing to the health, vibrancy, or livability of urban living.
- It will not shape building massings allowing light and air to penetrate the street level, or enhance pedestrian scale, or create a pleasant, versatile and active public realm. It will achieve the opposite result.
- It will not provide a range of building types fulfilling the design objectives of the purpose statement, but create a visual mess instead.

In addition, the proposed additional height will not comply with the purpose statement as to development along the waterfront of the North Pearl Subarea, as follows:

- It will not increase sunlight along the Greenway and within the public and private open space areas developed along the waterfront. It will have the opposite effect.

- It will not create an active urban waterfront with a vibrant public realm. Instead, it will have a suppressive effect.
- It will not work with the open area and waterfront development provisions of the North Pearl Subarea in the creation of well designed public and private urban open space amenities.
- It will not facilitate visual and physical access to and along the riverfront for all members of the public. It will have the opposite effect—that of a great wall.
- It will not create expanded opportunities for views of the river as viewed from Naito Parkway and Front Avenue, landward portions of the subarea, and locations west of the subdistrict. It will have the opposite effect.
- With respect to the specific purpose of ensuring that bonus height granted to sites adjacent to the Fremont Bridge not significantly affect views of or diminish the aesthetic qualities of the bridge or its iconic stature on the skyline, the proposed additional height will again have the opposite effect.¹

We find that with respect to the requested bonus height, PZC 33.510.205.H.2.c.2 does not allow bonus height if the length of any facade above 100 feet of building height is more than 120 feet long, unless there is a further modification for facade length. Accordingly, the applicant only achieves the additional, excessive building height by stacking modifications and obtaining permission for excessive facade length. The end result is the collection of inappropriate impacts described here.

In making these findings, the City Council also incorporates by reference here its findings with respect to the applicable Design Guidelines, above.

¹ The subject property is immediately adjacent to (and part of it is under) the Fremont Bridge. *See* Exhibit 7, showing existing property lines in connection with the applicant's pending applications listed on portlandmaps.com.

D. North Pearl Subarea waterfront development.

1. *Purpose. These standards are intended to assure both frequent views of the river and physical connections to the river and its activities.*
2. *Where these standards apply. This section applies only to lands between NW Front Avenue and the Willamette River within the North Pearl Subarea.*
3. *Development standards.*
 - a. *View corridors. At least 25 percent of the width of the site (as measured along NW Naito Parkway) must be maintained as a view corridor or corridors. Buildings and covered structures are not allowed in the view corridor.*
 - b. *Setbacks for all development from the Willamette River. The minimum setback for all development from the Willamette River is regulated by the Greenway Overlay zones; see Chapter 33.440. In addition, buildings or portions of buildings over 35 feet in height must be set back from the Greenway setback line 1 foot for every 1 foot of height above 35 feet.*
 - c. *Maximum building dimension. The maximum building dimension is 200 feet. This standard applies to both building length and depth.*
 - d. *Public access. As part of each development, public access for pedestrians must be available and clearly posted between NW Naito Parkway and the Greenway trail.*

Findings: The City Council finds that as applied for, this project does not comply with PZC 33.510.251.D.3.b and c. Modification #5 proposes to exceed the North Pearl Subarea waterfront development standards both as to setback for development from the Willamette River, and maximum building dimension. Again we see a compounding of the accumulated modifications. The applicant proposes to allow portions of the building over 35 feet in height to violate the

required setback angle from the Greenway, and the maximum building dimension to exceed the permitted 200 feet perpendicular to the river by nearly 31 feet. We find that this will not better meet the applicable design guidelines or be consistent with the purpose of the standard sought to be modified. With all the accumulated, requested modifications, the proposed project is already oppressive to users of the Greenway and as to its uninterrupted mass. The applicant's decision to confine the sole open area to the north side of the property will not allow for the requisite views and physical connections to the river and its activities.

GREENWAY REVIEW UNDER PZC 33.440.350

33.440.350 Approval Criteria

The approval criteria for a greenway review have been divided by location or situation. The divisions are not exclusive; a proposal must comply with all of the approval criteria that apply to the site. A greenway review application will be approved if the review body finds that the applicant has shown that all of the approval criteria are met.

A. For all greenway reviews. The Willamette Greenway design guidelines must be met for all greenway reviews.

The City Council finds that as to Issue A, Relationship of Structures to the Greenway Setback Area, Guideline 1, "Structure Design," the structure design does not complement or enhance the Greenway Setback Area. Rather, it overwhelms it with massing and effectively walls it in.

Under Guideline 2, regarding structure alignment, we find that the proposed modification results in a failure to follow the Central City's typical 200-foot grid.

Under Issue B, Public Access, Guideline 1, we find that Public Access Opportunities are not sufficiently integrated along the river. There is just one access point on this project, which is at least a city block in length.

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NONCOMPLIANCE WITH DEVELOPMENT STANDARDS

33.510.210 Floor Area and Height Bonus Options

* * *

C. Bonus Floor Area

Findings: The City Council finds that the applicant has requested a significant amount of bonus floor area on various grounds under PZC 33.510.210.C. We find that the first 144,160 square feet of the project would be allowed through the 2:1 base F.A.R. available for the 72,080 square feet of the site, assuming that were the relevant square footage instead of 40,000 square feet as provided by PZC 33.930.025. The Design Commission has allowed a 100% floor area bonus of an additional 144,160 square feet through the residential bonus provisions of PZC 33.510.210.C.1.a.2.

However, as we have explained above, the allowance of this bonus F.A.R. is discretionary and not mandatory, as would be the accommodation of any such bonus F.A.R. by means for modification of the 100-foot height standard. For all the reasons explained above, neither the requested bonus F.A.R. nor the height requested to accommodate it have been adequately justified under the applicable approval standards.

Among the other issues on this record, the applicant claims additional F.A.R. of 15,200 feet as a locker room bonus for its designated locker room/bike storage/shower and dressing area under PZC 33.510.210.C.8. A review of the history of this bonus provision shows that it has been requested by developers on approximately nine occasions. We find that, in each instance, this was for office/commercial uses as to which employees would bicycle to work. In other words, this provision is intended to benefit incoming bicycle commuters.

We find that this provision was not intended for residential structures, where residents shower in their own units. With particular regard to this project, there will already be a bicycle storage area in each apartment. We find it unreasonable to expect that, after storing their bicycles in their units, residents will run downstairs to shower in the locker room rather than in their apartments. It appears that the locker room proposed for this project is not intended for any real use, but simply to achieve additional, bonus F.A.R.

Alternatively, we note the letter from Peter Gramlich filed February 28, 2018 and the related email from Mr. Mazer as to calculating the reasonable square footage of the locker room. We find their testimony to be persuasive. Any bonus F.A.R. allowed for the locker room would necessarily be substantially less than the amount requested.

We find that this request for added F.A.R., along with the others addressed above, must be denied.

(This concludes the portion of these comments presented in a findings format.)

III. MISCONSTRUCTION OF SITE AREA FOR THE PURPOSE OF CALCULATING F.A.R.²

PZC 33.930.025 provides in material part as follows:

33.930.025 Measuring Development Standards

*Unless otherwise stated below or elsewhere in this Title, all measurements involving development standards are based on the property lines and area of the site after dedication of public rights-of-way and/or designation of private rights-of-way. Standards include, but are not limited to, building coverage, floor area ratio, setbacks, and landscaping requirements. * * ** (Emphasis added)

²PDNA also notes the following. The appealed decision and the underlying application are keyed to and dependent upon the actual property lines and dimensions of the subject site. However, these have not yet been determined. The applicant has separate, pending applications before the city for a Property Line Adjustment (PR 17-113983) and Lot Consolidation (LU 17-169109 LC), in order to separate the proposed development site from the rest of its larger parcel. Neither has been allowed, and the files remain open. See Exhibit 8, printouts from portlandmaps.com showing current permit status. Accordingly, approval of the subject application on the present record is impermissible, and the Design Commission erred in approving it. If one cannot yet ascertain the configuration of the site with certainty, the approval standards discussed here cannot be shown to have been met, and modifications to those standards cannot be allowed.

As the applicant has pointed out, the above provision did not take effect until after the application in this case had been filed. However, PDNA has verified with Benjamin Nielsen of BDS staff that the above language—the first two sentences of this section—simply codified the regular, ongoing procedure previously applied by BDS. (See Exhibit 4, letter of Kurt Sorensen, at 1.)

In addition, the preexisting Greenway easement on the site must be deemed to comprise right-of-way. PZC 33.910.030 defines “right of-way” as follows:

Right-Of-Way. *An area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public will be in a tract. Where allowed by Section 33.654.150, Ownership, Maintenance, and Public Use of Rights-Of-Way, the right-of-way may be in an easement. (Emphasis added.)*

For the purposes of calculating site area in order to determine allowable Floor Area Ratio under the above provisions, the 25-foot public Greenway strip and the 60-foot wide public open space connection between SW Naito Parkway and the river must be omitted because they are effectively public or private rights of way under PZC 33.930.025. With particular regard to the Greenway, Exhibit 6 consists of a copy of the Greenway Trail Easement in favor of the city over the subject property, recorded April 8, 1987. It contains the stated purpose: “The purpose of this easement is to provide public access to and along the Willamette River by creating a public path over and across the Property.” Exhibit 6, at 2.

The result is a base permissible floor area of at most 40,000 square feet rather than the 72,080 square feet accepted as fact by the commission. Thus, even if all requested modifications were somehow justifiable, the City Council should find that the permissible square footage for this project would have to be reduced by 44 percent. As presently set out, the application should have been denied by the Design Commission.

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IV. CONCLUSION

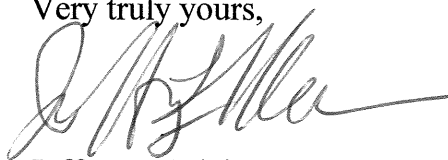
For all the reasons set out above and in the attached exhibits, as well as those presented on the record before you, the applicant in this matter has not met the required burden of proof. With regard to the requested modifications, it has not demonstrated compliance with the requirement of PZC 33.825.040 to show that the as-modified project:

- A. ***Better meets design guidelines.*** *The resulting development will better meet the applicable design guidelines; and*
- B. ***Purpose of the standard.*** *On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.*

The proposed project does not comply with the relevant design guidelines and would serve as a highly damaging precedent for other development between the Fremont Bridge and the still-standing portion of Centennial Mills. PDNA's appeal should be sustained. The property owner should come back with an appropriate, compliant design once the subject site has actually been created under the remaining, still-pending land use applications.

Finally, PDNA would like to thank you for the time and attention you have devoted to this matter of critical importance to the impending development of the North Pearl riverfront. It is going to happen, and it needs to be done right.

Very truly yours,



Jeffrey L. Kleinman

JLK:cme
Enclosures
cc: PDNA

Exhibit 1



**Exhibit 1A-Page 1
Waterfront Pearl
(View across SW Naito)**



Exhibit 1A-Page 2

Waterfront Pearl

(View across water feature toward the river)



Exhibit 1A-Page 3
Waterfront Pearl
(View across water feature from Greenway)



**Exhibit 1B-Page 1
Bridgetown Lofts
(View upriver along the Greenway)**



Exhibit 1B-Page 2

Bridgetown Lofts

**(View upriver along the Greenway showing
approximately 50-foot setback to structures)**

Exhibit 2

Feb. 25, 2018

Commissioners of the City of Portland:

My name is George Galster, PhD, a resident owner in The Pearl District and a retired Professor of Urban Studies and Planning, Wayne State University, Detroit. I wish to offer this document as rebuttal testimony after testifying as an Expert for the Appellant in the hearing on Feb. 21, 2018 re: ***PDNA's appeal of the Portland Design Commission's decision on Dec. 22, 2017 to approve Design Review and concurrent Greenway Review for the proposed Fremont Apartments (case LU 16-278621 DZM GW).***

Commissioner Nick Fish asked several presenters during the hearing on Feb. 21, 2018 about the meaning of "context" when applied to the Fremont Apartment proposal. He essentially asked, "What would you LIKE to see built on this site?" Unfortunately, I was not asked this vital question during my testimony, so I would like to take this opportunity to provide a written response for the record.

I take as guidance for my response the *Portland Zoning Code*, Title 33 (2017), 33.510.205.H.2., which defines context for design purposes as "the character and identity of three blocks in every direction." In this case, the context therefore becomes "what has already been recently built in the River District of the North Pearl Subarea:" The Waterfront Pearl, The Bridgetown Lofts, and other developments north of the Fremont Bridge. I would hope that buildings such as these, which have 50-foot setbacks from the river, moderate heights, numerous view corridors to the river, and dramatic art and water features, would be replicated in the remaining development sites along the river between the Fremont and Broadway Bridges. This vision would be the likely outcome were the Commissioners to uphold the PDNA's claims that the Fremont Apartment proposal is more massive than is appropriate for this site because:

- (1) The Design Commission failed to challenge the developer's miscalculated base floor area; and/or
- (2) The Design Commission failed to uphold the design guidelines by granting all three FAR bonuses when they were not required to do so.

Virtually all of my objections to the proposed Fremont Apartments expressed in my prior written and oral testimony are based on its excess mass. With an allowable mass appropriate for this special site, I could easily imagine that a variety of laudable designs sensitive to the existing context could be constructed.

If, however, the Commissioners chose to reject the PDNA's claims that the Fremont Apartment proposal is more massive than is appropriate for this site, I would hope that they would nevertheless support the PDNA appeal on the grounds that the Design Commission:

- (1) Failed to comply with several River District Design Guidelines; and/or
- (2) Granted modifications in violation of PZC because these countered the express purposes of the PZC and applicable Design Guidelines.

Under these second-best circumstances, my vision would be somewhat different. In this eventuality, I would foresee the forthcoming Portland 2035 Plan and associated zoning codes being in effect. The expected new requirements of the 2035 Plan for the North Pearl Subarea/River District—especially allowing 250-foot heights and requiring a 50-foot Willamette Greenway setback—would make this a substantially more desirable building, even with the currently approved mass. This revised version of the Fremont Apartments could be built up to 250 feet tall within new code, allowing a reallocation of mass from the base into a taller but more slender tower. This would permit *both* less obstruction of the views of the Fremont Bridge from Fields Park and 10th and 11th Avenues in The Pearl District *and* less constriction of the greenway. Moreover, if the mandated 60 feet of public access view corridors between NW Naito Parkway and the river were split on both sides of the building (instead of only on the north side as currently), the tower could be shifted even more out of sightlines of the Fremont Bridge. The comparisons between the current and envisioned Fremont Apartments are rendered in the two figures below. The envisioned building would be much more sensitive to context and much more desirable than the currently approved one.

Currently Approved Fremont Apartments



Potential Fremont Apartments under Expected Portland 2035 Guidelines



The reconfigured Fremont Apartments would represent a far superior option from a planning perspective. Portland could get the same new housing built (but with the bonus of an inclusionary housing set-aside) with less obstruction of iconic views and the Willamette Greenway.

I continue to urge the Commissioners to uphold the PDNA's appeal on one or more grounds. The current design of the Fremont Apartments represents the wrong building for this special site.

Exhibit 3

Comments regarding the proposed Fremont Apartments development
Appeal testimony follow-up

Ref: LU 16-278621 DZM GW 1650 NW Naito Pkwy/Fremont Apartments

Monday, February 26, 2018

Greetings, Mr. Mayor and City Commissioners-

I own Gramlich Design & Planning in Portland. I have Bachelor's and Master's degrees in architecture and am a LEED Accredited Professional. I've worked for large firms in Boston and in Germany, and have helped design projects in the US, Europe, the Middle East and Asia.

I testified against the approval of the building as proposed at the hearing, and would like to add the following comment:

At the hearing on 2/21/18, the developer revealed that the ground-floor locker room, for which it received a bonus of 40 times the space allocated for a locker room (in this instance 15200 SF), is intended to serve only one male and one female employee. Given the limited need for such facilities, the allocation of 380 SF, about the size of a studio apartment, is substantially more than the size warranted. I believe the excess square footage has only been allocated to get the 40x bonus.

The spatial needs of one male and one female worker can be easily met with a layout of 112 SF. An accessible unisex restroom of a 14' x 8' size would allow for an ADA-accessible toilet, sink and shower. Even accounting for separate spaces, in lieu of the more efficient (and more common) unisex arrangement, there's no reason to allot more square footage here.

I'll add that the presence of a locker room in a residential building is dubious in and of itself; I cannot think of a reason for its existence other than to accrue bonuses for floor area ratio.

Thank you for your consideration.

Peter Gramlich, M. Arch., LEED AP
338 SE 48th Ave
Portland OR 97215
541 350 2800
peter.gramlich@pcc.edu

Exhibit 4

Rebuttal testimony of Kurt Sorensen

Fremont Apartments LU 16-278621

At the hearing Wednesday February 21, 2018, counsel for applicant objected that Portland zoning code section 33.930.025 was effective March 31, 2017, after the date of the application in this proceeding, and thus does not apply to the proposed Fremont Apartments. Section 33.930.025, Measuring Development Standards, reads as follows: "Unless otherwise stated below or elsewhere in this Title, all measurements involving development standards are based on the property lines and area of the site after dedication of public rights-of-way and/or designation of private rights-of-way. Standards include, but are not limited to, building coverage, floor area ratio, setbacks, and landscaping requirements. When site area is being dedicated to widen an existing public right-of-way, calculation of floor area ratio is based on the site area at the time of building permit application."

But in fact, for the most part, Section 33.930.025 is a restatement of the practice always followed by BDS staff. In a conversation on February 23, 2017, beginning at 1:00 P.M., Benjamin Nielsen, chief planner for this case, told me that the first two sentences outline the long-standing practice, and it only codifies what they had been doing. The change is in the last sentence. Before this section was enacted, the practice had been to exclude that portion of a site that would be required to be dedicated as right-of-way in the permitting process but was not yet dedicated. The last sentence allows that soon-to-be-dedicated land to be included in the base parcel for floor area measurement. So, dedicated public or private rights-of-way are to be excluded from base floor area.

Just like a sidewalk along Naito Parkway, the Greenway is a public right-of-way that must be excluded from measurement of base floor area. By adopting the Greenway Plan in 1987, Portland Ordinance # 160237, the City of Portland directed that as a condition of approval for new development or intensification of use of riparian parcels, property owners would be required "to dedicate right-of-way or easements" for a greenway and trail. That ordinance also stated that the dedicated right of way or easement was to provide necessary access for emergency vehicles to the riverward side of the riparian parcel. Portland zoning code section 33.272.020 requires a "dedication of a public right-of-way or easement" for that Greenway. It may be by dedication or grant and must be recorded. That had been done in previous applications regarding this Fremont Apartments property and there is an existing recorded Greenway right-of-way or easement on this property. Whether public or private, dedicated or granted, or in the form of an easement or a right of way, the greenway in this case should be excluded from measurement of base floor area.

Goal 15, OAR 660-015-0005, requires that development along a greenway "shall be directed away from the river to the greatest possible degree". This project accomplishes the opposite. Please sustain the appeal.

Kurt Sorensen

Exhibit 5

Rebuttal Testimony to the Portland City Council

Pearl District Neighborhood Association's appeal of the Fremont Apartments

February 25, 2018

At the appeal hearing there was some uncertainty expressed on the nature of the requested modification to the building length and its effect on the Willamette River greenway. To clarify this issue, we created Figure 1 to show the effects of the Fremont Apartments on the greenway. Figure 1A shows the greenway configuration as proposed by Fremont Apartments. Moving from left to right one has the Willamette River, then a 25-foot greenway. Adjacent to the greenway is the Fremont Apartments with a 3-foot greenway buffer. With this configuration the greenway path necks down to 12 feet 9 inches due to the limited space available in the greenway and greenway buffer.

Figure 1B shows the greenway configuration that is mandated by the current Central City plan. From the left you have the Willamette River, then a 25-foot greenway with a 33 feet greenway buffer. The increase in greenway buffer is a result of limiting the building foundation length towards the river to 200 feet as required by the current Central City Plan. With the increased width in the greenway buffer and with limited building encroachment one can now easily construct an 18-foot-wide greenway path that is consistent with the greenway path both north and south of the proposed project with ample space to provide additional landscaping and other amenities available for public use and enjoyment. It is also worthy to note the 2035 Central City Plan would require a 50-foot greenway which would double the current 25-foot greenway width and reduce the greenway buffer to 8 feet. This would cause no impact to the combined greenway and greenway buffer areas since in the 2035 plan the maximum building length would still limit the Fremont Apartments building length to 200 feet which is the limiting factor in creating the greenway and the greenway buffer area.

The configuration as proposed by the Fremont Apartments has the following effects:

- It sets a dangerous precedent. This building encroachment upon the greenway encourages future developments along the North Pearl waterfront to encroach on the riverfront.
- Constricts greenway path. The Fremont Apartments building encroachment limits the use of the greenway path by making it narrow and dangerous to use. Bicyclists, runners, walkers and children will all have to share the same constricted pathway. This will only become more dangerous as time goes on as this area becomes more densely populated.
- Reduces open space at and around the green way path. This is apparent in this case due to the placement of a towering apartment building directly adjacent to the greenway. This will make this area on the greenway feel more like downtown Portland.

=====

At the hearing it was expressed there was a generous 60-foot wide plaza provided that somehow compensated for the Fremont Apartments encroachment upon the greenway. This is a false argument. The 60-foot wide plaza is not generous, in fact, it is the minimum required by the Central City Plan. The Central City Plan requires 25% of the width of the site as measured along Naito Parkway to be

maintained as a view corridor. Since the property length along Naito Parkway is shown as 240-feet then the minimum required view corridor is 60-feet. This is exactly what the Fremont Apartments provides.

To provide the required 60-foot open area as a continuous space the developer needed to move the Fremont Apartments directly against the south property line in a zero-lot line configuration. This opened the north end of the property by closing the south end. Consider if the adjacent property owner to the south would move his building to the north edge of his property. One would have a continuous wall of high rise buildings blocking off access and views of the Willamette River for hundreds of feet. A much better solution would be to require the Fremont Apartments to center their building on the property by requiring 30-foot side yards on both the north and south sides of the property. If adjacent properties would also provide 30-foot side yards there would be 60 feet of view corridor between buildings. This is a much better configuration since it does not rely on the good will of property owners to prevent zero lot line development along the Willamette River.

=====

The City of Portland is in a housing emergency. The Pearl District is doing more to solve this crisis than any neighborhood in the city. Currently, there are over 1,200 residential units under construction in the Pearl District. Additional housing units are needed and welcome in the Pearl, however, we desire new development conforming with the planning documents and guidelines that have successfully directed its development. To do otherwise, we risk losing the unique character and personality that has made the Pearl neighborhood such a great place to live and work.

Thank You

Glenn Traeger
1133 NW 11th Ave.
Unit 519
Portland, OR 97209
g.traeger@att.net

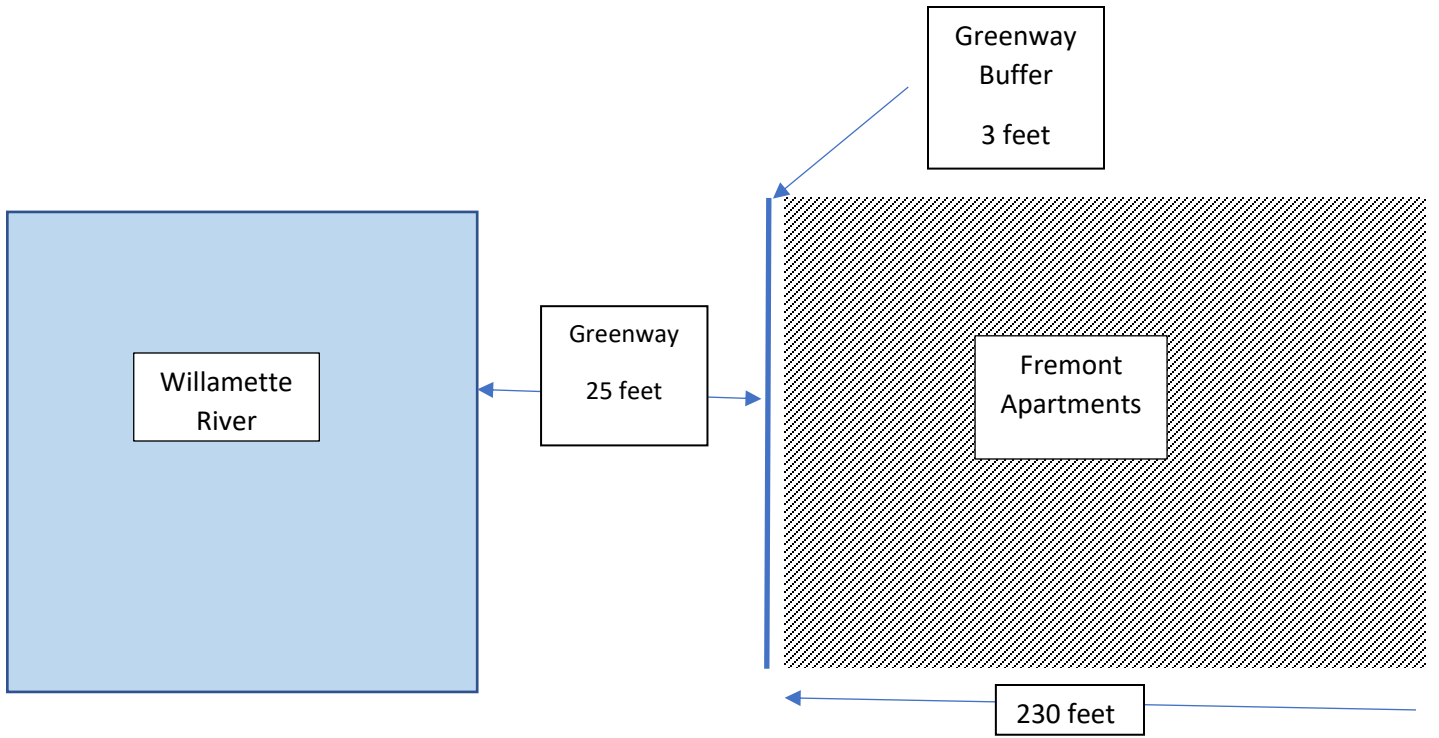


Figure 1A

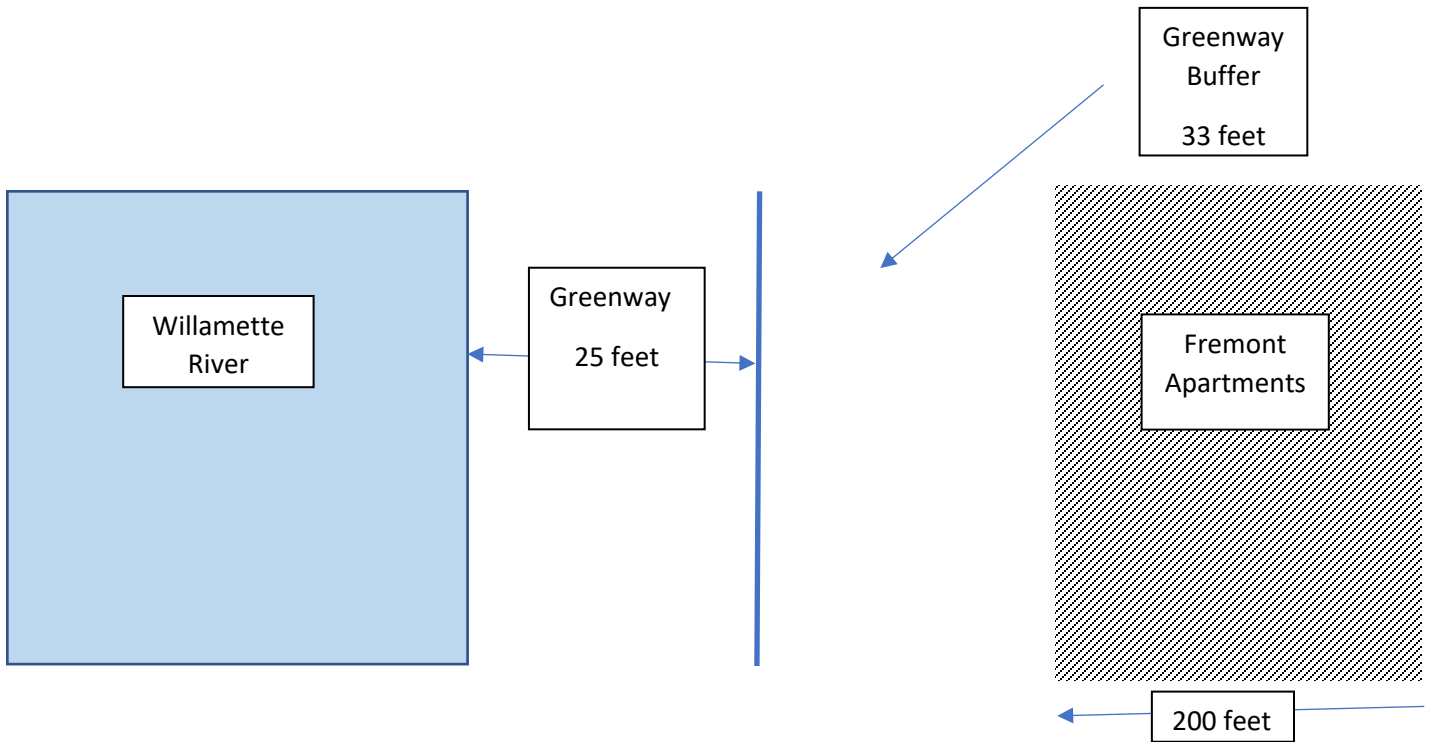


Figure 1B

Exhibit 6

Dated: April 7, 1987

1. Parties

Fremont Place Partnership (Grantors) are owners in fee simple of certain real property in the City of Portland (Property) and more specifically described as follows:

See Exhibit "A" Legal Description

The City of Portland (City) is a municipal corporation.

2. Easement

Grantors hereby grant to the City for the benefit of the public a perpetual, nonexclusive, affirmative easement to use a strip of land across the Property 25 feet wide (Easement Area). The centerline of the strip is located as follows:

See Exhibit "B"

[insert description of centerline]

APRIL 8, 1987

3. Purpose: The purpose of this easement is to provide public access to and along the Willamette River by creating a public path over and across the Property.

4. Scope of Public Use: The public shall have the right to use the Easement Area for the sole purpose of enjoying the Willamette River. To this end, the public shall have the right to walk, bicycle, picnic on and use the Easement Area in the same manner as a public park.

These rights are to be exercised between 5:00 a.m. and 10:00 p.m., unless otherwise set forth in this agreement. Grantor shall have the right to restrict access to the Easement Area during hours when the public does not have rights to use.

The public's right of use as set forth above, including the types and hours of use described therein, constitute the minimum rights granted to the public under this agreement. The City, at its option, may expand these rights, provided that the City shall bear the increased costs for policing the area and for noise, trash and people control resulting from such expanded uses, and provided further that such expanded uses do not unreasonably interfere with the Grantor's use and enjoyment of the remainder of the Property. Nothing herein, however, authorizes the City to expand the Easement Area.

APRIL 8, 1987

5. Scope of Grantor's Use: Grantor shall have the right to use the Easement Area for all purposes not inconsistent with the exercise by the public of the rights granted by Grantor herein. No commercial activities shall be conducted in the Easement Area by any party.

6. Maintenance and Repair: The Grantor shall be responsible for maintenance and repair of the Easement Area. Additionally, the Grantor shall be responsible and liable for the Easement Area. The Grantor agrees to hold the City and its officers, agents, and employees harmless from all claims, suits or actions by third parties, caused by or arising out of the negligent acts or omissions of Grantor's subcontractors, agents or employees who repair and maintain the easement area.

7. Construction and Landscaping: Grantor shall construct and landscape the Easement Area to City standards. Grantor shall complete construction and landscaping of the Easement Area within 120 days of the date of execution of this Agreement.

Grantor shall erect no structure of any type in the Easement Area other than shelters, benches or other minor structures coordinated with the landscaping and intended for public use, without the written consent of the City Commissioner in Charge of the Bureau of Parks. Once such consent has been given, construction may not begin until the City, through its Bureau of Planning, has reviewed and approved in writing the design plans for such structures.

APRIL 8, 1987

8. Effective Date: The rights of the public under this Agreement shall become effective when construction and landscaping of the Easement Area is complete.

9. Successor Interests: This easement is appurtenant to the Property. However, in the event of any subdivision or sale of any portion of the Property, this easement shall remain appurtenant to the remaining parcel(s) across which the easement lies. Owners of the other parcels into which the Property may be divided shall have no right to use the Easement Area beyond their rights as members of the general public.


10. Duration: This easement shall remain in effect perpetually. However, it shall expire automatically in the event that the City Council by ordinance declares that the easement no longer is needed for public use or access to the Willamette River, in which case the City shall execute a recordable document evidencing such expiration.

11. Encumbrances: This easement is granted subject to all prior easements or encumbrances of record.


12. Consideration: The consideration for this agreement shall consist of the mutual covenants and agreements of the parties, contained herein.

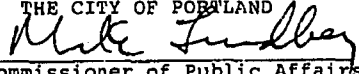
APRIL 8, 1987

IN WITNESS WHEREOF, the parties have caused this instrument to be executed the day and year first written above.

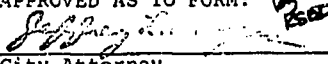

FREMONT PLACE PARTNERSHIP Grantors

Subscribed and sworn to before me April 7, 1987.


NOTARY PUBLIC FOR OREGON
My commission expires: 9-17-89

THE CITY OF PORTLAND
By 
Commissioner of Public Affairs

By 
Auditor

APPROVED AS TO FORM:

City Attorney
CITY ATTORNEY
56.01.10

APRIL 8, 1987

Jim Weddle & Associates

1750 S.W. Skyline Blvd., Suite 8
Portland, Oregon 97221

PROFESSIONAL LAND SURVEYORS

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Telephone
292-8083

Property Description
Parcel 2
Fremont Place

Feb. 24, 1987

File No. 87-1419

OREGON
JULY 12, 1988
JAMES O. WEDDLE
874

Description of a parcel of land situated in the Southeast one quarter (SE1/4) Section 28, Township 1 North, Range 1 East, Willamette Meridian, City of Portland, County of Multnomah and State of Oregon being all of Lots 2, 3, 4 and 5; the Northerly 15.00 feet of Lot 1 and the Southerly 26.90 feet of Lot 6, River Block, "Watson's Addition to the City of Portland", as laid out by the duly recorded plat thereof, together with all lands and riparian rights adjacent thereto, to the riverside of the aforesaid lots and portions thereof, to the Harborline of the Willamette River EXCEPTING THEREFROM a strip of land 3.50 feet in width dedicated to the City of Portland for street purposes described in Book 1647 Page 597, Recorded February 22, 1983, Multnomah County Deed Records, said land more particularly described as follows:

Commencing at the most westerly corner of Lot 10, said River Block, said corner being in the Easterly right of way line of N.W. Front Avenue, 80 feet wide; thence North 41°20'00" East along the Northwesterly line of said Lot 10, 3.50 feet to a point in the Easterly line of that certain parcel of land deeded to the City of Portland by Warranty Deed Recorded February 22, 1983 in Book 1647 Page 597, Multnomah County Deed Records; thence South 48°40'00" East parallel to and 43.50 feet (when measured at right angles) Easterly of the centerline of said N.W. Front Avenue 473.10 feet to the point of beginning; thence North 41°20'00" East 356.10 feet to the Harborline of the Willamette River; thence along said line South 45°59'20" East 442.38 feet; thence South 41°20'00" West 335.43 feet; thence North 48°40'00" West parallel to the centerline of N.W. Front Avenue 441.90 feet to the point of beginning.

Containing therein an area of 152,793.1 square feet, 3.508 acres, more or less.

EXCEPTING THEREFROM any land lying below the low waterline of the Willamette River under the ownership of the State of Oregon.

SUBJECT TO and TOGETHER WITH all easements of record.

ALSO SUBJECT TO the rights of the public and governmental bodies in and to that portion of the hereinbefore described parcel of land lying below the high waterline of the Willamette River.

APRIL 8, 1987

APRIL 8, 1987

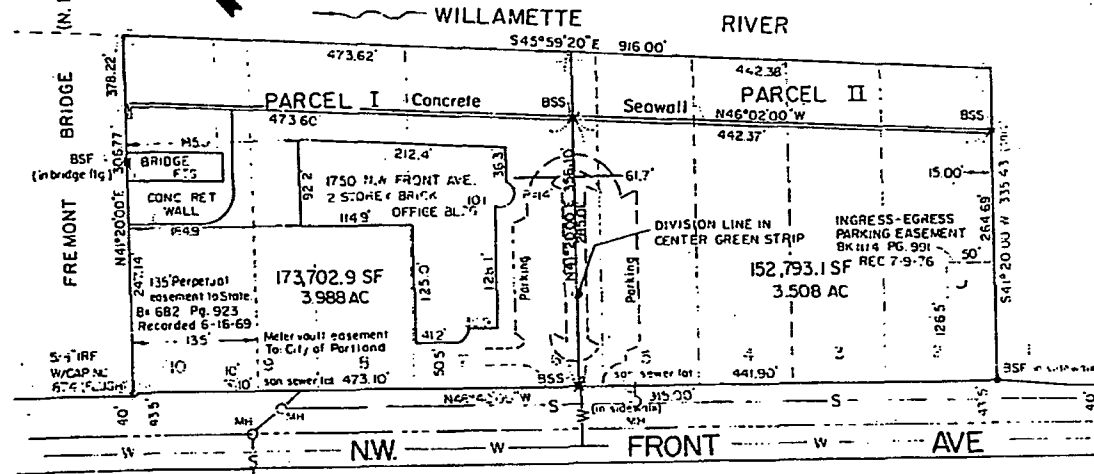
JIM WEDDLE & ASSOC., Inc.
1750 SW Skyline Blvd.
Portland 97221
292-6083

FF# 24,1987
SCALE - 1"=100'

PROPERTY DESCRIPTION:

ALL OF LOTS 2, 3, 4, 5, 6, 7, 8, 9 AND 10 AND THE NORTH-WESTERLY 15.00 FEET OF LOT 1, RIVER BLOCK, WATSON'S ADDITION TO THE CITY OF PORTLAND AS Laid OUT BY THE Duly RECORDED PLAT THEREOF, TOGETHER WITH ALL LAND AND RIPARIAN RIGHTS AND EASEMENTS THEREON TO THE N.E. SIDE OF THE PLAT AS SHOWN, LOTS TO THE NORTH LINE OF THE WILLAMETTE RIVER, EXCEPTING THEREFROM ANY LAND TO BE OWNED BY THE LAND WATER AND THE WILLAMETTE RIVER AND THE JACOBSON TRACT, THE STATE OF OREGON AND ALSO EXCEPTING THEREFROM THE 20' NORTHWEST CORNER 15' FEET THEREOF, AND PLAT TO THE CITY OF PORTLAND FOR STREET PURPOSES IN THE SE 1/4 SECTION 28, T.11N., R.1E., W.M. PORTLAND, MULTNOMAH COUNTY, OREGON

NOTE: 100 YR. FL. PLAIN EL. = 28.0 (U.S.C. & G.S. DATUM) (29.375 C.O.P. DATUM)



NARRATIVE:

PURPOSE OF SURVEY: TO CREATE 2 PARCELS OF LAND AS SHOWN HEREON.
PROCEDURE: MONUMENT PER RECORDED SURVEY NO. 49614 WERE FOUND, MEASURED AND USED TO DIVIDE THE PROPERTY AS SHOWN.
BASIS OF BEARINGS: SURVEY NO 46618
REFERENCE SURVEYS: NOS 46618, 5002, PLAT

LEGEND:

- X = BSS = BRASS SCREW SET IN CONCRETE
- BSF = BRASS SCREW FOUND IN CONCRETE
- = 5/8" IRON ROD FOUND W/CAP NO 674
- W = Water S = San sewer MH = Manhole

OWNERS:

FREMONT PLACE PARTNERSHIP
1515 SW 5TH AVENUE
PORTLAND, OR. 97201 223-6605

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THE LANDS REPRESENTED HEREON WERE SURVEYED BY ME OR UNDER MY DIRECT SUPERVISION, THAT I HAVE CAREFULLY INSPECTED THE PREMISES SHOWN AND THIS MAP IS A TRUE REPRESENTATION OF THE FACTS TO THE BEST OF MY KNOWLEDGE.

Jim Weddle
4/8/87

REVISED 2-24-87

RECORD OF SURVEY

SCALE NOTED	APPROVED BY	DRAWN BY
DATE NOTED		JIM W
FREMONT PLACE		
(REF. 85-1317)		DRAWING NUMBER 67-1419

BOOK 1993 PAGE 2568

EXHIBIT B

BOOK 1993 PAGE 2569

Freemont Place
Centerline Description
Greenway Trail Easement

March 25, 1987
File No. 87-1419

Centerline description of a strip of land 25.00 feet in width (12.50 feet on each side of centerline) situated in the Southeast one quarter (SE1/4) Section 28, Township 1 North, Range 1 East, Willamette Meridian, Multnomah County, Oregon, said centerline lying in and across a portion of Lots 1 through 10, River Block, "Watson's Addition to the City of Portland", described as follows:

Commencing at the Northwest corner of Lot 10, River Block, "Watson's Addition to the City of Portland", as laid out by the duly recorded plat thereof, said corner being in the Easterly right of way line of N.W. Front Avenue, 80 feet wide; thence North $41^{\circ}20'00''$ East along the Northwesterly line of said Lot 10, 297.76 feet to the point therein, said point being the point of beginning of the hereinafter described centerline; thence South $46^{\circ}02'00''$ West 915.97 feet to a point 15.00 feet (when measured at right angles) Southerly of the Northerly line of Lot 1, said River Block, and the termination of said centerline, said termination point bears South $48^{\circ}40'00''$ East 15.00 feet and North $41^{\circ}20'00''$ East 255.68 feet from the Northwest corner of said Lot 1.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 12, 1969
JAMES O. WEDDLE
874

APRIL 8, 1987

BOOK 1993 PAGE 2570

Greenway Trail Easement to City
To be recorded
028558

STATE OF OREGON }
Multnomah County }

I, a Deputy for the Recorder of Conveyances, in and for
said County, do hereby certify that the within instrument of
writing was received for record and recorded in the records
of said County

1987 APR -8 PH 2:09

RECORDING SECTION
MULTNOMAH CO. OREGON

In Book On Page
BOOK 1993 PAGE 2562

witness my hand and seal of office this day
Recd. Sec. of Conveyances

m. Lutno
Deputy

Return to City Auditor
PH

APRIL 8, 1987

Exhibit 7

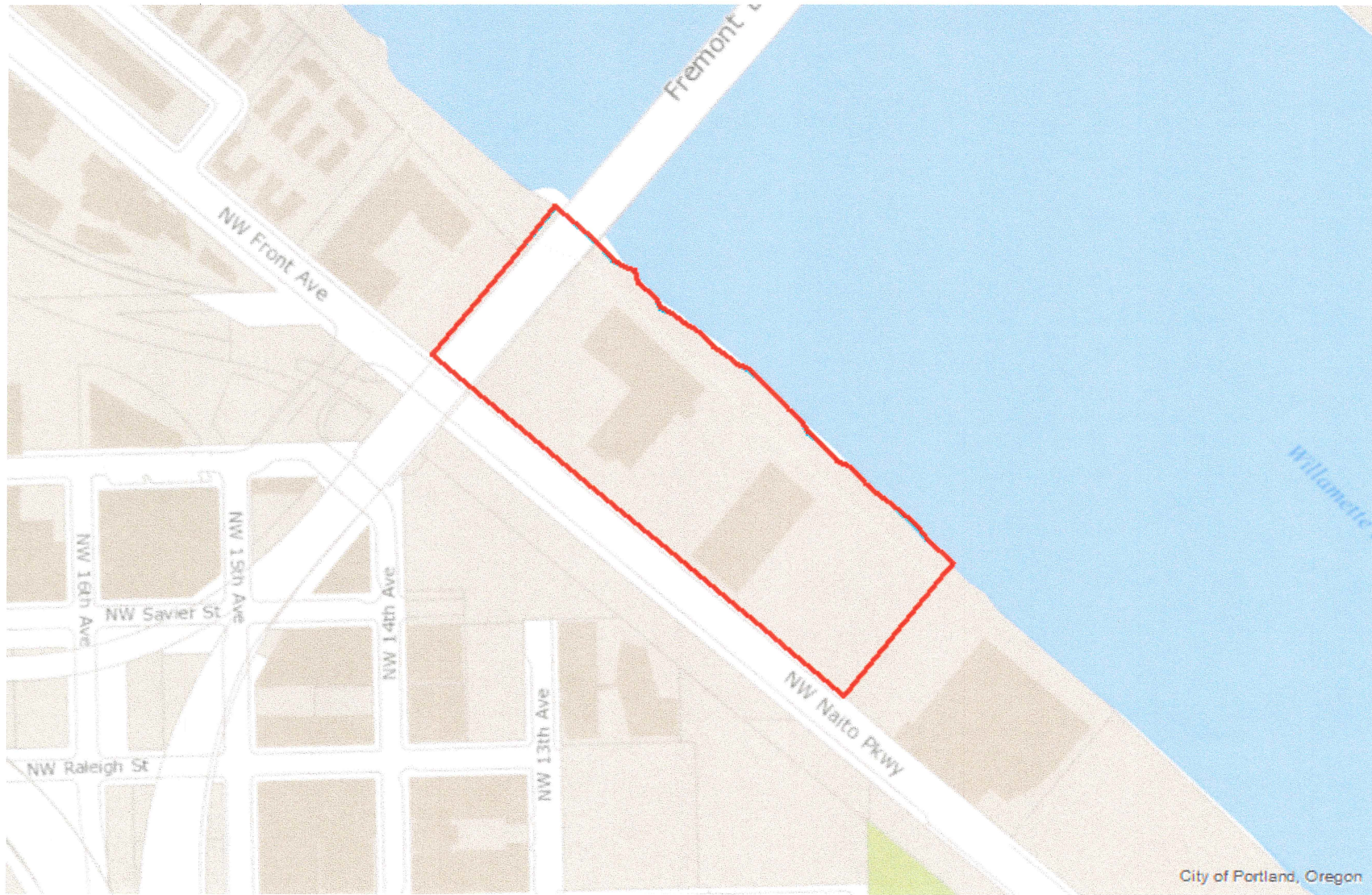


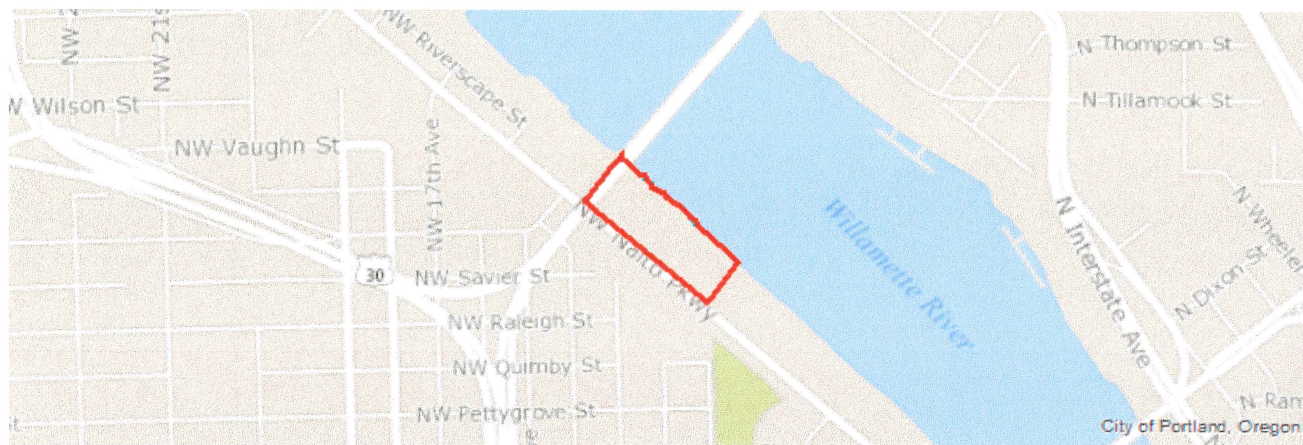
Exhibit 8

1650 NW NAITO PKWY, BLDG 304

PORTLAND, OR 97209

2017-169109-000-00-LU**PERMIT****IVR Number** 4015782**Permit/Case Type** Land Use Review
Type 1x procedure
LC - Lot Consolidation**Work/Case Descripti...** Consolidate multiple lots into 2 lots.**Issue Date****Final Date****Latest Activity** 6/16/2017**Status** Pending**Activity**

Activity	Type	Must Check	Activity Status	Last Activity	Completed	Staff Co
Application Intake	Land Use Review	Y	Completed	05/15/2017	05/15/2017	LAND U:
Planner Assigned	Land Use Review	Y	Open	05/17/2017		Green,K:
Verify Completeness	Land Use Review	Y	Completed	06/15/2017	06/15/2017	Green,K:
Prepare Notice	Land Use Review	Y	Completed	06/16/2017	06/19/2017	LAND U:
Finalize Decision Report	Land Use Review	Y	Open	06/16/2017		LAND U:
Site Dev Review - LU	Site Development	N	Response Sent	07/12/2017	07/12/2017	Helm,Ge
Life Safety Review - LU	Life Safety	Y	Response Sent	07/14/2017	07/14/2017	Aulwes,†
Fire Review - LU	Fire Bureau	N	No concerns	06/21/2017	06/21/2017	Krantz,D
BES Dev Srv - LU	Environmental Services	N	Response Sent	07/18/2017	07/18/2017	Kersens,
BES Source Ctrl - LU	Environmental Services	N	No concerns	06/22/2017	06/22/2017	Kohlsmi
BES Watershed Srv - LU	Environmental Services	N	No concerns	06/22/2017	06/22/2017	Kohlsmi
PDOT Review - LU	Transportation	N	No concerns	06/30/2017	06/30/2017	deFreita:
PDOT Conditions	Transportation	N	Not Met	08/16/2017	08/16/2017	Close,W
Water Review - LU	Water Bureau Review	N	Response Sent	07/17/2017	07/17/2017	Moore,M
Urban Forestry - LU	Parks Bureau	N	No concerns	07/07/2017	07/07/2017	Smith,Jo



1650 NW NAITO PKWY, BLDG 304

PORTLAND, OR 97209

2017-113983-000-00-PR

PERMIT

IVR Number 3959202

Permit/Case Type Public Registry
 Sites With Other Development
 Property Line Adjustment

Work/Case Descripti... PROPOSAL IS TO ADJUST THE COMMON PROPERTY LINE BETWEEN TWO PROPERTIES TO ACCOMMODATE FUTURE DEVELOPMENT.

Issue Date

Final Date

Latest Activity 3/15/2017

Status Under Review

Activity

Activity	Type	Must Check	Activity Status	Last Activity	Completed	Staff C
Intake - PR	Land Use Review	Y	Completed	02/08/2017	01/31/2017	Pfaff,An
P & Z Review - PR	Land Use Review	Y	Checksheet	03/15/2017		
Site Development Review - PR	Site Development	Y	No concerns	04/10/2017	04/10/2017	ButlerBr
Life Safety Review - PR	Life Safety	Y	Response Sent	02/21/2017	02/21/2017	Davis,N
BES Development Srv - PR	Environmental Services	Y	Response Sent	02/21/2017	02/21/2017	Kersens
PDOT Review - LU	Transportation	Y	Completed	03/27/2017	03/27/2017	deFreita
Water Review - PR	Water Bureau Review	Y	No concerns	02/10/2017	02/10/2017	Wenz,T

Moore-Love, Karla

From: Stanley Penkin <stanleypenkin@gmail.com>
Sent: Friday, February 23, 2018 8:01 AM
To: Moore-Love, Karla
Subject: Fremont Appeal - Follow Up Testimony
Attachments: Follow Up Testimony - Stan Penkin.pdf

Good Morning Karla,

Please enter into the record the attached follow up testimony with reference to the Fremont Apartments appeal.

Kindly acknowledge receipt.

Many thanks,

Stan

Stan Penkin
President, Pearl District Neighborhood Association
845 417.8755



www.pearldistrict.org

**Fremont Apartments Appeal Testimony
Follow Up
by Stan Penkin
President, Pearl District Neighborhood Association
February 23, 2018**

With reference to City Council's questions during the appeal hearing on February 21st regarding the meaning of context and implications of the Central City 20135 plan as related to the Fremont project:

My first preference for development would be to have context with other buildings along the river such as Waterfront Pearl to the south with its human scale and expansive, surrounding water feature and Bridgetown Lofts to the north at six stories and with a 50' river setback that totally respects the public views of the iconic bridge.

If CC2035 would create a worse building, then perhaps CC2035 shouldn't be approved. Short of the first preference, Fremont Apartments would be far better under the 2035 provisions if sensitively designed. A 250' slender tower on a reasonably sized podium would obscure far less of the bridge and set a precedent for slender towers on the southern properties, thus creating view corridors between the buildings instead of a wall. In addition, with the 50' river setback requirement, the building would no longer encroach on the river as in the present configuration. Lastly, if built under CC2035, it would be subject to much needed inclusionary housing which I believe would be welcomed by the Pearl community. This would be a win-win for the Pearl District and the city.

Moore-Love, Karla

From: George Galster <george.galster@wayne.edu>
Sent: Tuesday, February 27, 2018 12:02 PM
To: Council Clerk – Testimony
Subject: Rebuttal Testimony re: Fremont Apartments PDNA appeal
Attachments: Galster rebuttal comments on aspirational context 2-26-18.docx

Dear City Clerk,

Please accept the attached submission as a rebuttal testimony re: public hearing on Feb. 21 re: Fremont Apartments appeal by PDNA.

Thanks for entering this into the record.

Sincerely,

GG

George C. Galster
Clarence Hilberry Professor of Urban Affairs
and Distinguished Professor, Emeritus
Department of Urban Studies and Planning
Wayne State University, Detroit, MI 48202 USA
[for mailings:]
1130 NW 12th Ave. #520
Portland, OR 97209 USA
email: george.galster@wayne.edu

Feb. 25, 2018

Commissioners of the City of Portland:

My name is George Galster, PhD, a resident owner in The Pearl District and a retired Professor of Urban Studies and Planning, Wayne State University, Detroit. I wish to offer this document as rebuttal testimony after testifying as an Expert for the Appellant in the hearing on Feb. 21, 2018 re: ***PDNA's appeal of the Portland Design Commission's decision on Dec. 22, 2017 to approve Design Review and concurrent Greenway Review for the proposed Fremont Apartments (case LU 16-278621 DZM GW).***

Commissioner Nick Fish asked several presenters during the hearing on Feb. 21, 2018 about the meaning of "context" when applied to the Fremont Apartment proposal. He essentially asked, "What would you LIKE to see built on this site?" Unfortunately, I was not asked this vital question during my testimony, so I would like to take this opportunity to provide a written response for the record.

I take as guidance for my response the *Portland Zoning Code*, Title 33 (2017), 33.510.205.H.2., which defines context for design purposes as "the character and identity of three blocks in every direction." In this case, the context therefore becomes "what has already been recently built in the River District of the North Pearl Subarea:" The Waterfront Pearl, The Bridgetown Lofts, and other developments north of the Fremont Bridge. I would hope that buildings such as these, which have 50-foot setbacks from the river, moderate heights, numerous view corridors to the river, and dramatic art and water features, would be replicated in the remaining development sites along the river between the Fremont and Broadway Bridges. This vision would be the likely outcome were the Commissioners to uphold the PDNA's claims that the Fremont Apartment proposal is more massive than is appropriate for this site because:

- (1) The Design Commission failed to challenge the developer's miscalculated base floor area; and/or
- (2) The Design Commission failed to uphold the design guidelines by granting all three FAR bonuses when they were not required to do so.

Virtually all of my objections to the proposed Fremont Apartments expressed in my prior written and oral testimony are based on its excess mass. With an allowable mass appropriate for this special site, I could easily imagine that a variety of laudable designs sensitive to the existing context could be constructed.

If, however, the Commissioners chose to reject the PDNA's claims that the Fremont Apartment proposal is more massive than is appropriate for this site, I would hope that they would nevertheless support the PDNA appeal on the grounds that the Design Commission:

- (1) Failed to comply with several River District Design Guidelines; and/or
- (2) Granted modifications in violation of PZC because these countered the express purposes of the PZC and applicable Design Guidelines.

Under these second-best circumstances, my vision would be somewhat different. In this eventuality, I would foresee the forthcoming Portland 2035 Plan and associated zoning codes being in effect. The expected new requirements of the 2035 Plan for the North Pearl Subarea/River District—especially allowing 250-foot heights and requiring a 50-foot Willamette Greenway setback—would make this a substantially more desirable building, even with the currently approved mass. This revised version of the Fremont Apartments could be built up to 250 feet tall within new code, allowing a reallocation of mass from the base into a taller but more slender tower. This would permit *both* less obstruction of the views of the Fremont Bridge from Fields Park and 10th and 11th Avenues in The Pearl District *and* less constriction of the greenway. Moreover, if the mandated 60 feet of public access view corridors between NW Naito Parkway and the river were split on both sides of the building (instead of only on the north side as currently), the tower could be shifted even more out of sightlines of the Fremont Bridge. The comparisons between the current and envisioned Fremont Apartments are rendered in the two figures below. The envisioned building would be much more sensitive to context and much more desirable than the currently approved one.

Currently Approved Fremont Apartments



Potential Fremont Apartments under Expected Portland 2035 Guidelines



The reconfigured Fremont Apartments would represent a far superior option from a planning perspective. Portland could get the same new housing built (but with the bonus of an inclusionary housing set-aside) with less obstruction of iconic views and the Willamette Greenway.

I continue to urge the Commissioners to uphold the PDNA's appeal on one or more grounds. The current design of the Fremont Apartments represents the wrong building for this special site.

Moore-Love, Karla

From: Peter Gramlich <peter.gramlich@pcc.edu>
Sent: Tuesday, February 27, 2018 11:37 AM
To: Moore-Love, Karla
Subject: Fremont Place appeal letter attached 2/27
Attachments: PG appeal letter 2 26 18.pdf

Good Morning Karla,

Please enter into the record the attached follow up testimony with reference to the Fremont Apartments appeal.

Many thanks,

Peter Gramlich

Comments regarding the proposed Fremont Apartments development
Appeal testimony follow-up

Ref: LU 16-278621 DZM GW 1650 NW Naito Pkwy/Fremont Apartments

Monday, February 26, 2018

Greetings, Mr. Mayor and City Commissioners-

I own Gramlich Design & Planning in Portland. I have Bachelor's and Master's degrees in architecture and am a LEED Accredited Professional. I've worked for large firms in Boston and in Germany, and have helped design projects in the US, Europe, the Middle East and Asia.

I testified against the approval of the building as proposed at the hearing, and would like to add the following comment:

At the hearing on 2/21/18, the developer revealed that the ground-floor locker room, for which it received a bonus of 40 times the space allocated for a locker room (in this instance 15200 SF), is intended to serve only one male and one female employee. Given the limited need for such facilities, the allocation of 380 SF, about the size of a studio apartment, is substantially more than the size warranted. I believe the excess square footage has only been allocated to get the 40x bonus.

The spatial needs of one male and one female worker can be easily met with a layout of 112 SF. An accessible unisex restroom of a 14' x 8' size would allow for an ADA-accessible toilet, sink and shower. Even accounting for separate spaces, in lieu of the more efficient (and more common) unisex arrangement, there's no reason to allot more square footage here.

I'll add that the presence of a locker room in a residential building is dubious in and of itself; I cannot think of a reason for its existence other than to accrue bonuses for floor area ratio.

Thank you for your consideration.

Peter Gramlich, M. Arch., LEED AP
338 SE 48th Ave
Portland OR 97215
541 350 2800
peter.gramlich@pcc.edu