



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **17TH DAY OF SEPTEMBER, 2003** AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Leonard, Saltzman and Sten, 5.

Commissioner Francesconi arrived at 9:34 a.m.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Harry Auerbach Senior City Attorney; and Officer Michael Frome, Sergeant at Arms.

On a Y-5 roll call, the Consent Agenda was adopted.

	Disposition:
COMMUNICATIONS	
1088 Request of Jada Mae Langloss to address Council regarding absence of public lavatories at night in Portland (Communication)	PLACED ON FILE
1089 Request of Jon Putnam to address Council regarding diversity (Communication)	PLACED ON FILE
1090 Request of Merrick Bonneau to address Council regarding his case (Previous Agenda 1049)	PLACED ON FILE
1091 Request of Tycian G. Bonneau to address Council regarding Merrick's case (Previous Agenda 1050)	PLACED ON FILE
1092 Request of Sam Oakland to address Council regarding General Services Administration failure to follow federal law regarding Pioneer Post Office / Courthouse (Communication)	PLACED ON FILE
TIME CERTAINS	
1093 TIME CERTAIN: 9:30 AM – Smart Cities Presentation (Presentation introduced by Mayor Katz)	PLACED ON FILE

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<p>S-1094 TIME CERTAIN: 10:00 AM – Adopt the Northwest District Plan (Previous Agenda 1016; Ordinance introduced by Mayor Katz)</p> <p>Motion to accept amendment to adopt Option B to require property owners to record a signed statement that they will a) make a good faith effort to market office space only to businesses whose primary market is industrial firms in the Guild’s Lake Industrial Sanctuary and b) provide a disclosure statement to all prospective tenants informing the tenants that the office is located in an industrial area where impacts from industrial uses are present, such as noise, vibrations, fumes, odors, glare and traffic: Moved by Commissioner Francesconi and seconded by Commissioner Leonard.</p> <p>(Y-4; N-1, Katz)</p> <p>Motion to accept Northwest and GLIS Plan District amendment language to the Northwest Transportation Fund bonus option to revise Sections 33.562.230G and 33.531.140.F to eliminate the need for the applicant to produce a letter from PDOT documenting payment to the Northwest Transportation Fund: Moved by Commissioner Francesconi and seconded by Commissioner Leonard and gaveled down by Mayor Katz after no objections.</p> <p>Motion to accept the Substitute Ordinance as amended: Moved by Commissioner Francesconi and seconded by Commissioner Leonard.</p> <p>(Y-4; N-1, Katz)</p>	<p align="center">SUBSTITUTE PASSED TO SECOND READING AS AMENDED SEPTEMBER 24, 2003 AT 9:30 AM</p>
<p>1095 Adopt the Northwest District Plan Urban Design Concept and Action Charts (Previous Agenda 1017; Resolution introduced by Mayor Katz)</p>	<p align="center">CONTINUED TO SEPTEMBER 24, 2003 AT 9:30 AM</p>
<p>1096 Amend Property Tax Exemption for New Transit Supportive Residential and Mixed Use Development (Previous Agenda 1018; Ordinance introduced by Mayor Katz; amend Code Chapter 3.103)</p>	<p align="center">PASSED TO SECOND READING SEPTEMBER 24, 2003 AT 9:30 AM</p>
<p align="center">CONSENT AGENDA – NO DISCUSSION</p> <p>1097 Statement of cash and investments July 31, 2003 through August 27, 2003 (Report; Treasurer)</p> <p>(Y-5)</p>	<p align="center">PLACED ON FILE</p>
<p>1098 Accept the bid of Stettler Supply Company for the improvements to Well Sites No. 28 and No. 34 in the amount of \$1,449,200 (Purchasing Report - Bid No. 102368)</p> <p>(Y-5)</p>	<p align="center">ACCEPTED PREPARE CONTRACT</p>
<p align="center">Mayor Vera Katz</p> <p>1099 Approve the application of Raven Apartments, LLC for a ten-year property tax exemption for a Transit Oriented Development project (Resolution)</p> <p>(Y-5)</p>	<p align="center">36168</p>

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<p>*1100 Accept a \$30,000 grant from Metro Government Regional Parks and Greenspaces Program and U.S. Fish and Wildlife Service for FY 03/04 for costs associated with the creek daylighting portion of the Headwaters at Tryon Creek housing and restoration project (Ordinance) (Y-5)</p>	<p align="center">177882</p>
<p>*1101 Pay claim of Kendrick Brown (Ordinance) (Y-5)</p>	<p align="center">177883</p>
<p>*1102 Execute Intergovernmental Agreement to receive \$70,000 from the U.S. Department of Agriculture for a Public Market Assessment (Ordinance) (Y-5)</p>	<p align="center">177884</p>
<p>*1103 Authorize contract with Preston, Gates & Ellis, LLP for bond counsel services in an amount not to exceed \$700,000 (Ordinance) (Y-5)</p>	<p align="center">177885</p>
<p>*1104 Create a new classification of Facilities Maintenance Technician Apprentice and establish an interim compensation rate for this classification (Ordinance) (Y-5)</p>	<p align="center">177886</p>
<p>*1105 Create a new Nonrepresented classification of Facilities Contracts Coordinator and establish a compensation rate for this classification (Ordinance) (Y-5)</p>	<p align="center">177887</p>
<p align="center">Commissioner Jim Francesconi</p>	
<p>*1106 Accept a \$250,000 grant from Oregon State Parks Local Government Grant Program to acquire a site in Southwest Portland known as the Holly Farm for use as a neighborhood park (Ordinance) (Y-5)</p>	<p align="center">177888</p>
<p>*1107 Authorize one-time rebate payments to property owners who paid for the removal of diseased elm trees on the adjacent right-of-ways (Ordinance) (Y-5)</p>	<p align="center">177889</p>
<p>*1108 Designate a Heritage Tree in the City of Portland (Ordinance) (Y-5)</p>	<p align="center">177890</p>
<p>*1109 Accept a grant from Multnomah County in the amount of \$172,577 for operation of an integration program for senior citizens who have mental retardation/developmental disabilities (Ordinance) (Y-5)</p>	<p align="center">177891</p>
<p>*1110 Authorize agreement with Time Oil Road Property Owners consortium for a temporary public roadway easement and limited rights of entry for the North Lombard Overcrossing Project (Ordinance) (Y-5)</p>	<p align="center">177892</p>

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Commissioner Dan Saltzman	
<p>1111 Adopt a Waste Reduction Program and authorize an Intergovernmental Agreement with Metro to receive Metro Waste Reduction Challenge Funds in the amount of \$239,482 in FY 03-04 (Second Reading 1069)</p> <p>(Y-5)</p>	177893
Commissioner Erik Sten	
<p>*1112 Authorize Intergovernmental Agreement with the City of Gresham for the cooperation of local government to prepare and update the Consolidated Plan and to receive payment (Ordinance)</p> <p>(Y-5)</p>	177894
<p>*1113 Authorize a subrecipient agreement with Open Meadow Learning Center for \$104,259 for the Corps Restoring the Urban Environment program and to provide for payment (Ordinance)</p> <p>(Y-5)</p>	177895
<p>*1114 Authorize a subrecipient agreement with Housing Development Center for \$129,603 to provide technical services to non-profit developers of affordable housing and provide for payment (Ordinance)</p> <p>(Y-5)</p>	177896
REGULAR AGENDA	
<p>1115 Direct the Office of Management and Finance to recognize and allocate additional beginning balance for FY 2003-04 in accordance with the Beginning Fund Balance Strategic Use Proposal (Resolution introduced by Mayor Katz and Commissioners Francesconi, Leonard, Saltzman and Sten)</p> <p>(Y-5)</p>	36169
Mayor Vera Katz	
<p>1116 Establish an expedited process to process minor changes to the City boundary (Second Reading Agenda 1055)</p> <p>(Y-5)</p>	177897
Commissioner Dan Saltzman	
<p>*1117 Authorize loan agreement in the amount of \$12,382,757 with Oregon Department of Environmental Quality under the State Revolving Fund Program for water quality projects (Ordinance)</p> <p>(Y-5)</p>	177898

At 10:40 a.m., Council recessed.

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WEDNESDAY, 6:00 PM, SEPTEMBER 17, 2003

**DUE TO LACK OF AGENDA
THERE WILL BE NO MEETING**

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 18TH DAY OF SEPTEMBER, 2003 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Leonard, Saltzman and Sten, 5.

Commissioner Saltzman arrived at 2:05 p.m.

Commissioners Francesconi and Leonard arrived at 2:06 p.m.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Linly Rees, Deputy City Attorney; and Officer Michael Frome, Sergeant at Arms.

<p>1118 TIME CERTAIN: 2:00 PM – Appeal of the Sunnyside Neighborhood Association against Hearings Officer’s decision to approve the application of Martin Treece and Marquis Companies I Inc for a Conditional Use with Adjustments for an assisted living facility at Hawthorne Gardens, 2827 SE Salmon Street (Hearing; LU 03-111111 CU AD)</p> <p>Motion to continue the item to October 16th to allow both parties to come back with a proposal, the record remains open, no appealing on the procedural issues based on the conditions or the opening of the record, extend the 120-day clock for as long as needed to come back for the continuance to Council, go back and look at design issues, and come back with a good neighbor agreement: Moved by Commissioner Leonard and seconded by Commissioner Saltzman and gavelled down by Mayor Katz after no objections.</p>	<p>Disposition:</p> <p>CONTINUED TO OCTOBER 16, 2003 AT 3:00 PM TIME CERTAIN</p>
<p>1119 TIME CERTAIN: 3:00 PM – Consider the proposal of Legacy Health System and Bureau of General Services and the recommendation from the Hearings Officer for approval of a Comprehensive Plan Map and Zoning Map Amendment for two properties located at N Kerby Avenue at Stanton and Graham Streets (Hearing; LU 03-110857 CP ZC)</p> <p>Motion to accept the Hearings Officer's recommendation: Moved by Commissioner Leonard and seconded by Commissioner Sten.</p> <p>(Y-5)</p>	<p>ACCEPT HEARINGS OFFICER'S RECOMMENDATION</p>
<p>*1120 Amend the Comprehensive Plan Map designation of two properties in North Portland located on either side of North Kerby Avenue at North Graham Street from Institutional Campus to Industrial Sanctuary; and change the zone of said property from Institutional Residential with Design Overlay, IRd zone to General Industrial 1, IG1 zone (Ordinance; LU 03-110857 CP ZC)</p> <p>(Y-5)</p>	<p>177899</p>

At 4:45 pm Council adjourned.

GARY BLACKMER
Auditor of the City of Portland

By Karla Moore-Love
Clerk of the Council

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

September 17, 2003
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.

September 17, 2003 9:30am [roll call]

Katz: Let's take 1088.

Item 1088.

Katz: Jada, I don't see her.

Moore: She's in the building.

Katz: Well maybe she'll come in a little later. 1089.

Item 1089.

Moore: He will not be able to make it.

Katz: All right. 1090.

Item 1090.

Moore: He will not be able to make it.

Katz: 1091.

Moore: He will not be making it.

Katz: Are you -- do you have to delay other people who want to come to the council because people aren't --

Moore: We only put five on and once it fills up --

Katz: Are there other people asking to come but you're telling them they have to wait?

Moore: Yes.

Katz: We need to think through what you want to do when you have people's names on for at least two weeks that don't show up, because they're taking other people's opportunities to speak to the council in a timely fashion. All right. So think about that and let me know.

Moore: Ok.

Katz: 1092.

Item 1092.

Sam Oakland: My name is sam oakland, I live in northwest Portland. I first testified before city council on the harbor drive closure. I love this city, this is my city. I want to ask of you a small favor. Because the general services administration failed to follow federal law in the pioneer post office courthouse dispute, because it did not ask local government -- governance to follow local laws, I ask you to create a special committee, convene a special committee made up of local architects and city planners to fulfill this obligation under federal law and move the process forward. Please create a special blue ribbon committee today and ask former governor neil goldschmidt to chair the committee. Please also invite a representative of the honorable david wu to sit in on the meetings as a nonvoting member and invite Oregon's local senator and representative from the pioneer square area to sit in as a nonvoting member as well. I've asked the general services administration to follow the law. The general services administration has disregarded this request and they have not followed federal law in this case. So I ask you to -- on behalf of the city, we half of the -- behalf of the citizens of this city, on behalf of the state, please create the committee, please follow the federal law, and invite the feds to sit in as nonvoting members.

Katz: Thank you.

*****: Thank you very much.

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Katz: Sam, would you check with phyllis, I just gave her pieces of correspondence, and talk her about details. Thank you. All right. Consent agenda. Anybody want to take any items off the consent agenda? Anybody in the audience wanting to do that? Roll call on consent agenda.

Francesconi: Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

Katz: Mayor votes aye. [gavel pounded] all right. 1093.

Item 1093.

Katz: One of the reasons we have this on the calendar is that we had a guest here that was in town that unfortunately had to go back to her hometown, it's carol carletta, she has a company called smart cities, and also does an n.p.r. Show on this issue. In light of the fact we have been celebrating two to three different festivals this week and part of last week on the creative economy and in light of the fact that allen greenspan now says that he's writing off manufacturing as the job sector of the past, and says ideas not physical goods are becoming increasingly the predominant means by which we create wealth, not that I agree with allen greenspan or have ever fully agreed with him, but the interesting part of it is that he's at least beginning to think of kind of the next generation of ideas about creation of jobs and what communities need to look like. So anyway, I thought it would be wonderful to have carol and joe courtwright here. I couldn't disinvite joe, but -- so he was kind enough to say that we would come anyway without carol, and give us a few minutes about what they have been thinking about and what they are looking at doing.

Joe Courtwright: For the record, joe courtwright. I'm happy to be here this morning. I will be a pale imitation i'm afraid of carol, who is a nationally recognized figure in urban affairs as the host of the smart cities program on public radio. And convener of an event held in may of this year called the memphis summit that really pulled together people from all over the united states to talk about the role of creativity in influencing cities and city economies. And they produced a document that you have here called the memphis manifesto, which really talks about how creativity and how the arts and more generally the creative process that occurs in cities plays an important role in shaping our economy. I think economists are often the last to figure things out like this, and if chairman greenspan has acknowledged it, we can be pretty sure that it's well along in its way to be the accepted wisdom. But what i'd like to do today just briefly is share with you really four thoughts based on our observations, based on our work nationally, and some insights from this creativity process. And the -- first of all, it really is the case that ideas are driving growth. We're really moving from an economy of stuff and an economy of things that we're really familiar with, to a new kind of economy that's based on our ability to generate new ideas. The second point is that in -- even in this economy, this is kind of counter intuitive, but place matters more than ever, because ideas get created in certain places, and it's really the characteristics of a place, and in this case a city that really play a decisive role in determining how good we are at creating ideas and how well our economy functions. And this applies not just for the high-tech sector or r. And d businesses, but across the entire economy. Manufacturing and service businesses, it even applies in the public sector. Third point has to do with what i'd call the economic importance of being different. We will not be, nor will anybody be the best at everything. We will be good at certain things. And those certain things that we're good at that we're really good at creating knowledge in will be a source of advantage for us. It's really important that we understand what we're good at and what kind of knowledge we have in order to put together an economic strategy for an economy of ideas. And then fourth I want to talk about some demographic change that is stalking us and is stalking cities nationwide and will influence the future of the economy over the next 20 years. And it really does turn out that as we go from the baby boom generation, which has really dominated the u.s. Economy over the last 20, 30 years, so the -- to the general couple of generations, that things are changing in specific ways that influence what the opportunities are for economic development. So i'll just hit those four points real quickly. If you have questions, please feel free to interrupt or --

Katz: We're not paying for this, so take full advantage.

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Courtwright: First point on ideas driving growth. Chairman Greenspan has been saying this for a number of years. Basically -- and a lot of other economists. We used to think of the economy as how many machines we could invest in, how many buildings we could build. Those were our measures of wealth. But really, when economists have started taking, looking at this in great detail, it's really been our ability to generate new ideas that's driven the economy forward. The reason we're richer today than we were 150 years ago is not because we have more clipper ships and more whale oil, it's because we've invented fundamentally different ways of doing things. And to make use of the fixed quantity of stuff that exists on the planet in ever better ways. And the striking thing about the economy today and over the last decade in particular has been the thing that separates the places and the companies and the people who are doing well from the ones who are struggling economically is their ability to create new ideas. If you look at the companies who are doing well, they're the most innovative companies in the economy. If you're looking at the people, it's among the best educated and most innovative people. If you look at the places that are doing well, again, it's the places with lots of patents, a well-educated population, with a very entrepreneurial culture that are doing well. So it is the case that ideas are driving the economy forward. And so it's the -- our ability as a place and as companies and as people to generate new ideas that's going to make us successful economically. And this isn't just big ideas. I mean, it's obviously things like Intel having its principle research and development operations just over the hill in Washington County has a huge impact on our economy. But there's lots of other innovation and idea creation that occurs in the economy. It can be things like brewing beer that tastes better than what we all used to buy 20 years ago. It can be things like the Leatherman pocket tool that's made here in Portland. There are all kinds of innovation that can take place. And a lot of it is civic innovation and artistic innovation. That brings me to the second point, which is that place really matters in determining who's good at creating ideas. Now, we used to say a few years ago, every one was talking about the death of distance. Thanks to the internet, now anything could be anywhere. There's no reason for any business to be in any particular place because you can easily move data around just about for free. Well, it's certainly true that you can move information cheaply or almost for free, and do it very quickly. But information is fundamentally different from knowledge. Knowledge is really embedded in individual people and organizations and places. Just as you cannot learn tennis or cooking from reading a book about tennis or a cookbook, that you have to do it as a matter of practice, and that practice is often a social and interactive process. Place still really does matter. And different places as it turns out, are really good at different things. That's been true for a long time in the economy. With you look across the economy, most businesses are the same from place-to-place. About two-thirds of the economy will be schools and grocery stores and banks and insurance companies and so on. But about a third of the economy, and this is the critical third of the economy, differs from place-to-place. And places tend to specialize in certain things. So, for example, we have a specialization in the Portland metropolitan area in the semiconductor business. We produce about 10% of all the semiconductors made in the U.S. Silicon Valley is another area of specialization. But it doesn't apply just to high-tech industries. If you go -- pick fire engines, most of the fire engines made in the United States have been made in the state of Wisconsin. And a few smaller communities there. If you look at food processing equipment, the best food processing equipment in the world happens to be made in -- by a bunch of small companies in our sister city of Bologna in Italy. If you look at the sustainable industry in the United States, we have a significant concentration of those firms here. So you find that in industry after industry, places tend to be specialized. And one of the things we observe is that knowledge and business coexist and reinforce one another in these clusters of economic activity. So place really matters, and one of the critical aspects of places, do you have a place that stimulates creativity and idea creation and new businesses. And places that are open to new ideas and to entrepreneurship, and one of the things we

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say is that entrepreneurship is fundamentally about deviant behavior. It's about somebody deciding.

Katz: I called all of you deviants, by the way, the city council exhibits deviant behavior sometimes. That was a compliment.

Courtwright: What an entrepreneur is basically doing is saying, I can go out and make money doing something that nobody else is doing. Or I think there's a market for an athletic shoe or different kind of beer. So place that's are open to people trying new things and who are not only tolerant of it but will support it and patron eyes it as customers are important to creating new ideas, the kinds of experiment that's drive the economy forward. So cities and the environment you create in cities and whether you're open to new ideas, and that includes everything from the arts, to public policy, to new businesses and so on, is really important to driving our economy forward. Now, if ideas are important and place is important, one of the things that we think is the drivers and the creators of new ideas is the differences that exist from place-to-place. And one of the projects i've been working on with some folks at Portland state university is trying to measure the ways in which the behaviors of people in the Portland metropolitan area are significantly different from the behaviors of other people around the united states. And it's really interesting, because the market research data and a variety of other things show that we -- the self-image that we have is actually pretty accurate. We are different from other americans.

Katz: Quirky.

Courtwright: Absolutely. But some of the measures that really show up, we are more likely to engage in almost every form of recreational behavior that is measured by market researchers. So hiking, camping, fishing, any involvement in environmental organizations. The only thing we don't do in the recreational category more than the u.s. Average actually we're dead last in theme park attendance. [laughter] if you look at measures of connection to the environment in terms of interest in organic foods and purchase of organic foods and subscriptions to magazines about organic food, and gardening food yourself, we are national leaders in that. We also spend more money on alcoholic beverages -- average city in the united states, have more small restaurants. One of the things that's interesting is all of these differences are paralleled by innovative sectors of the local economy. So it's not really any accident that our only fortune 500 company in the area, nike, grew up in eugene, where 30 years ago when it wasn't generally socially acceptable for adults to sweat if they could avoid it, you had a bunch of people out running for recreation and for exercise. And what that environment did, that weird behavior, that quirkiness did, was give phil knight and the other people a little bit of a head start on a very big trend that swept the nation. And arguably the same thing has happened in the microbrewery business, is happening in various aspects of the food processing business, it happened with starbucks in the pike place market in seattle. But quirky behaviors and entrepreneurs and the places that support them will generate a lot of experiments. Most of them will just continue to be quirky and may not result in something else. Some of them will be big hits that will foreshadow the way the economy is going. So one of the things I think we have to be aware of is that our differences, our quirky behaviors, our openness to change and innovation is going to be the source of some ideas that will change our economy. We can't know in advance I don't think what they are, but having a place that's open to that is really important. And I think one of the things that I would stress is, you can't in this idea of economies, be successful by trying to be a cheap imitation of what you think worked for somebody else 10 years ago. You have to be a unique authentic self-driven economy that builds on the different strengths you have. The final point I want to talk about is the role of what we're calling the young and the restless, which is the generation behind the baby boomers. And one of the striking facts that is coming to play in the united states today is that the generation that is now 25 to 34 years of age is significantly smaller than that generation was 10 years ago. There are about 4 million fewer people ages 24 to 34 in the united states today than there were 10 years ago.

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Katz: How many fewer?

Courtwright: About 4 million fewer. That's even after immigration. And this is a group that gets a huge number of immigrants into it. Most metropolitan areas in the United States today have fewer young adults, 25 to 34-year-olds now than they did in 1990. A third of the metropolitan areas have more. Portland is one of those. The number of 25 to 34 has declined about 10% in the U.S. It's gone up about 14% in the Portland metropolitan area. And in fact, we've looked at central city counties, Multnomah county is the second fastest growing major urban county in terms of the number of 25 to 34-year-olds in the United States. Behind Las Vegas, which as we know has been an incredible boomtown.

Leonard: Mayor, I thought I'd remark probably the reason for the low rate of growth of the 25 to 34-year-olds is my generation didn't want to have done to us what we did to our parents.

Courtwright: That may be part of it.

Leonard: A lot of it.

Courtwright: A lot of it is that folks have delayed child bearing, people are committing to relationships, getting married and having children much later in life now, and having fewer children as well. And that's reduced the size of that generation. But the really significant thing about this is, in an economic context, the baby boom generation has been the big story of what's driven U.S. Economic growth for the last 30 years. Because baby boomers over the last 2 1/2 decades have swelled the size of the U.S. Labor force, and let me just give you three big trends to think about. First of all, numerically the baby boomers are significantly larger than the generation that preceded them. Baby boomers are now in their prime working years. Second big change that's happened over the last 30 years has been the role of women in the economy. The labor force participation, the number of women who have jobs, participate in the labor force every day has roughly doubled in the last four decades. That's been a huge increase in the size of the U.S. Labor force. The third change has been college education. About 1960, about 10% of the adults in the U.S. had a four-year college degree. Today it's more than a quarter of the population, in urban areas it's nearly 30%. All of those trends have the effect of growing the U.S. Labor force between 1970 and the year 2000. And really drove our growth. Every one of those trends either reverses or goes flat in the next 20 years. The baby boom generation is almost to retirement age now. In fact, its labor force participation is declining. Women's labor force participation has flattened out, because as long -- if women are going to continue to have children and play a role in rearing children, their labor force participation can't grow anymore. So we won't be throwing a lot more women at the labor force over the next 20 years. Third factor is college education. The college rate has flattened out in the last 10 years. And we don't expect it to increase significantly over the next decade or two. We just don't have the capacity in the college system. So as it turns out, if you think about the labor market for the next 20 years, I appreciate this is difficult to do in the midst of a jobless recovery, but it's very likely the labor market in the U.S. in the next 20 years is going to be very tight. It will look more like it looked 24 months ago and three years ago than it does today. And if you think back to what it was like in 2000, early 2001, companies were scrambling to figure out ways to hire and retain people. Now, the implication of that, if you think about this over the next 20 years, is places that are attractive to talented young people have a decisive economic advantage in terms of having the critical resource that is needed to grow the economy. Which is labor. And the 25 to 34-year-olds are statistically the hardest working segment of the population that is most likely to get up and go to a job every day. They are the most mobile segment of the population, that is most likely to move across state lines. They're starting their career, which means two things, they're generally working for lower wages, and they're also much more flexible. They haven't acquired 10 or 15 years of experience in a particular field. They could go into any one of a number of industries. They are basically a human resource department's dream demographic. So places that are really attracted to that age group as it turns out, over the next couple decades, will have I think a real decided

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advantage. And I think the mayor put it very well yesterday as part of the seminar that we held, which is, we need to pursue what you might call a skidmore fountain strategy, which is to recognize that god citizens are the riches of the city. Not just in civic terms, but in economic terms as well. If we get these talented young people, which is an indicator of where things are going, to come here and want to live here, that's a huge advantage to us economically over the next couple of decades. So I think just the four things that I would just highlight are, think about the economy as increasingly an economy of ideas. And it's our ability to generate new ideas of all kinds that's going to drive our success. That it really is -- ideas aren't something that happen somewhere else, they're ideas that we create here, and they get created in particular places. The ideas that will drive our economy will in many cases stem from the things that we're especially good at, where we're first best, or only in doing something. And our ability to attract talented people, because this is a vibrant idea creating place, it's a great place to live, it has a terrific culture, it's a creative place. It's going to be increasingly important to our economic success.

Katz: Thank you, joe. I asked joe to come here because I truly, after meeting with a lot of the young and restless and working with rosie williams and phyllis oster in putting together the design festival that got -- it's probably the only one in the country that incorporates all of the design and arts and architecture, and then we have christie with t.b.a., and pica international festival, and we had wine, and what was it in the park? It was arts and wine in the park. This place was jumping. Carlos, our new conductor, we have the population that's here. And what's really critical is for us to figure out is, a, is there anything we can do, and they tell me just stay out of our way, is what they tell me. If you want government to do anything, stay out of our way. And continue to do what you're doing now, making life exciting for us so we do stay here and we put down roots in this community. And then be the next wave of entrepreneurialship and innovation. The demographics that joe is sharing with you, whether you believe this or not, set that aside, if you so choose, but the demographics are critical in terms of a tight labor market. With a tight labor market, you also need more skilled workers as well. That's a very critical component of what the future brings. So thank you.

Francesconi: Joe, you've always been my favorite economist, and what's been good about you and you've been consistent and steady, and you don't change your opinion given recessions, etc. But -- so everything you said is right, innovation, as well as the importance of place. But every other time i've heard -- i've heard you, and the reason you're my favorite economist, you also always talk about work force in the sense of education. And k-12 as well as higher ed. I was -- it was conspicuously absent from your presentation here, and it relates to both one and two. So in just a sentence or two, because we have other people waiting, can you kind of address that issue?

Courtwright: I think education is clearly important, and I would highlight two levels, and there are levels out there. One, on k-12, k-12 is a critical component of place that people want to have. All of the studies we have done have shown the relative high quality of k-12 education in the metropolitan area in the city have been a competitive advantage that we have had. And the council has appropriately I think recognized that. Second issue has to do with sort of higher education and more broadly the connection between these idea creating businesses and all forms of continuing and higher education. And again, having a place that connects those things together that is recognized as a place where creativity and the educational process go hand in hand in a whole variety of different ways, from the university to specific events, and the network of connections that exist, is very important to this idea creating economy.

Katz: Thank you. Joe is going to be doing further work in this area, and we're looking forward to it. This is a way that has grabbed a lot of cities, a lot of cities that we like to compare ourselves with, and I think we're at a cutting edge. So thank you for your patience. It ties into the sustainability initiatives that the council and especially my two colleagues to the left of me, not politically, but geographically, have talked about, in fact we're leaders in ecoroofs thanks to dan's

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insistence on adding ecoroofs to anything that moves here in Portland. And this is another part of that creative new ideas, new products, new services, innovation. Ok. 1094, 1095, 1096.

Items 1094, 1095, 1096.

Katz: Ok. I thought we were going to be finished with this, but we're not today because you still had to come back with some language dealing with some of the issues we discussed a couple of weeks ago. So why don't we go over the unfinished business at this point.

Joe Zehnder, Bureau of Planning: Great. For the record, i'm joe zender with the bureau of planning. We've brought back two items, one was a requested options for an amendment regarding the guilds lake industrial sanctuary, and the conditions under which office uses would be allowed. The second is the specific language related to the northwest district transportation fund bonus option. So that -- the content of that second one, the principles of that we've already discussed, this is just a specific language, and the last piece is an updated ordinance that captures all of your proposed amendments. On the guilds lake industrial sanctuary, if we want to start with that first one, we've come up -- the request was to come back with language that captured the request of the nina to have a link between office uses that would be built in guilds lake, and just to remind you, the area we're talking about here is the area highlighted in blue on this map north of vaughn, a subdistrict we would create in the industrial sanctuary to act as a buffer between that in the northwest plan district and in that subdistrict, we would be allowing more office uses than are typically allowed in an industrial area. The provision that nina requested would have had a majority of the offices related to industrial uses in the district. That was the language they used. We've got two ways of doing that. Option a, i'm referring to the transmittal memo we sent over, would require that at least 50% of the office uses be accessory to industrial uses in guilds lake. So this is saying that that link defining that concept of the link to industrial use, saying it's an accessory use, which means it is supportive of and directly linked to the primary industrial use, and what this would allow is that accessory use to apply not just to something else on that site, but anywhere else on guilds lake. The issue that we have with this -- this is the most literal way to do what nina has requested. The issue we have is our experience with this is that in the long run, it's not enforceable, where changes of actual office tenants don't have to come back through the bureau of development services for a certificate of occupancy. You come when you first develop the building, that's where we check to see if the proposed office use is actually accessory. After that it becomes an enforcement problem, so we can't really guarantee we're going to be able to live up to the letter of that particular provision. The second option would step away from something that is so literally enforceable in the zoning code to just require office developers to do a couple of disclosures. One is to make a good faith commitment to market to office uses that are linked to industrial, so we're just sort of putting them on notice and having them declared that's the intent of their marketing efforts, to try to do that, and the second is to have a disclosure statement provided to the tenant, which just informs the prospective tenant that they're in an industrial sanctuary. One of the reasons for having this provision, we believe behind nina's request for this is the belief that when you start to have nonindustrial uses and introduce them into an industrial sanctuary, they're going to complain about the kind of noise and truck and other activities you get with an industrial use, and that those complaints, the industrialists experience with those complaints is that it ends up making it difficult for them to do business. This at least puts the tenant on notice that they don't have the primary spot here, they are in an industrial sanctuary. It's not directly enforceable by the city in terms of -- but what it does is at least gives us a stronger footing of trying to stand up to future complaints about being in an industrial sanctuary by an office tenant, and hold to the policy of what the industrial sanctuary is about, which is to protect industry. So with those two alternatives, staff would -- is providing commission -- city council with those two alternatives, recommending option b.

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Francesconi: I appreciate you working on this, because I think the will of the council, I think we even voted on it, was option a. On the other hand, if it's -- there's trouble with enforcement, I appreciate you looking at it further. The question I guess I would have is, why couldn't we do both? Why isn't option b -- could we actually -- could we actually do both with option a expressing the intent of the council, and option b a way of enforcing option a? Or is there something inconsistent?

Zehnder: Honestly, option b I don't think makes option a more enforceable. Option a is enforceable at one point in time, but after that we can't really guarantee that we're going to be able to monitoring the specific tenants in office buildings. That's the gist of it. No matter what we do, that will be the case. The option b just is really the -- the way the complaint scenario works, they're going to complain to planning, or to city council, saying it's intolerable here, and once again it becomes a policy decision of all of us to hold the line on the industrial sanctuary. So if you are empowered or have the knowledge at least that tenant knew what they were getting into, hopefully, the gimmick on option b is that maybe that helps us maintain our policy position to protect the sanctuary. Burt that's all it does.

Saltzman: I asked these questions last time about option a, I didn't think it was very enforceable. I guess I'm not sure option b is any more enforceable. What are the march -- what is the marketing statement? Is that something we're creating right here, that you record with a building permit?

Zehnder: You know, we have examples of this kind of disclosure statement elsewhere. For instance, I think it's in the airport district regarding noise, that you're informing the tenants they're in an airport district and could be subject to noise. Enforceable -- it is simply what it looks like. It's just making sure everyone's entering into the deal with full -- with their eyes open of what the situation is, don't pretend that this is going to change, you are moving into an industrial district. So that's all it does.

Saltzman: But it severs any connection with that office tenant associated with industrial uses in the guilds lake area.

Zehnder: Correct. It doesn't attempt to do that. It's the only piece related to that, that you make a good faith effort to try to get that kind of tenant, but --

Katz: Let me --

Zehnder: Debbie has a clarification she'd like to give us on option a.

Debbie Bischoff, Bureau of Planning: Thank you. Debbie bischof, bureau of planning. I wanted to make sure you all understood that it was really difficult for us as staff in trying to craft language that reflected council's motion, and with that, this motion a is not exactly what the motion was. What it says is that at least 50% of the uses are accessory uses to industrial firms. That means it's office uses for industrial firms located off site in -- and relocating into subdistrict b. So it's actually a more restrictive standard than what you motioned, but there was no way for us to define how you get that 51% and what is that definition of uses, office use that's are linked to industrial. We just don't have the ability to come up with that type of definition, but we know what accessory office use is. That's well defined in the code. So I wanted to be sure you understood that this option a is more restrictive, because it's saying that at least 50% have to be accessory office uses from industrial firms within the guilds lake area.

Katz: What if we allowed 50% of flex space or office space?

Zehnder: That's another model that's in the code. We have provision that's require the office space to be designed to be flex space. So you are sort of giving up on trying to say exactly what the tenant is, but you're saying, this is kind of space that is flex space so it's office and industrial. If the office uses don't pan out, you haven't put an office building there that can't be used for industrial purposes. It also appeals to maybe a type of user that's got some production in their operation, so there may be more likely to be an industrial, quasi industrial tenant. We have a model for this kind of provision in the columbia corridor. So that would be a different approach entirely.

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Katz: It's probably also not enforceable, but at least it gives some additional flexibility on the 50%.

Zehnder: It's actually, since you're doing the building permit, since you would demonstrate the building is what you want it to be at that point in time, it is more enforceable. I would say the reason we didn't bring that one specifically forward is that it's not the type of operation that esco was proposing, so it wasn't really solving that problem, but it is more enforceable -- enforceable than the openings we provided.

Katz: So we have 2 1/2 options here, maybe three.

Saltzman: Is the marketing statement binding if somebody purchases the building once it's built on a subsequent purchaser?

Zehnder: It's recorded with the deed, so, yes.

Katz: Ok. Let's -- why don't you -- the other one is the bonus, did you have --

Zehnder: Yes.

Katz: Then we'll open it up. We have a few people who want to testify.

Zehnder: The second item that's in front of the city council today is the northwest transportation bonus fund option, and this you have in your package the specific language. So just to recap, within the guilds lake area, the blue area on this map, we would set a base f.a.r. Of one-to-one for office uses. You would be able to bonus up to 1.85 to one by payment into the transportation bonus fund. The department of transportation will be introducing a separate ordinance to set the amount of that transportation fund contribution, but -- and what they will be proposing is \$2.90 per square foot. In the orange area, which is the northwest district transition zone, the base f.a.r. Would be set to one-to-one, but you can, through the bonus option contributions increase that to three-to-one for nonresidential development. And in the green area, which is just a subdistrict of the transition zone, you can -- through the bonus option you could get up to four to one.

Katz: Pdot wants an amendment to strike out language recommended in title 33 on writing some letter.

Zehnder: Correct. And the --

Katz: We need to adopt that amendment. We did not adopt that amendment. Ok. Let's open it up. I'm sure that we've got nwda, do we have anybody here from nina? We've got nina, and we've got esco. Anybody else? Ok. Go ahead. Who do we have?

Paul Pope, President of NINA: Good morning. My name is paul pope, i'm the president of nina. What i'm going to read to you represents the majority opinion of the nina board. And I emphasize that because we're working on this literally until I left the office. So everyone has not had a chance to read what i'm about to present to you, but it does represent the majority. In our may 22 letter to council, nina expressed concerns about the subdistrict b proposal as part of the northwest district plan. Woe explained as part of the guilds lake industrial plan, we envisioned that the two blocks between vaughn and thurman would have served as buffer transition. Since its buffer transition area has not and will not happen, we resigned ourselves to the area between vaughn and wilson serving as this buffer. Already some of our members are experiencing significant problems operating their businesses with the residents south of vaughn complaining about the noise, smells, vibration and truck traffic. We supported and still support office development in subdistrict b to provide a buffer transition between commercial -- between industrial and commercial residential. We did and still believe this is needed to help ensure the viability of the industrial operations. We also recognize in an office development with an f.a.r. Of one to one it's not economically feasible. We made the following point. Office buildings must have an occupation linked to nearby industrial uses. We can support option b in the bureau of planning letter as a reasonable way to achieve this. Retail use must be limited. This has been addressed in the subdistrict b plan. New dwelling units must not be allowed. Again, this has been addressed in the plan. We also urge council to pursue traffic improvements recommended by the d.k.s. Traffic study. Although the creation of the northwest

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transportation fund and the funding from bonus f.a.r. Is associated with subdistrict b and the transition area are supportive of this objective, we believe council should go farther. The integrity rests on the preservation and enhancement of the infrastructure in and around the sanctuary both public and private, which fosters a competitive environment. We've stated many times that the businesses and industries cannot remain competitive if our people cannot go to and from work and we cannot move raw materials in an efficient and timely manner. We know of no immediate plans for developments, and therefore submit there's adequate time to plan for the necessary traffic mitigation measures before buildings are built and traffic problems result. The plan needs to be developed now, not after the buildings are built. This will ensure any office developments do not make traffic developments more difficult and expensive. In other words, let's don't build a building where we need a street. Further improvements must keep pace with any future office developments so there's no degradation in traffic flow. This is of importance to nina. We will continue to stress freight mobility and the ability to move our employees to and from work is a necessity. We need a vision that deals with the competing demands between land use and transportation. We want traffic access to be an important consideration in the freight master plan and the city's transportation system plan, and the fund -- and in the funding of metro's jpac.

Katz: So you want concurrence.

Pope: What we're saying is, if a plan is developed now, or in the near future, before buildings are built, those buildings will not interfere with the plan. So if we need to put a street here to enhance the traffic flow, we don't plant a building on it two years from now. So we have to deal with that. Secondly, as buildings are built, and that may occur in a year, in two, in three, in five, we don't know when buildings might occur, both in subdistrict b and the transition area, we're asking the traffic mitigation be run concurrently with that, so yes don't see the traffic situation fall apart as these buildings go up.

Katz: The problem with that is, we're not requiring pdot to come in with the other half, the only part we're requiring is the companies to pay whatever it is per square foot. So you may have half a transportation plan in a full building.

Pope: We understand that. And we don't have a solution for you, we can only say what we want.

Katz: All right.

Pope: That's easy for us to say, what we want.

Francesconi: We've heard the message. What we're trying -- and we've create add freight committee to address the issue of freight, and we've elevated the whole freight discussion not only at the city, but at jpac. So we understand that.

Pope: And we feel good about that. We're feeling freight is being addressed at a higher level than what it was a year ago.

Francesconi: And we've elevated this as well. The problem is, it's a regional process with regional partners, and we don't dictate all this. We also have south waterfront to deal with, which is -- which is also an important economic area for the city. But we've heard the message and we're trying to do our part.

Pope: We appreciate that. We don't have the solution --

Katz: I have the solution. You should have stuck to the original plan. Ok. Thank you.

Frank Dixon, President, Northwest District Association: Frank dixon, president of northwest district association. Good morning, mayor and council. Just want to make a couple points here that first of all, we want to reiterate that the nwda's position is unchanged. That we feel that the changes are so severe from the plan the neighborhood approved in 1999 or even the planning commission's recommended plan, that the association can't support what is being proposed today. The traffic impacts have been underestimated by focusing on the wrong time slot, the new traffic arising from office development will negatively impact existing industry in the southern part of guilds lake. The plan as it exists today does not contain a industrial strategy for addressing air quality and park

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deficiency issues in the neighborhood, and that these problems will be made worse by the changes that council proposes today. That there is no capital program to address the infrastructure issues that exist today, and that there should be concurrency between the development growth and new infrastructure facility development, and that these are examples of the numerous conflicts between the changes in zoning that council is making and the lip service the policies pay to issues of industrial sanctuary, historic preservation, adequacy of public service, and livability.

Katz: Thank you, gentlemen. Ok. Anybody else? All right. Come on up. Steve, did you want to come up? Is.

Steve Schell: I'm a potted plant, to my left is the president of esco.

Katz: You brought the heavy hitter, didn't you? [laughter]

Schell: And so i'm going to ask steve to go ahead and talk, and if there are any questions I can answer, i'll be happy to do that.

Steve Pratt, Chairman and CEO, ESCO Corporation: I just have a few brief comments. My name is steve pratt, i'm chairman and c.e.o. Of esco corporation in northwest Portland. I have a few brief comments to make. First of all, as far as the guilds lake industrial sanctuary, esco does continue to support that, and does not want to see it jeopardized with any moves we make here. As far as buffer is concerned, esco has understood for years that the city favored a buffer between industrial sanctuary and the residents of northwest Portland. That buffer was supposed to exist on the two blocks south of vaughn. Instead, condominiums and other developments have been allowed in the area immediately south of vaughn, and it is no longer possible to depend on this area for a buffer. Yet it is still needed. Esco's solution is to use the one block-wide area immediately north of vaughn for the buffer by placing a series of high-rise office buildings along the north side of vaughn. As far as transportation is concerned, esco recognizes that there are transportation problems, particularly at the intersection of 23rd and vaughn. They've been there for years, and will continue. At the city's suggestion and request. Esco had a traffic study done by qualified traffic engineers at our expense. It showed that the problem of failure, ie, an f level of congestion, could be overcome with certain traffic improvements and these improvements could be paid for by the landowner seeking to develop along vaughn. It's been our impression that the city generally agrees with these points. On funding, the planning staff came up with a pay for extra floor area ratio plan to help pay for the traffic improvements. And based on the preliminary numbers that we've seen, we think this is a reasonable alternative. Job protection. The latest wrinkle proposed by staff apparently in response to council request, is a proposal to try to connect the office jobs with the industrial business already existing in the guilds lake industrial sanctuary. We can live with either of the alternative proposals being suggested here. We urge you to move forward with this proposal so we can respond to the changed business requirement that's are all around us.

Katz: Ok. Thank you. Thank you very much. And steve, you will never be a potted plant with me.

Schell: Can we answer any questions? We'd be happy to if --

Katz: I think the council is pretty clear about the issues. I think. But if the council has questions, we will.

Schell: Thank you very much.

Katz: All right. My goal today is to finalize the amendments and move this to second and a vote next week. All right? I think it's been very clear, and I don't know -- I think I know where everybody is and what their goals are, and I think we've tried to meet them. So I need a motion, and commissioner Francesconi, i'm going to ask you to make the motion since that's part of the issue that you raised.

Francesconi: I can live with either option a or b. I guess given all the work of planning on this, and given their expertise, and given the importance of trying to pass things that are enforceable, and given the testimony of nina, that they support option b, and given the testimony of esco, that they

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support option b, i'm going to move option b, but I can live with option a. So let's see if this passes.
I'll move option b.

Katz: Do I hear a second?

Leonard: Second.

Katz: Roll call.

Francesconi: I want to make a comment, because I disagree with the mayor's statement that we had a better plan in front of us first. And I want to explain why I disagree. The plan recommended by the planning commission actually upzoned all of the upshire property, which was 13 blocks. And allowed office development on that property. And we took it out. And the reason we took it out is because of the mayor's legitimate concern which I share, that freight mobility into the nina sanctuary, is very, very critical. That plan, the planning commission had no money to address the transportation infrastructure from the private sector. So all it -- it was all going to be done on the backs of the private sector. Now we have a plan that could generate as much as \$5 million at a time we have precious few transportation resources. And when people come to the table with money, it helps prioritize how we spend precious pdot resources. The third thing, why this is a reasonable plan, is that we have addressed the concerns of nina about no retail use, retail use will be limited. That's addressed in subdistrict -- in the section subdistrict b plan. And we also make it very clear that new dwelling units will not be allowed. This is again addressed in subdistrict b plan. The next reason this is reasonable, there is risk involved, but it a risk that nina, esco and I and pdot are willing to take, is because of the issue of a buffer. Now we're going to be able to establish a buffer here. And the last reason is, esco is one of those world class scholarships and allowing them to stay in our city with -- companies, and allowing them to stay with corporate headquarters, is important to where we're going as a city. So for all those reasons I support this. Aye.

Leonard: Aye. **Saltzman:** Aye. **Sten:** Aye.

Katz: I meant the original plan, commissioner Francesconi. No. [gavel pounded] all right. You're telling me we should have --

Harry Auerbach, Sr. City Attorney: I understand there was a substitute, so did you want to adopt the substitute to the amendment?

Katz: Substitute as amended. Yeah. Ok. I'm not finished yet. We need to get the other amendment on the transportation. Ok? I need a motion.

Francesconi: I don't have the precise language.

Auerbach: It's in the memo.

Katz: It's the memo to eliminate the language that currently is required to have a letter provided to pdot.

Francesconi: Oh, I thought we were talking about the transportation bonus. I'll so move.

Leonard: Second.

Katz: Hearing no objections, so ordered. [gavel pounded] what else is left?

Zehnder: Move to move the substitute order.

Katz: Motion to move the substitute ordinance.

Auerbach: As amended.

Francesconi: So moved.

Leonard: Second.

Katz: Roll call.

Francesconi: Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

Katz: No. [gavel pounded] all right. We're finished.

Zehnder: The second reading date, just for the record, scheduled now for september 24, and the pdot related title 17 amendments are scheduled to come back to the city council on october 15 at 11:00 a.m. Related to the transportation bonus. And then --

Katz: When is the parking coming?

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Zehnder: October 30. 2:00 p.m.

Katz: Ok. We'll have our final speeches prepared at the appropriate time. All right. Let's move on. Thank you, everybody.

Auerbach: 1095 --

Katz: I'm here. We want to wait and do -- do you want to wait and do 1095 and 1096?

Bischoff: They need to be moved to second reading.

Katz: Ok. It happens automatically. We'll proceed and move both of them to second reading.

Auerbach: You could just continue that for a week.

Katz: Continue 1095 and 1096.

Auerbach: 1096 can go to second reading.

Katz: And the date is --

Auerbach: 9-24.

Katz: Ok. Let's move on. 1115.

Item 1115.

Katz: Thank you, everybody. I think the council and everybody knows what this resolution is. It really directs drew and the office of finance and management to act upon the recommendation that we take what all of you worked so hard with your bureaus to be prudent in spending and to keep vacancies open, to take that money and begin reducing the surcharge that we enacted months ago. The first surcharge that is totally eliminated and the debt paid off is the one that -- where the business community assisted us in finding the resources and providing the resources for extra 24 days of the school year. The remainder of the surcharge is reduced for the next three years. And as I struggled with this and my recommendation and I think you and I had all conversations about this, what I finally got to this point I asked myself, if we knew that we would have had this money at the beginning of the last fiscal year and the crisis among the schools, what would we have done? And we would have done what we have done in the past, tighten our belts, but realize education k-12 is probably -- is for us, one of the key values and important enough for us to do that. And so it became apparent that that would be a reason to use these resources to pay down the debt to pay down the debt that was going to be paid down with a surcharge. So that's the reason, and I thank the council for your support on this. All right. Anybody want to testify? Roll call.

Francesconi: And we thank you for your leadership on this. This is a first time that we've actually given money back to the taxpayers that I recall, and it couldn't have come at a better time, because we do need to send some clear signals to our employers that we want them here to provide jobs to our citizens. And this statement where we put our money where our mouth is, does exactly that. Aye.

Leonard: Aye. **Saltzman:** Aye. **Sten:** Aye.

Katz: Thank you, everybody. Mayor votes aye. [gavel pounded] all right. 1116.

Item 1116.

Katz: All right. Roll call.

Francesconi: Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

Katz: Mayor votes aye. [gavel pounded] 1117.

Item 1117.

Katz: Does anybody want to say anything?

Saltzman: This is an ordinance that will allow the bureau of environmental services to take advantage of a low-interest loan from the state to fund capital improvement projects. The loan is roughly \$12 million to be repaid over a 20-year term at 1% interest. And because of the low interest and the fact that the debt service doesn't begin until 2007, the loan does not require an increase in existing -- in our existing forecast for sewer rates. The -- we propose to use the loan for three things -- one is basically a safety security improvement, and that's a chlorine conversion project at the columbia boulevard wastewater treatment project. The second project is a sewer

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extension program for areas that are not currently served by sewers. And the third project is revegetation of about 350 acres of watershed in the city. So I would urge the council to support this very good deal.

Katz: Anybody want to testify?

Francesconi: Can I ask a question?

Katz: Go ahead.

Francesconi: Because of the great terms you negotiated, that will end up saving money, won't it, because these are projects would you have had to do?

Saltzman: Yeah. It's projects we planned to do, and they're projects that we'd probably be paying through our bonding, which is certainly paying a higher interest rate than 1%.

Francesconi: Are there any other sources like this that you can continue to tap into?

Saltzman: We're always on the lookout for things like that. We always are trying to get federal money as well. The state revolving fund is available to us, but it's also I think limited to how much the city of Portland can actually receive of the total amount available.

Katz: What are the watershed projects you have -- do they have those identified?

Saltzman: They have them identified, I don't have them here.

Katz: Would you let us know?

Saltzman: Sure.

Katz: We need to add them on to our list of check-offs, the ones that are done. Ok. Anybody else want to testify? If not, roll call.

Francesconi: This is very good work, commissioner. Aye.

Leonard: Aye. **Sten:** Aye.

Saltzman: I just wanted to add the revegetation will occur in the willamette, johnson creek, columbia slough and fanno watersheds. Aye.

Sten: I jumped the gun. Thanks. Good work. Aye.

Katz: Nice work, commissioner Saltzman. Aye. [gavel pounded] before -- jada, you're about an hour late, but I want to make sure that other people have the opportunity to sign up for comments. So do you want to come down here? If the council will suspend the rules and allow jada will come in after the council, we can hear her comments.

Item 1088.

Jada Mae Langloss: I keep having -- I had a huge heart attack within the last -- less than two weeks ago, and they wanted to keep me, but I broke out again. I just can't stand to have the taxpayers pay \$5,000 a day just to keep me alive, you know. But --

Katz: You look good to us.

Langloss: I have a hard time breathing now compared to before. So I wanted to bring this up. It's a problem with a lot of people. The lack of bathroom facilities for people right along the waterfront, and most important -- most of Portland is not accessible for people to use a bathroom. And at night, it is especially critical. And i've had a big trouble myself, because I move around on the streets a lot on my wheelchair, but the whole waterfront, every bathroom on the waterfront was closed, there was no bathrooms at -- where they have saturday market, that's probably one of the very few places, and nothing was available to go to the bathroom in Portland unless you go into a store and of course they don't like people coming in there just to use the bathroom. Those luxury toilets in the stores around here are really pay toilets. You have to pay in order to use them, or if you get into the habit of using them without buying something, you're reminded by the security all the time. I finally had to take the max all the way up to the goose hollow tavern. And run to that bathroom, and I went in there, there was hardly anybody in there. Bell the bathroom was broken down. So when I went in the next day, they asked me not to come again. Because I had messed up their bathroom. Well, it wasn't working. And this is just myself. This is repeated by thousands of people that have the same problem. And it's been known, I mean, people talk about it a lot.

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Sometimes the bathrooms in the park blocks are locked because somebody needs to sleep, and they go in there and they fear for the streets and lock the bathroom and nobody else can use it. So I believe that there would be federal funds available for this kind of an emergency, especially when they're redoing the waterfront, tom mccall park. There's no place there to go to the bathroom, and there's a lot of people that use that beautiful park. So maybe you could get together and think about something that might help the people, the cops and robbers, the pedestrians and the tourists. They've they really need a place to go.

Katz: Thank you. Thank you, everybody. We stand adjourned until thursday at 2:00. [gavel pounded]

At 10:40 a.m. Council recessed.

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[roll call]

Katz: We'll sit and wait for the rest.

Katz: 1118.

Item 1118.

Katz: Ok, go ahead.

Linly Rees, City Attorney: I'll begin with a description of the conduct of the hearing. This is an on the record hearing. This means you have to limit your testimony to material and issues in the record. During this hearing, you can talk only about the issues, testimony, exhibits, and other evidence that were presented at the earlier hearing for the -- before the hearings officer. You cannot 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 with a staff report by bureau of development services staff for approximately 10 minutes, following the staff report the city council will hear from interested persons in the following order -- the appellant will go first and will have 10 minutes to present the case. Following the appellant, the persons who support the appeal will go. Each person will have three minutes to speak to the council. This three-minute time limit applies regardless of whether you are speaking for yourself or on behalf of an organization such as a business association or neighborhood association. The principal opponent will then have 15 minutes to address the city council and rebut the appellant's presentation. After the principal opponent, the council will hear from persons who oppose the appeal. If there is no principal opponent, the council will move directly to testimony from persons who oppose the appeal after supporters of the appeal conclude their testimony. Again, each person will have three minutes each. Finally, the appellant will have five minutes to rebut the presentation of the opponents of the appeal. Council may then close the hearing, deliberate, and take a vote on the appeal. If the vote is a 10 different vote, the council will set a future date for the adoption of findings, and a final vote on the appeal. If council takes a final vote today, that will conclude the matter before council. If you wish to speak to council on in matter and have not signed the list located out of council chambers, please sign up at this time with the council clerk. I would like to announce several guidelines for those who will be addressing council today. The evidentiary record is closed. This is an on the record hearing. It means you must limit your remarks to arguments based on the record compiled by the hearings officer. In presenting your argument, it is permissible to refer to evidence that was previously submitted to the hearings officer. It is not permissible to submit new evidence today that was not submitted to the hearings officer. If your argument includes new evidence or issues, the council will not consider it and it will be rejected in the council's final decision. Objections to new evidence. If you believe a person who addressed city council today improperly presented new evidence or presented a legal argument that relies on evidence not in the record, you may object to that argument. Objections to new issues. Finally, under state law, only issues 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. Additionally, if the applicant fails to raise issues relating to conditions of approval with enough specificity to allow the council to respond, the applicant will be precluded from bringing an action for damages to challenge the conditions of approval.

Katz: Ok. Declaration of conflicts of interest by council members? Declaration of ex parte -- par -
- ex parte contact by council members? Anybody in the audience wanting to challenge our silence

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on these two issues? If not, we'll proceed with a staff report for 10 minutes, the appellants will have 10 minutes, supporters of the appellant will have three minutes each, principal opponent will have 15 minutes, other opponents will have three minutes each, and then the appellant will rebut for five minutes. And then we'll have council discussion. All right.

Kathleen Stokes, Bureau of Development Services: Thank you, mayor. I'm Kathleen Stokes, representative from the bureau of development services here to present the hearings officer's decision on this case. This proposal is to convert the site from 72-bed skilled nursing facility to a 62-unit assisted living facility. No increase in the allowed number of residents was proposed. This is not a new use. Prior to processing this case, staff required the applicant to document the fact that they still had existing status as a conditional use. That was entered into the record in exhibit a-2. It showed the use had been discontinued in July -- on July 10 of 2001. The code allows conditional use status to remain active for up to three years after it has been discontinued. So that portion of the record shows that they still had an active status for conditional use on this site, which allowed them to maintain up to 72 residents, and made the 600-foot rule for spacing for group living uses did not apply because they had -- apply because they had preexisting status. Their proposal, therefore, required the conditional use review because they were planning on replacing the existing building. They proposed a two- to three-story building, had almost 40,000 square feet of floor area, and they also asked for some exceptions to our development standards which are processed through an adjustment review, and that was to increase the building coverage on the site and to reduce setback along 29th avenue. The building coverage in this case is subject to single dwelling code standards. The existing building already far exceeded that, but it was based on our old code, which allowed a larger building coverage. The new building would bring the building coverage up to 55%, including a lot of landscaping, patios and garden areas to provide amenities for the residents, and also to make it fit in better with the neighborhood and be more attractive. They also worked to incorporate architectural features that were found in some of the older homes in the area, they increased the onsite parking so it would be internalized and accommodate parking for staff and visitors at an accessible parking space to their plan and included an on-site loading space. There were three adjustments asked for. One was to increase the building coverage, the code is based on a single dwelling structure rather than a group living use, and it only allows 6,621 square feet on the site. They are increasing in their proposal somewhat over the existing of approximately a little more than 400 square feet, and that needs to be taken into account in the impact on the area, what's existing and what's changing as well as what would be allowed if it were single dwelling. There are also as I said asking to reduce the setback on 29th. That would be reduced from 10 feet to zero next to the entrance where there's an awning that comes out to the property line. And then along the building wall it varies from five feet to eight feet, and it was required to be 10 feet because this is what we call a three lot where it says -- originally staff did not discuss the building wall portion of this and since it was raised at the hearing, the hearings officer kept the record open in part to allow additional time for neighbors to respond to that portion of the setback adjustment. The applicants also asked to amend the screening standard for loading area next to the loading space to do an alternative type of landscaping instead of putting up a six-foot masonry wall, they wanted to just do more landscaping for a deeper landscaping that they felt would work better next to the adjacent residential property. The approval criteria for these reviews, the conditional use approval criteria for a group living use is required because they're asking to build a new building, which is an increase in more than 10% in floor area, and the code requiring that it meet the criteria and institutional and other uses in R zones, and that's 38.815. The requested adjustments have to meet the approval criteria. Zoning of the site is R-5, which is the high density single dwelling residential zone. The existing buildings that was formerly used for a skilled nursing facility is still

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on the site, so you can see from the site plan sort of what is occupied and what the layout is now, and then next slide shows what's proposed, you can see there's quite a bit of additional landscaping proposed, nice garden areas with walkways. The parking has been internalized, some of it is underneath the building so that it's also a more attractive parking area. Then there are elevations of the proposed building, and you can see some of the architectural features that have been incorporated to make the building more compatible with the single dwelling residences in the area there. Are a lot of features like rock walls and some of the gables, the bracing and other architectural details that were incorporated to make it more compatible. This is the existing building, the main entrance on the corner of 29th and salmon. And as you can see, this existing building is pretty much lacking in any kind of features or amenities that would tie it to the neighborhood. There is one element that's very common throughout this neighborhood, which is the use of this rock wall, and the new proposal incorporates that feature into it. This is one of the single dwelling structures that's across the street from the site, 29th and salmon. The area is about 50% single dwelling residences, the immediately adjacent area, and 50% multidwelling. This is an example at 28th and taylor of one of the multidwelling structures that is smaller scale and more compatible with the older single dwelling homes. But there are a number of others that really lack any of those features of parking in front, they're quite large, quite tall buildings. So the scale of the buildings in the area and the style is very eclectic, very varied. This is another one of the homes that's across the street from the proposed structure, and this is actually across from where the request for the reduced setback is. This is the side of this house, the other structure that fronts onto 29th is one of the multidwelling structures we just looked at. The applicant chose 29th as the area where they asked to reduce the setback because it didn't face the front of any single dwelling residences, and in order to incorporate all the amenities that they put in their plan and keep the aisles straight for wheelchair travel, they found that they needed to reduce the setback. Here's another view of the current development. The parking lot is lacking any landscaping amenities and it doesn't present a very friendly front to the street. We're looking here at one of the single dwelling structures in the area there. Are a number that are very distinctive and have wonderful period architectural features, but the scale of a lot of the single dwelling structures is quite large. They're very tall houses, many of them built up on banks. The applicant tried to incorporate some of these features as I said, such as braces and other kinds of details like found in this home, and this one, into their plan. This house that -- here is the one that is adjacent to that parking lot we were looking at, and this is adjoining the loading area where the applicants asked for the -- the adjustment to provide an alternative landscaping plan rather than putting up the six-foot-tall concrete wall. And this final picture is just another one of the houses in the area, it's about a block away, and again, you can see it incorporates many of the architectural details that are included in the applicant's plan. The hearings officer concluded that the number of residents or staff would be reduced or would not exceed the peak numbers of the former operation, and that impacts from traffic, emergency, and delivery of vehicles were reduced by providing on-site spaces for those. The proposed structure incorporates many of the architectural styles and features of the adjacent residences. Parking being partly under cover and more on-site parking reduces impacts from traffic congestion and noise. No additional impacts were created on the transportation system or other public services, and the proposal was generally consistent with the adopted sunnyside neighborhood plan. For the adjustments, the hearings officer found that the size and scale of the structure was mitigated through the landscape features and the use of architectural elements. And that these features ensured that they -- the adjustments were consistent with the purpose of the regulations and that there would be no significant impacts on livability or appearance. The purpose of the r5 zone is to support single dwelling development, but other types of development are

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allowed through conditional use review. It's still maintained and the overall purpose proposal adequately mitigates for any of the impacts that could occur. Some of the issues that were raised at the hearing and in the letters afterwards to the hearings officer had to do with operational portions of this proposal. The applicant offered and implemented some changes in the operations which the hearings officer incorporated into conditions of approval in his decision. He approved it in compliance with the proposed site plan and elevations and the proposed landscaping plan. And then included conditions that said there would be no pick-ups or deliveries by service providers between 10:00 p.m. And 7:00 a.m., that any individual air conditioning units that were proposed to be used had to meet the noise standards of title 18, and that there had to be a policy that was followed through on by the applicants and operators that the employees had to park on site rather than parking around the neighborhood. That concludes my presentation. Do you have any questions of me at this time?

Katz: Questions by the council of staff? Ok. Thank you. Let's have the appellant. We have the neighborhood association. Come on up. You have, between the two of you, 10 minutes.

Tim Brooks, Sunnyside Neighborhood Association: Madam mayor, commissioners, good afternoon. Thank you all for being here. I'm tim brooks with sunnyside neighborhood association, i'm on the board, i'm also the land use committee cochair and i'd like to spend a couple minutes telling you why we're here, and then ask mr. Ackerman on my left to kind of go through some of the concerns we have in a little bit more detail. Let me start off by saying that we have no opposition to the proposed use of this site as an assisted living facility. And I just want to emphasize that in fact we feel very strongly that the -- what will largely be elderly population that will be residing at this facility will make a significant contribution to the diversity, the richness of the sunnyside neighborhood, and we really want to support that. It's also a point that your former -- former planning commission chair made in her testimony to the hearings officer, and I just want to emphasize that. Our concerns relate primarily to the proposed building itself, to its mass and scale and its impact on the livability and the character of the neighborhood, and I think it's very important to note that this is not just a conversion of an existing building, this is a complete dare-down, followed by construction of a new building. And we are concerned about the very narrow focus of this decision, which is just on the increment of change and footprint and siting over the existing building, which is now going away, and we feel the basis for the decision should be on the r5 base zone requirements, not r5, as amended by five prior conditional uses, each one intensifying the previous use. We feel that the hearings officer didn't respond to many of the points raised by the neighborhood, and the neighbors who testified, and this is why -- largely why we're here today, to ask you to reconsider the decision, to look at the gaps between the record and the findings, and to help us chart a course for a more successful project. And I will just say in closing that i've worked over the past few weeks to contact the applicant to work with the neighbors and the -- my fellow board members to try and see if we could come to a solution. We talked about setbacks and building massing, and good neighbor agreements, and unfortunately what I was trying to do is look for ways to reduce the impact on the neighbors and the neighborhood association without adversely affecting the facility function, and i'm not optimistic that we're going to get there, but I would certainly want to keep the door open for that possibility. Thank you.

Katz: Thank you. Go ahead.

Stark Ackerman, Attorney, Black Helterline: Madam mayor, commissioners, I have a letter i'd like to submit. My name is stark ackerman, an attorney with black helterline. I'm here representing the sunnyside neighborhood association. I've submitted a copy of the letter for the record to you laying out in some detail my clients' concerns about the hearings officer's decision, and specific reasons why we believe that the application should be denied and you should overturn

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the hearings officer's decision. I'd like to go over a few things from a broader perspective, recognizing the limitations and time and try to give you the key elements here. First, my clients aren't appealing this decision because the -- because they oppose the use of the property for a group living use, but rather because neither the applicant nor the decision by the hearings officer demonstrates that the applicant has met its burden to show that all the applicable approval criteria of the city zoning code have been met. Generally there are about five overview points i'd like to make. And the more specific reasons are outlined later on in the letter. First, the applicant did not demonstrate that all applicable approval criteria were met. Two, salient examples are the group living standards in 33.239, which apply to all group living uses, and the r5 development standards in 33.110. There's no findings on behalf of the hearings officer that address these, no proof that in fact these have been met. And they do apply here, and there are several references in the code to the fact that these are criteria that have to be met for conditional uses to be approved. Secondly, the hearings officer incorrectly evaluated the application by comparing the proposal to the existing development rather than to the base zone standards. This is a point that was raised by mr. Brooks earlier, and i'd elaborate a little bit on that by saying that number 1, there's no basis in the code for not looking at the base zone standards. That's the default. And if there were some basis for saying you only have to look at the existing condition after all the adjustments to that might have been made, then there needs to be specific provision in the code that provides for that, and there is no. It might be different if this were considered an amendment to the existing conditional use, but nowhere does this application portray this project as an amendment. It's treated as just, we're applying for conditional use here. Thirdly, it's a tear-down. It's not saying, we're going to add a little something to what's already there, it's saying, we're going to tear the existing facility down to the ground, we're essentially going to start all over for construction. And lastly, i'd say that if you were to say that all you need to do is compare it to what's already there, then that would put you in danger of allowing conditional use creep, whereby changes, adjustments, expansions can be made incrementally until such time as by the end it has no similarity to what was originally approved, and has no ground truthing back to what the purposes of the conditional use approval were to start with. And this is an example of that. If you allow it to increase, it will turn into a creature very different than what would otherwise be allowed by the conditional use review. My third major point is that the applicant failed to meet the applicable conditional use approval criteria, and most significantly, the criteria requiring that the proposal be compatible with adjacent residential developments. I'd like to just read to you the purposes of conditional use review itself. And this is from 33.815.010. A review of these uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use where there are minimal impacts, to allow the use but impose mitigation measures to address identified concerns or to deny the use if the concerns cannot be resolved. The differences between what's being proposed here and what would otherwise be allowed in the zone are overwhelming. We're talking here about building coverage which is nearly three times what would otherwise be allowed. We're talking about a reduction and one face in setbacks. We're talking about a square footage which is double what is even there now. We're talking about height of the buildings, which is pushing the maximum height allowed there. And I suggest to you that the applicant had choices in how it could design this project, and the applicant chose to do it, pushing the limits, trying to squeeze everything out here. The sum total of that, though, is that the impacts are not minimal, and that even the mitigation measures that are proposed, which are largely nominal, architectural design, landscaping, were increased -- increased setbacks in a small area, aren't enough to just overcome the massive impact of what is going to look like a fortress. Fourthly, i'd like to say that the applicant failed to meet the applicable adjustment

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approval criteria. Most significantly, the criteria relating to the requested adjustments to building coverage and setbacks and the adjustment requirement that these adjustments equally or better meet the purpose of the regulation to be modified and not significantly detract from the livability or appearance of the neighborhood. I'd like to read to you what the purpose of the building coverage standard is. Its purpose is together with height and setback standards to control the overall bulk of structures. Those building coverage standards are intended to assure that taller buildings will not have such a large footprint that their total bulk will overwhelm adjacent houses. There's an adjustment being requested here, but this does not equally meet the regulation. In fact, it does quite the opposite. It's such a massive project, that it will end up in there being such a large footprint that the total bulk will overwhelm houses, and then my final point just to close, is to say the hearings officer's findings are conclusory, inadequate, in many cases the standard has been met. There are no impacts, therefore the standard has been met. So I ask you that you reconsider and overturn the decision.

Katz: Thank you. Questions by the council? All right.

Francesconi: Just one question. So the impact -- primary impact is the scale and the site, and the appearance of this. It's not noise or traffic, is that what you're -- did I get that right?

Ackerman: Yes, that's correct.

Francesconi: Thank you.

Andrea Tsoumas: My name is andreas sumas, I live about a block and a half from the structure that currently exists. Really what I want to talk about is the fact that this neighborhood has been in transition for about 12 years since i've lived there, and the transition has not been to building more apartments or making it more dense, it's actually been the opposite. I owned a property that was about a block and a half east on 30th and salmon. Actually that was a duplex. Some people here in the audience today own that property, they bought it from a family member of mine. And that property, they have actually changed it from a duplex to a single family. So this neighborhood is actually moving toward less density and a lot of the houses that are either directly across the street from this building or within five or six blocks are slowly being converted back to single family. The apartment buildings and the photographs of different existing structures are -- many of them are multifamily, but as a person in the neighborhood who's owned, i've owned four or five different properties within a five-block radius, i've seen the neighborhood move in the opposite direction, from high-density to less density. Ever since this property has been vacant, the neighborhood has been quickly -- people have been buying and moving in and the neighborhood is getting much better and much -- it's getting -- happening much faster. I think saying that the influx of vehicles that are going to be coming to this facility, granted, we were used to it before, but it's been very nice not having trucks and delivery vehicles backing up at all hours of the day, and coming up 30th and coming right up the street by my house. It's been positive, the change that's happened. I think the way we're looking at this whole project is, somebody's building a structure there that is going to encroach on our lives. We're in a neighborhood that's in a huge change. I'm sure you know what's going on. It's kind of the opposite of what's going on in northwest. We're trying to keep it more single family, and we're trying to make it more just that, families, not as many singles and people who maybe don't have as much of an interest in what's actually happening in their neighborhood as opposed to maybe in their apartment. And of course none of us have anything against seniors, we all have seniors in our family. I can say that every single one of us has an adult who's probably 65 or older that has directly impacted their lives.

Katz: Thank you.

Tsoumas: We're not saying that -- my time is up? Ok. By not building this we're not trying to say we don't want seniors in our neighborhood.

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Katz: Ok. Thank you.

Susan Lewallen: My name is susan lewallen, I live at 2803 southeast taylor. Madam, gentlemen, i'm here today to try to talk about a huge shadow that is about to be cast over the sunnyside neighborhood. And it's going to be cast by a building whose height, mass, and proximity to the sidewalk is simply too large for the suggested site. I'd like you as much as possible in this brief time to see our neighborhood in three dimension, and from the only reference points that really are the ones that we use. We drive by the building, we will walk by this building and we'll stand. And if we're standing at 29th and taylor and looking straight up, we're going to be looking at a wall that goes up to 42 feet high. It's going to be right in our face, because the setback has been reduced and the shadow that this massive building, which is only one facade of a gigantic building when you count the square footage, is going to throw. It's not going to throw a shadow on hawthorne or belmont, it's going to be smack dab in the middle of taylor block and salmon block, one of the two blocks still in the residential neighborhood. When our neighborhood began, it was a little glass slipper of a neighborhood, size 6, double a. It took a lot of beating. There were cracks and chinks, houses were torn down, and moved. 20 years ago, 15, 10, people started moving in who started polishing, cleaning up, filling in the cracks, and taking away the scratches. And now we're told that it's really not going to matter that a building that is really a size 10 wide, is going to fit into this size 6 double a. I would like to suggest it's going to shatter the remaining cohesiveness that we've worked so hard to try to build. Indeed, this shadow thrown by what is really going to be quite inexpensively built, 64-unit building, is not going to be mitigated by putting a few shingles on the facade on 29th for instance, or by using imitation historic call elements. Much has been said about footprint. I'd like to tell you that my footprint is the same as it was on my wedding day, 26 years ago, but unfortunately, the shadow that I throw is much more massive. I hope it can't be measured in cubic square feet, however, please, I think today it is appropriate to draw a line between the judicious and appropriate use of conditional use waivers to insert nonresidential elements into r5 zoned -- into residential neighborhoods. However, that line ends finally, and it is appropriate to say, now the point begins where the shoe horning in of a building that is simply too large for too small of a site begins. And today I would like to ask you respectfully to draw that line. Don't let that shadow descend on our sunnyside neighborhood. Thank you so much.

Katz: What you're really -- [applause] no, no, no. What you're really saying, it's not a cinderella project.

Lewallen: Yes, ma'am. Don't put cinderella back into the ashes.

Leonard: I really related to our shadows growing over the last 25 years.

Lewallen: I thought I should be honest, sir.

Katz: This is not a demonstration. We listen quietly. However, if you can't help it, you do this and then we'll know, all right? Let's go ahead.

Darell Potter: My name is darell potter, and I live at 2813 southeast yamhill. My family has been there about 15 years. We've also put a lot of time and effort to improve our home and our other neighbors have been doing the same. What we object to in this building again, I think those people are saying the same thing, is it looks like from the outside a giant monolith that overshadows the rest of the neighborhood. I have a mother who's in assisted living. I spent quite a bit of time before she -- before I found the right place for her, looking at other units and seen what they're like. And this unit is just too big for the block. One of the places I looked at was a place on 31st and stark. It's a 62-unit facility, and it's sited on property that's twice as large as this proposed building. My mother lives at a property that's on 63rd and division that about 50% larger, 92 units, and it's sited on property that's three times or more larger than this property. So what happens is, again, the mass of this building becomes magnified because it's on such a small footprint. And it really does

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overpower the other aspects. The other thing I think is important to remember, once this decision is made, we have less recourse to problems that arise, and in the past, the problems we had with the nursing home were things that weren't easily addressed and went through a process that may or may not have been resolved to the neighbors' satisfaction. Once this proposal goes through, the idea of when they deliver, where the parking is, what type of maintenance they do to the outside is much more difficult to deal with, because it's been approved. The other thing I feel is the idea that the landscaping mitigates the building, if you look at the design, most of the landscaping is interior to the block, where you don't see it from the outside. It's very difficult to mitigate a three-story building that stands in the middle of this block. The other point I'd like to make is, when you look at other assisted living facilities, they're sited on a thoroughfare that has much larger traffic volume. So the volume that they generate doesn't affect what's current. And again, if you look at McCally, that's on Stark Street, or where my mother resides on Division Street, their traffic doesn't make any difference, because there's already a large volume of traffic. On Taylor Street, and I think Andreas mentioned this, there's very little traffic on that street, and once this building goes in, it's going to increase the traffic considerably.

Katz: Thank you.

*****: Thanks very much.

Martha Peck Andrews: Good afternoon, Mayor and members of the Council. My name is Martha Peck Andrews, I reside at 2533 Southeast Taylor Street. I previously provided written testimony to the Hearings Officer, and I won't go over that again, given our short time. As Mr. Brooks previously stated, I testified that I do not object to the use as an A.I.F., I think that's an excellent use. However, the proposed building size, the coverage and building setbacks and in conjunction with the building height that is very high near the maximum allowed, these are way out of scale with the -- with this part of the Sunnyside neighborhood, and the applicant has not shown how the size and bulk will not negatively impact the surrounding neighbors. I'm going to digress for just a moment and shed a little history here. For seven years, from 1985 through 1991, I was served on the Portland Planning Commission. And that was during the time when we were going through the massive undertaking of rewriting and reformatting the zoning code into the form you see now, which was adopted in January of 1991. We had many, many hearings and by we I mean the Planning Commission and then followed by City Council hearings. I don't think any of you were on the Council then, so you were saved from that. There was a lot of discussion about what were appropriate base zone standards and all the -- in all the residential zones, and there was recognition that at times it's appropriate to allow exceptions. But there never was testimony that there should be an exception that would allow a building 2 1/2 times what's allowed in the base zone, and that's indeed what's coming for this proposal. The Hearings Officer's -- the Hearings Officer erred and reached an incorrect decision. It's bad precedent for the City to be saying it's permitted to be built. I have some documents I'll ask the clerk here to distribute. I have a simple illustration here which shows what is allowed in the base zone, and what is being proposed. The red is what would be allowed as a footprint, the black is what's being proposed.

*****: [inaudible]

Katz: At least wait until she's finished.

*****: If he's asking if it's in the record, it was not submitted previously, no.

Katz: Ok. Just one second. Then we have to --

Reese: The question is whether this document [map] was previously submitted.

Katz: And it wasn't.

Andrews: It was not submitted. I apologize.

Reese: It should be rejected.

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Katz: We'll reject it. Stop the clock for a second. Did you address this --

Andrews: I addressed this issue but did not have an illustration.

Katz: Then we'll just reject that. Why don't you address it, then.

Andrews: I addressed it in written form. Anyway, thank you for stopping the clock. We're ticking again. I submit that the applicant's proposal does not meet the purpose of the building coverage regulations, and that was what mr. Ackerman said previously, and i'll read that again because **I** think it's critical. 33.110.225a says -- together with the height and setback standards control the overall bulk of structure, and they are intended to assure that taller buildings will not have such a large footprint that their total bulk will overwell adjacent houses. I believe we have not seen demonstrated that that's not the case. Since i'm out of time I thank you for your time and please review the rest of my written testimony, and i'll turn it over to my friends here.

Katz: Thank you, martha.

Will Neill: Madam mayor and members of the council, my name is will neil, I reside at 2831 southeast taylor street in the restored victorian with the tower you saw in the presentation. I have lived in southeast Portland for 30 years. I have worked in southeast Portland for 30 years. I have owned a business in southeast Portland for nearly 20 years. I am in the process of purchasing a piece of property for my business in southeast Portland in an area that's appropriately zoned for commercial endeavors. Today i'm going to speak about the negative impact the proposed hawthorne garden commercial development will have on the livability of my neighborhood, the proposed hawthorne garden development would be a large commercial enterprise in the middle of a traditional residential neighborhood. All ingress and egress for the entire facility is proposed to be on taylor street directly in front of my home. And my neighbors' homes. This would cause excessive noise and disruption. At the previous facility on this site, entrances and exits were found on salmon, taylor, and 29th streets. Neighbors made multiple complaints regarding excessive noise of vendors, garbage trucks, and employees using these entrances. These complaints were frequent and lacked any lasting resolution. I personally requested that trucks would not deliver goods or pick up garbage between 4:00 and 6:00 a.m. Although requests were politely listened to, the pattern of early noise continued, thoroughly disrupting my ability to get a night's rest. The proposed design would concentrate this commercial activity in one area rather than spread over three streets. Resulting in unacceptable noise and commotion from all vendors, all staff, all residents, all visitors, and all emergency vehicles using this same entrance. Despite the studies cited in the approval of this plan which indicate on paper that this facility will not increase noise, our neighborhood experience with a facility of half this size of the proposed facility did in fact create significant noise problems. Affecting livability. The proposal to have one entrance will compound noise problems for neighbors on taylor street. In addition to the noise, every vehicle leaving after dark and the if a -- facility's own exterior lights, will project their lights into my home and my neighbors' homes, disturbing me while we're engaged in family activities and attempting to sleep at night. I request this current plan be rejected due to the negative impact on livability to local residents. Thank you very much for your time and attention.

Jennifer Richmond: Good afternoon, my name is jennifer richmond, I live at 2823 southeast taylor. 10 weeks ago my husband and I purchased the house that will sit directly across from the proposed parking and loading area of hawthorne gardens. We bought the house with all of the hope and excitement that one could imagine with the intentions of making it our home and our future family's home for a very long time. Southeast taylor street promised to be the exact fit to our dream. We knew the property across the street was for sale, but were also aware of how the intentions of the planning and zoning code are meant to protect the citizens of Portland and promote healthy development as ideal with land use issues professionally on a daily basis. We had

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every confidence that whatever was going to be witness on the site would meet the criteria of livability, scale, and appearance set forth and guaranteed in the code. The cumulative effect of the multiple adjustments requested for this structure on the immediate area will be exceptionally detrimental to livability. It's not just the livability of the residents that surround the site, but also the livability of the residents that will be living in the site. So many people put into a very small area, it can't be very nice. The scale of this structure, the layout of the parking and loading, and the resulting traffic from this, the choice of materials, the limited setbacks were all adversely influence all aspects of our lives, from headlights beaming into my living room in the evenings, to our property values. The larger scope of effects will branch well beyond the immediate area, Portland is known and respected as an icon of smart progressive planning. The foundation of the proud city are its citizen and it's evident by all the people here today that there are problems with the development that's under consideration. I don't know how many developments such as this that are approved it will take, but poor design decisions cannot be allowed to undermine the defining values of our city. Please deny the conditional use application to promote -- and promote the unmatched livability that all Portlanders hold to their hearts.

Katz: Thank you.

Julie Chapman: I'm julie chapman, I live at 2806 southeast taylor street. It's -- we were also in the slide show. We're the one house on the corner of the block which includes the nursing home. You've heard other neighbors talking about other issues with delivery trucks and setbacks and about the physical mass and the scale of this business which is applying for an exception to the traditional r5 zoning of our neighborhood. And i'd like to further address our history with the noise generated by the previous owners, the current owners who would like to become the future owners.

We've lived with a marquis-run rehab center, and we have a long history to refer to. Over many years, at least seven households I know of complained about the early delivery of -- the deliveries and arrival of the garbage and recycling trucks before 5:30 in the morning often. This wasn't just the noise of a garbage truck idling as they threw the garbage can from your yard in, this is a huge truck with a huge arm that goes crash, crash, crash, bang, and the sound of the piercing noise of the back-up beeping as they come out again. Imagine this outside your bedroom window at 5:15 in the morning. It's not very pleasant. Very politely, always very politely the administrator of the nursing home regretted nothing could be done because you know the garbage industry. Well, I don't, actually, maybe they're early birds, but it was a very unpleasant experience to live with. I moved my bedroom, I changed my work schedule two hours earlier, I tried to mask the noise with a fan. It's a really sad commentary that I find it a better neighborhood neighbor now that it's empty and being lived in by homeless people, than it was as a nursing home. I was gratified to learn during the zoning exception process cathy leave i, from marquis, found a commercial collector who would be able to come after 9:00 a.m., but i'm concerned that once the spotlight is no longer on the marquis, they will regress to inference with regard to noise and to the proposed landscaping and to traffic issues. As mr. Fog said during the sunnyside neighborhood association meeting, we will build here. If you don't like this, see how you'll like a drug rehab center at this site. This did not sound like the sentiments of a good neighbor to me. Thank you.

Victoria Gilbert: I'm victoria gilbert, I live directly across --

Katz: Before you go ahead, on the conditions that the hearings officer stated, he said no pickups or deliveries by service providers between 10:00 p.m. And 7:00 a.m. He also meant garbage.

Stokes: Yes.

Katz: Ok. Go ahead.

Gilbert: My family and I live directly across the street from the proposed site of the new assisted living facility. At that intersection of salmon and 29th, we are the only single family home. There

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are multiple apartment dwellings on the northeast and southeast corners and the proposed facilities on the northwest corner makes three out of the four corners. As it is the density at that intersection is fairly high, and we've been following the progress of this proposed conditional use permit very closely. This request is being treated as if it is a small incremental adjustment to the existing structure, when in fact the existing structure is being completely demolished. What is planned for the location is a completely new type of operation in a completely new building. A single story, 72-bed skilled nursing care facility is not at all the same as a two- to three-story, 62-apartment dwelling. This is a major change, not a rehab or modification of the existing structure. I feel a more stringent design review is warranted to determine if this massive full block behind us one lot structure is appropriate to the r5 zoning of the area. The allowed building coverage for the site is as the record shows, 6,621 square feet, and they're requesting to change it to practically 18,000 square feet. Though the previous conditional use had it quite close to that number, it's important to look at what would normally be deemed appropriate for that size and in a brand-new structure, that site in a brand-new structure. You'll hear from other neighbors about our concerns about the size of the building, the possible problems with noise, traffic, and parking. All of these concerns go back to the issues of whether this type and scale of commercial operation is appropriate in this location. Thank you.

Katz: Thank you.

*****: I'd like to present this to the council. I talked about it in written --

Katz: If it's new, we've got legal restrictions. But you can verbally share the information.

*****: Thank you.

*****: [inaudible]

Rees: Both sides have drawings that were black and white in the record before the hearings officer and like to submit colored drawings.

Michael Lewallen: Madam mayor, council member, my name is michael, I reside at 2803 southeast taylor and have lived there for a considerable time. That's a corner residence that was shown earlier. The drawing that I have shown is simply the applicant's drawings for the proposed building in black and then the existing building is outlined in red. And it's just to simply show the scale between the existing facility and the new facility. The reason I did that, part of the process that we had earlier on with the marquis and with martin treece, the developer, was to -- we met, we asked -- we were asked whether or not we could live with this type of building. This is before any drawings or anything had been done. And we said, we had no objection to it, an assisted living facility. We had lived next to this nursing care facility and had individual problems, but overall, the concept is fine. We had a discussion over the next couple of meetings back and forth as to issues that might be involved, landscaping, types of services that would be available. But nothing was ever really shown to show the residents of the neighborhood scale. There was no -- we had black and white drawings without context wall issues, there were no houses or items in that -- in the neighborhood that people could visually image and imagine that this building in its size. There was a model presented, but it was of -- it was very small, the roof structure itself was done at the wrong slopes, it didn't even fit, and it was not done with the site. So the people didn't have an idea. The groundswell for who was sitting behind me now came later once people went out and started looking at the site, visited other problems, and came to the conclusion. Because we thought this was a big building. The 17,500 square feet approximately that the existing footprint is was constantly used to the new building. But the volume was never used. The fact the new building is going to be over twice as large that's what this drawing is showing and that's what the residents have come to understand. I wanted to also talk about the fact that this building, how it fits into our neighborhood, there was some discussion about it having some historical element that's would

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imitate the existing houses. I really disagree with that. There is particularly one element that may be associated with historical buildings, and that would be the brackets on the ends, but that's the only one. Otherwise we have a very large building with horizontal vinyl windows, panelized single system and lap siding. All of these materials might be appropriate for some types of buildings, I use them in really low-income type housing, but never in an institutional building in this type of neighborhood. These materials require fairly rigorous maintenance to maintain -- to be maintained to have any kind of longevity. I as an architect have been in the process of replacing some of these very materials due to wear. So -- as you people in the city council know, when budgets are tight, one of the first things that starts being cut is maintenance. Landscaping, care of the building, painting, putting that off. A building of this scale in our neighborhood will have an adverse effect if that takes place.

Katz: Thank you.

Glen Watts: Good afternoon, my name is glen watts, I live at 2704 southeast taylor. I'm not much of a public speaker so i'll make this short. When I and my neighbors found out what was going to happen with this site, we were initially pleased with it. It seemed appropriate for the neighborhood, it seemed an appropriate use of that land and would add value to the neighborhood. It was only when we learned how big it was going to be how close it would come to the curb, how high it would soar into the sky that it became quite clear that it was not appropriate for our neighborhood and will have a negative impact on our livability.

Katz: Thank you.

Ellen Johnson: My name is ellen johnson, I live at 2918 southeast main, about a block and a half - - could you give that to the clerk? Thank you. I testified, though I didn't submit anything in writing at the july 7 hearing. I've lived in the sunnyside neighborhood for over 20 years. My family and I have owned our home from that period of time, and I think we have upgraded it and probably add between 80,000 and \$100,000 of value to the house. I oppose this land use application because I believe the hearings officer has failed to recognize the negative impact of the size and scale of the building on the neighborhood and the rest of the residential units or houses in the area. In addition, my home is about 20 feet wide, my -- the lot we -- the house sits on is 45 feet wide. And that's just about norm for our neighborhood. So with the houses you are shown and the multifamily dwellings, they are an exception to this area in the neighborhood. Generally you're looking at a 20 or 200-foot block with about a 45-foot-wide residential lot per house. And the size and scale of the building you've got here totally disregards that. The proposed facility, if it's built the way it's designed, is going to lumber over all of us. It's going to be this beast in the neighborhood. There basically is no other use in the neighborhood that is -- even comes close to the size and scale of this commercial development. Secondly, I object because I believe the hearings officer failed to take into consideration the amount of parking this facility is going to generate. Homes in our neighborhood typically do not have any on-site parking. It's a rare home that does. As a result, parking on the -- next to your home is a very rare commodity and something we all treasure. What we have here is a building that has 23 parking spaces for about 63 units. If you take into account the staff that will be required to park on site, you've got basically less than a third of the units are going to have parking available. And I am concerned about this, because there is nothing out there, there's no commonly accepted wisdom or facts in the record that will support the assumption this is an adequate ratio of parking to the residential use. Secondly, the hearings officer himself did not make any conclusion regarding my concerns about that, and I fear that what will happen is when this building is built it's going to basically use the neighborhood streets as an ancillary parking lot. In some, I object to this proposal because the facility as designed has failed to mitigate the negative

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impacts it will have on the neighborhood in terms of this parking and the size and scale of the building. Thank you very much for your attention today.

Katz: Thank you.

Chuck Fall: I live on southeast 28th, at salmon. Back in the 1970's, the buckman neighborhood experienced a lot of retrofitting, demolishing of old house and the building of the multiplex, which is good for affordable housing. I think a similar situation is happening right now with what I would characterize as an encroachment on the neighborhood livability and a violation of the spirit of the r5 zoning. And I want to just make a remark that I do see this -- the current request as an intensification of the conditional use. I think we're seeing a kind of insidious encroachment, and what we're essentially getting is a very big commercial apartment building plopped right in the middle of an area that is intended to be zoned r5. I think the conclusion the hearings officer drew up was incorrect, and did not appreciate this fact. The important point is it is an unreasonable project, especially the limited building setback is going to press into the livability -- the aesthetic, the beauty even of the neighborhood. And I think that needs to be appreciated. The height of the building puts it way out of scale with the surrounding neighborhood. The tall buildings are the big houses, are true -- we saw the pictures, there are also single-level which also surround the building. Pictures you in fact didn't see, you didn't see my house in the pictures you saw. Finally, the traffic issue is I think under acknowledged by the hearings officer, and 60 units now, I don't know how many those seniors will be driving? Of them will, they'll have guests and visitors, and in -- that just is a really unreasonable point. And I think that needs to be appreciated. And I appreciate your time and thank you very much for listening.

Ellen Noel: I'm ellen noel, 2814 southeast salmon. My home on salmon street faces the south side of the existing hawthorne gardens building. From that perspective, I currently see a fairly unobtrusive one-story building. It's not the most pretty of structures, but at least it kind of blends in behind the rose of -- rows of hawthorne tree and well-established shrubbery to the extent that friends who visited later on draw a blank when I mention it because it just didn't stick in their memories. Also from my upper story window I have a great view of trees and rooftops over the peak of this structure this. Gives a feeling of being in touch with the neighborhood, but because of the low-profile of the building, there's a nice feeling of privacy. However, the more imposing version of this commercial business structure that is being planned is quite the opposite of that. When I look out from my house, all I will see is a big two-story structure that resembles a modern hotel rather than a residence with features that are supposedly fit to -- meant to fit in but will, I suspect, look like a sad attempt at imitating some of the beautiful features of many of the finally crafted houses in our neighborhood. These houses are mostly constructed almost 100 years ago and have been lovingly maintained to retain much of their former charm. I worry that the proposed building will steal away the casual charm of our quiet little neighborhood to be replaced by a busy commercial center of activity, employees coming and going at all hours, guests coming and going and putting parking at a premium. In the past, when the current building was in use, we were often annoyed by guests and employees taking up much of the available parking spots and with 62 residents packed into this new facility, as is proposed, the parking situation will easily become much worse. I have lived in this home for 10 years, and during that time I have experienced not only those parking problems I mentioned, but also disturbing and often loud noises, employees of the facility throwing their trash on our property and in the street and delivery truck drivers who chose to park in front of our house and in so doing smashed into the branches of the tree in our parkway. I don't say this is necessarily going to happen again, however, at the time when my husband asked the facility management to resolve these matters, he was assured that they would deal with it and for a little while it did get better, but soon would it go right back to the way it had

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been. Apparently we're not the only neighbors whose requests have been given band-aids or have gone unheeded in the past, and more recently during time to discuss building terms between my neighbors and marquis, marquis has sometimes responded to our concerns not with assurances, but with threats such as putting a drug clinic if we don't agree to their current building plans. Because of these unfortunate experiences, I do not consider marquis to be a good neighbor and more to the point, how can I expect them to be a good neighbor in the future? I can only expect this overbearing structure to be a detriment to the value of my neighborhood and an imposition to the friendly neighbor atmosphere we now enjoy.

Katz: Thank you.

John Noel: My name is John Noel, I live at 2814 Southeast Salmon Street. I would like to refer to C-2, which you've got in front of you, an aerial view of the map. I'm going to refer to this, I am present -- presently hold a commercial driver's license so I do drive trucks, so the neighbors asked me to address the issue of deliveries to this building. If you look at the existing aerial view, the parking lot is in a U-shape in the center of the community. Which means they will enter one driveway and go out the other. A delivery truck driver will have to go on to Taylor Street and back up between 40 to 60 feet to make a sharp turn to enter the driveway to go back down into the pad where you see at the bottom. And park to deliver said goods. They're going to have to drive between 60 to 80 feet using side mirrors with a blind spot in the back. If you've ever been driving a truck, you know there's -- even in your car, you've got a rear view mirror, you can see, but you can't see on a truck. Any tenants, any cars backing up have a tendency to get run over. So you are asking the tenants, the people driving there at risk to be hit. We have kids going to Sunnyside School down the street, people walking on that street, there's a heavy residential use neighborhood for people walking and riding their bikes. And you're asking for a lot of heavy trucks to go through Taylor Street to back up into this complex. When the delivery truck is there, it's going to be parked at the bottom of the U, which is going to cut this driveway, this parking lot in half. And no one will be able to go in or out of this driveway as it's intended to use. The we have dealt with the community before, this building before, these people, and they have always assured us they're going to correct the problem, and it's not been corrected. We -- all we receive is lip service. We have had -- we've talked about the parking, we were told at the meeting we don't care about the elderly, they were threats about that, and putting the drug clinic. My concern is the law states you must have for every 18 parking spaces, one handicap parking space. If you got a building of 62 elderly people who need assisted living, why are you only having one handicap parking space? It seems to me Marquis does not care about the elderly people, they just care about the buck. If they were cared -- if they did care about the people, they would have more handicap parking spaces there. And on that, there was one other thing I wanted to bring up, Cathy, who spoke for the development commission, said that on the property it's 50% of the property is facing the existing building were apartments, that's not true. There are 18 lots there, 11 are single dwelling homes. The rest are apartment dwellings. And so I want to get that clarified. One other thing. Marquis said they'd have one delivery a week. One delivery, food delivery. I do not know anybody that can carry that much food for 1300 meals, single meals for their -- that they're planning for the community.

Katz: Let me clarify. Nobody spoke for the planning commission. They weren't even involved in this.

John Noel: Late -- the lady that gave the report said in the report if you go back to the lady sitting here showing the pictures --

Katz: Bureau of development services.

John Noel: I'm sorry. That's what I want to refer to.

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Katz: Anybody else want to testify on behalf of the appellant? If not, let's get the applicant. You have 15 minutes.

Katz: Is this the drawing that -- was this a black and white drawing that you showed at the hearing?

*******:** No. This is a three-dimensional drawing.

Katz: Take it off. Now, if you colored that one, that would be appropriate.

Rees: Before they begin, staff has pointed out to me there may have been one drawing submitted by the appellants that was a new one as well. So we may want to deal with that --

Katz: Was this -- was theirs a new one?

Rees: Can you take that down for just a minute, please? One of the drawings that was submitted by the appellants that we allowed in as a color, there were apparently multiple drawings. I didn't get a copy of them. Why don't we let staff address it to make sure we have the record straight.

Katz: Ok.

Stokes: That drawing compares the existing development with the proposed development. They used as a basis the elevation drawings of the proposed development, but colored over it, the existing development, which -- so that in that respect, it was new information because that existing development overlay was never on the original drawing.

Katz: What was --

Stokes: That's why the agreement was made. What the applicant wishes to show is the same building design plan elevation that they have had all along, but it's a new rendition showing it from a different perspective and with color.

Katz: What you're really asking us is to accept a new rendition with color versus an existing one with an overlay, which is new.

Stokes: It's your choice, but what i'm saying is that what the appellant did submit was new material, and I understood the agreement was sort of tit for tat.

Rees: I guess I didn't understand --

Katz: I didn't understand how much tit and how much tat. [laughter]

Stokes: I can't didn't either --

Rees: This is an on the record hearing. My understanding, I was not at the -- I would recommend that we reject both of them as being new evidence at this point.

Katz: Ok.

Tim Ramis, Attorney for Applicant: We have no objection to that ruling.

Katz: A lesson for all of us, tit for tat doesn't mean it's equal. We need to be a little bit more precise.

Ramis: Members of the council, tim ramis, 1727 northwest hoyt, here today on behalf of the applicant, marquis. With me is barry smith, the architect on the project. I'll introduce the project and talk about a couple of the legal issues that were raised, and then interpret to barry to discuss the design issues and -- in compliance with criteria. We would like to point out that the project represents an opportunity to convert an older nursing facility to a modern housing alternative assisted living. It represents for Portland citizens an opportunity to avail themselves of an important housing alternative and be able to stay in the community rather than having to look for choices in places like hillsboro or wilsonville, where the majority of this kind of new housing exists. So from our perspective it is a good policy decision and we appreciate the neighborhood is favorable to the concept. This project has evolved substantially since it was first presented to the neighborhood, and we'd like to acknowledge and thank for the record the planning committee for the neighborhood, its chair, ruth, paul, and others who participated for eight months or so in getting their input into the project. In the hand-out I provided, there is a january 24 reference to the

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hearings officer that details many of the comments from the community and the specific changes that were made. This letter was presented to the hearings officer. And I won't go through all of the details, but you can see there were changes to the operational aspects where parking took place, where deliveries were to happen, parking was placed underground, change in the architectural details, change in the location of the building on the site in order to expand yard areas where they faced the front yards of single family houses in the neighborhood. Very substantial changes which enabled the hearings officer to make the findings necessary to conclude on all the critical criteria, things like scale, appearance, compatibility, livability, and meeting the purpose of the setbacks. Those were all the product of input from the community. There was a concern raised in the past week to me from Mr. Brooks and others about the question of whether the building that would be built would be as presented to the hearings officer. You will notice that in the hearings officer's conditions, condition d, specifically ties the decision that he makes to a design exhibit, which lays out the specific design of this building. That will tie it to the quality of materials and the specific types of materials, so if there's concern about that, we think that's a legitimate concern. This can be conditioned to be exactly what's been presented. Turning now to the legal arguments, there a fundamental theme throughout the arguments you've heard, and that is that the council should find that the hearings officer made a grave mistake in considering the fact that an existing conditional use is there on the property. You are urged to ignore the fact there is an existing conditional use. This permeates a number of arguments, including the claim this should have been treated as a new conditional use application rather than a change to a conditional use. In our view, the staff, the hearings officer and the applicant would come out on the prevailing side for two principal reasons related to language in the code. First, your code provides conditional uses are terminated only upon disuse for a period of three years, and we don't have that in this case. So we have a valid conditional use dating back to 1960 for 72 residents. That can't be ignored under the code. Second, the structure of the code for reviewing conditional uses is clear. It has two tracts. One is a tract for brand-new conditional uses, with a procedure and a set of criteria. There's a second tract which was relied on by the hearings officer in this case, that sets up a procedure and specific criterias -- criteria for applications for changes to conditional uses. So the argument made by opponents is essentially to invite you to ignore about three pages of the zoning code dealing with how you treat conditional uses that already exist. And that we think would not prevail ultimately on appeal. The next objection that's related is the claim that the standards for group living were not adequately addressed. In this case, the staff has indicated to you, and we agree, that because we have a preexisting conditional use for group living, those standards are not revisited when we come to change the building. In fact, if you were to revisit those standards each time someone tried to modify a building with a valid conditional use for group living, would you discourage those applications and discourage the upgrading of those buildings because in many cases if you rereviewed them, people would lose their conditional use because of your spacing requirements. So not a good policy to start applying these things retroactively to something that's already got a conditional use permit. The other place this theme of ignoring the existing building comes up is in the argument over lot coverage. And the contention from Mr. Brooks and others is that you should consider the substantial because under the code there would only be a 6,000-foot building built there under a new review. We think you should consider the relevance of the existing conditional use. In fact, this is an increase of .6 of 1%. That's the total increase. But even if you considered it completely vacant, the relevant criteria would be what could be built there. And what could be built there is nine lots with houses on them, approaching something like 14,000 square feet of lot coverage. So under that comparison, our proposal for 17.9 isn't really that major a change. So whether you use the existing structure for your comparison or what could be built there, we don't

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think the outcome of the legal analysis is different. I'll conclude there and leave the rest of the time to barry.

Barry Smith: My name is barry smith, my address is 620 southwest fifth avenue, suite 604, Portland, 97204. I've presented testimony that you can follow along with. I'm going to go through the first part of my testimony very quickly. Marquis's properties bought the project and realized early on the future for elderly housing in this area was as an assisted living facility instead after skilled nursing facility. Basically a nursing home is a hospital room with two people in it, the new way of housing people is much more benign and much kinder where people get their own space. It's a little bigger. They teamed up with a partnership that was adept at infill housing and building in established neighborhoods, and they hired a second architect to work with the first architect who specializes in assisted living to work on the issues of building in existing neighborhoods. The original drawings were taken to the land use committee of the sunnyside neighborhood association and reviewed, and we heard basically all the testimony that you've heard today. We then went about making changes. Getting the existing patterns of entrances all over the place confine to an interior space under the building. We worked on a scale and kind of all those characteristics that everybody talked about. We then went to our preapplication conference and told the preapplication staff what we experienced. We then did a walking tour of the neighborhood and that's what these boards are. This information was submitted in the record. To kind of get a feel for what the character of the neighborhood was. We presented the design again to the land use committee, we talked about aging in place and how this was a good opportunity to recreate a living center and -- in an existing neighborhood instead of building it somewhere else in the outlying areas. We took it a third time to the neighborhood association on january 14, and basically had consensus that the project was a good project. There was a lone voice saying if we were able to stop this project, the conditional use would expire and the owners would have to develop the site as a single family residence. But other than that, the comment was really isolated and we had people come up after the hearing and talk to us -- after the meeting and talk to us and say that's not really a fair representation. So we went ahead and made our application. We submit add full copy of the application to the land use committee chair, and -- in march, and in may we had a significant amount of responses to get the record straight, and make sure the application was complete, and that was submitted also. All during this time, we constantly made the offer to develop a good neighbor agreement, even though one isn't necessary. I still think a good neighbor agreement is a great idea. We haven't had any response back from the neighborhood association about doing the this. I think there are issues about maybe delivery, there are certain big trucks that might have to get in here, and i'd like to write parameters for how that happens, where they park, what hours of the month they would do it. The design continued to evolve, and what i'm going to talk about for the next five minutes is nuisances -- nuances in the city of Portland zoning code. One of them has to do with setbacks. This site had this pointer, is considered a through street lot. It has frontages on four streets. When you have this condition, the street front which has the narrowest frontage, 28th, is considered the front yard. The street opposite it is also considered a front yard, that would make taylor and salmon street considered side yards. You look at the pattern of the neighborhood, and 28th and 29th are side yards from all the other buildings, and 29th is very active. So we felt it was more important to make our front yards on taylor and salmon street and we have greater front yard areas than would be required if they were front yards. What i'm trying to say, the setbacks in general exceed what is supposed to be there, the amount of yard space we have exceeds what's supposed to be there, the landscaping plan is really complex, the building elements are broken down so that you don't have continuous walls of institutional housing, it more replicates the rhythm and cadence of the neighborhood. If you look at the pictures of the streets, even if you look down

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salmon street and taylor street, the rhythm and cadence is the same. We changed styles, we borrow roofing elements, and we change the way assisted living facilities are typically developed. The second big adjustment we've been getting comments about is building coverage. The new subdivision code has a really complex way of calculating building coverage. In this case, if I went to subdivide this site, I would be able to develop nine lots. Basically corner lots, 50 by 100 lots, can be split in half to have two attached house that's face each street and I would have three groups of those pairs of houses and three other lots of 50 by 100. If I then take the building coverage for what would happen on those individual lots, the amount of coverage that would be allowed actually increases. The way we had to calculate it is, if we have this one 32,000-square-foot site and diminished amounts of building coverage the zone allows. In that case I calculate we would build approximately 14,000 square feet where we have approximately 18,000 square feet in this assisted living facility. The coverage requirements, the building height, the setbacks, are all elements that are related to the calming of the facility in the neighborhood. By getting deliveries off the street, by getting parking off the street, by getting drop-off and delivery of services and people, and staff off the street. Not only did we redesign the building to meet these conditions, and these techniques are not mysterious, it's not throwing bones on a table. They're real responses to real issues, the management plan was reorganized. This is not the way marquis typically manages buildings. They recognize that there's a sensitivity to being in an existing neighborhood. So they talk to the waste management company and got a commitment not to deliver at 4:00 in the morning. I was amazed. I never thought they could do it. They talked to their vendors who do deliveries, they got a commitment for them -- from them to use smaller trucks that can maneuver in the site. They reviewed the site plan to make sure it worked before we finalized it. A good neighbor agreement should we be able to do one, can set forth the management goals that are outlined in the plan, the traffic demand management issues and the operational issues, into an agreement with a phone tree so that if there is a problem, these people making the commitments to do a more benign project can be called. If the project is ever sold to someone else, there's an established way of going about to make sure these things are maintained. If there are maintenance problem, if it's not painted correctly, there's an established way of communicating. We haven't really heard from anyone in the neighborhood since we started submitting these things until people showed up at the hearing. And I don't think the hearings officer was too pleased about it, because it was like an ambush. We didn't give comments during the comment period. We thought we had met the conditions that the neighborhood was asking us to meet, and we still haven't got back real issues of what we can do, increasing setbacks, dealing with height in a different way. There's no concrete things we have heard that we can attack architecturally or from a management plan. So we're here today to defend our process, which is what's been recommended and laid out in the code about how to go about these kind of sensitive projects in existing residential neighborhoods. Thank you.

Katz: You have 20 seconds.

Ramis: Mayor, i'll submit, although it's already in the record for your reference, if you choose to include it in a condition, this typical materials --

Katz: That's the materials issue you identified? Ok.

Leonard: Via couple questions.

Katz: Are you finished?

Katz: Ok. Go ahead.

Leonard: I have a couple questions. The appellant said that this application should have been reviewed by about evaluating the conditional use criteria against the base zone standards as if this were a new development, versus building on prior conditional use conditions. Why is that wrong?

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Ramis: Well, in our view, the design complies with the base zone requirements. That's why it wasn't a controversial issue.

Smith: In the application, we addressed the new building as if it was green field. We didn't come mare -- we compared it sometimes to the existing facility as an example, but in terms of the findings in the -- and the criteria we melt, we addressed it as if it was brand-new. I think the appellant is incorrect in saying that we are just leaping incrementally from the existing building. Our application was set forth as if it were a brand-new building for an existing conditional use.

Leonard: Are you arguing that in any r5 zone within the city you could put together a similar package and propose a similar project?

Smith: Except for building coverage and the setbacks, which are nuanced issues in the code, we had to adjust though those. Everything else was met.

Ramis: The other point i'd like to make is that there's no doubt the decision of the hearings officer could benefit from additional word smithing to make sure that issue is brought out and described, and we'd be happy to submit additional findings should you approve the application.

Smith: The application has the findings. We talked about all these things, but they weren't relevant because they were met. They were only relevant when we didn't meet them in building coverage and the area around the loading dock and the setbacks on southeast 29th.

Leonard: I guess you're going to have to help me a little, because i'm still aching from the bruising we've had for the last nine months around here regarding whether or not -- reasonable minds can disagree on this, but this has been the issue around here for nine months. I counted the first time I did correspondence, it's exactly nine months ago, whether to put one or two single family dwellings on a 50 by 100 lot. With regulations I might add, there are a lot more clear than this, and as I said, you can argue either side reasonably and come to a conclusion -- different conclusion and actually have a good basis. And I guess if we were slugging it out over that, this is so exponentially further than what we contemplated for some neighborhoods with which there is some basis to argue, that is not helpful for me to do that. The quickest way to lose me is to do that.

The -- I lost my train of thought, too. The proposal here is so much in a different galaxy than what we were even arguing about here, i'm just trying to have -- i'm having a hard time wrapping my arms around this with respect to the arguments given, and i'm throwing this out so you can respond.

The persuasive arguments given that this is a structure that's going to be in part three stories high, that is going to be just under 40,000 square feet, that is going to have impacts undeniably greater than what was there, and apparently what was there was great, and I guess philosophically I don't know how we maintain any consistency to allow -- how we maintain any consistency if we are really having a hard time on whether deciding to put one or two single family dwellings on a 50 by 100 lot, and we're contemplating this.

Smith: I think that's why you have a conditional use process. The conditional use criteria falls down into three categories. Livability, public service, and physical compass built. It makes the adjustments and the kind of swallowing of the bigger building easier to take because you have to prove that it doesn't adversely impact the neighbors.

Leonard: Why do we have r5 zoning at all?

Smith: It's kind of a strange zone. Because if you look at the characteristics of the neighborhood, it should be more like r3 or r2.

Leonard: Why do we have zoning at all? Why can't anybody come in and make a case to do anything anywhere they want, and we grant the permit based on the proposal? As opposed to forward thinking planning that allows some idea of what's going to be in neighborhoods and business districts of the city.

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Smith: I understand. I've been having this conversation all morning with some of the staff that's working on the northwest district plan.

Leonard: You had to go there.

Smith: I do a lot of work in northwest Portland too. You can't catch a break, because either way you move, you're going to get bloodied one way or another.

Leonard: My point --

Francesconi: We figured that point out.

Leonard: Like in the northwest plan or the r2 zone, we're like arguing over nuances. And this doesn't seem like a nuance. Different people say it -- see it -- you could argue there are positions either side takes in those cases that are based on the code, and comprehensive plan. This doesn't seem close.

Smith: What happens is R5 zone is different in southeast Portland, northwest Portland, northeast --

Leonard: Those of us on the east side are painfully aware of that.

Smith: The thing about it is, it doesn't actually reflect the characteristics of the neighborhood. This would be harder sell if the building wasn't there. We're looking at an existing facility that doesn't work, it's not a good way to house people. We're looking at a new facility that is a good way to house people and it's been shown to be de9. It's a little bigger because one of the ways we house people is by giving them more living space. We would rather do it here where the patterns have grown up around it, than in sandy or in another neighborhood where we would be tearing down nine historic homes or six historic homes. So we have to look at the patterns in the neighborhood, and to say this is an r5 neighborhood is not really an accurate reflex --apartment buildings from old historic homes.

Leonard: I see your point, but the existing facility is 22,000 square feet, yours is almost 40.

Smith: Instead of two people in one room we're giving each person their own room.

Leonard: I have one more question. Is there somebody from marquis here that was at the neighborhood meetings?

Smith: Yes. Three.

Leonard: I'd be interested in talking with the person who -- asking the question of the person who said if not this, a drug facility. Is that person here?

*******:** I think it's -- .

Leonard: Was that accurate, that was said at a hearing?

Kathy Levy, Director of Operations of Marquis: My name is Kathy levy, the director of operations with marquis. We had, when we first closed the facility, we had a lot of people ask us what they thought was going to happen with the building, and asked if they thought there was rumor that actually you wanted to have a mental health facility for youth in that neighborhood, or was it going to be a drug rehab for teenagers, and the question was posed to us quite often, when the building first went up for sale, and we responded with saying we had been approached with people who did want to put drug and alcohol rehab there. And over a period of time we decided we actually wanted to remain with the facility and build an assisted living facility for seniors. It was in that context. I think the words were taken out of context.

Leonard: You understand how a neutral person might interpret that to be a threat or some type of intimidation?

Levy: Absolutely. It was at a neighborhood association -- it was addressed again, that we had been approached for it to be a drug and alcohol rehab, and that was a potential consideration if somebody came to us and wanted to buy the facility for that purpose.

Leonard: Thank you.

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Sten: Tim, could you clarify for me, you're not using the old conditional use at all, you're applying for a new conditional use? Or you're using the old conditional use and applying for a new building permit?

Ramis: That's correct. There is a process in the code that says where you have a conditional use and you're modifying what's there on the site, you go through a particular set of criteria.

Sten: If the other side disagrees, I would be interested in your rebuttal time, you have a conditional use to house up to 72 people.

Ramis: That is correct. And we could -- if marquis physically could do so and the building would accommodate it, we could switch the current group living use of nursing care to assisted living, and if we use the same building we wouldn't need a new conditional use permit. So it is the fact that we're changing the building that puts us through a process.

Sten: Anybody that buying this building would go by that conditional use --

Ramis: That is true.

Sten: There's a separate question of whether or not your building meets the standards for this --

Ramis: Yes. That's the process.

Katz: Further questions?

Francesconi: Following up on commissioner Sten --

Katz: We still have testimony.

Francesconi: Because you could have more units, more living spaces for seniors, that's why under the law, that's why the issues of traffic and noise i'm having trouble seeing folks from the neighborhood why that's relevant, because you could actually have more units under the existing use. But tim and -- the issue i'm struggling with is the compatibility with the neighborhood. And the bulk in the height. And there are specific requirements here on that. You have an option, it's said different ways, but you -- either the proposal is compatible with adjacent residential development based on characteristics such as site size, building scale and style, setbacks and landscaping, or you will mitigate. So it looks like you've chosen the mitigation route. Is that fair to say? Or are you saying is it compatible?

Ramis: It's a combination. We have used landscaping in our -- and architectural detail to make it compatible with the neighborhood. Those things can also be viewed as mitigation.

Francesconi: These cases are difficult for me because now we're getting into some subjectivity. Is it come pat ill, is it not compatible. We have good citizens here who say it's not compatible. Do you have -- is there anything in the record that shows what this will look like in relationship to the others? I wanted to air out what i'm struggling with, and do your best to convince me. I guess you that it's compatible with the neighborhood, or that you've mitigated. I've read the staff -- I can't -- i'm struggling with it. That's the only thing i'm struggling with, but i'm really struggling it.

Ramis: I'll give barry the opportunity to address that, but I would urge you to cope an open mind until all the testimony is in, because the testimony you've heard about incompatibility may well not be the ever universal feeling among people that live nearby.

Smith: This is still an assisted living facility that is a big building on a compact site. There's no way of escaping it. What we do is we use design techniques to break the building mass down, and where it's really continuous and long and horizontal, we try and screen it so it disappears from view. The design is very difficult for people to read in drawing form. We could do large models, we didn't do that. We presented photographs of the neighborhood to show a view of the building, similar views of the neighborhood so you can get an idea of what the scale is. Just like we have the bureau of environmental services judge whether or not we meet the criteria for a storm water management plan, we have the bureau development services planning staff judge whether or not these compatibility issues were met or not met. They're technical staff, they're used to reading the

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drawings and they're used to seeing things in drawing form and then in built form and being able to judge whether or not they do or do not. Because design is so limited in our schooling, I can go through a mathematical equation everybody is going to get. But if I start going through a design argument, which we've con, you still don't get it. Because that's not the way you're trained. We have to look at examples where we've done it before. Because some architect do it so often, and in a way that's kind of historic styles or mimicking historic styles, we then find articles in the newspaper on the projects that say, these buildings look like they've been here all the time. And we can produce those that would be new evidence, but we can produce those. So i'm not saying it's a leap of faith, and i'm not saying it's a problem of, you know, whether you agree or kiss agree, but a certain point, I don't think you understand your storm water manual that well. I know -- I deal with it all the time so I don't, and so I have to depend on a civil engineer --

Francesconi: I'll take your hint and i'll ask staff. So i'm giving staff a heads up. But in two or three sentences explain why this is compatible with the neighborhood.

Smith: Essentially what we did is we broke the building mass down, and then we made little houses. So we have little houses marching down the street instead of a real long motel. If you look at the neighborhood, it's a bunch of little houses marching down the street there's photographs where you can't even tell the houses aren't attached. They look like they're one continuous building. That's it in two sentences.

Francesconi: And the height, what's the allowed height on this site?

Smith: 30 feet.

Francesconi: And how tall --

Smith: It's 30 feet. It's calculated on a sloped site, so you measure from the high eggs point, 30 feet from the highest point of the site, as it slopes away, the building can still be that high. And we use these berms and rock walls which are consistent throughout the neighborhood, and then height is measured five feet from the face of the building. So just like have you these big tall houses which you can see in the neighborhood, that don't appear as high, we use this technique of berming and landscaping to help break down the building scale. The houses are huge. The houses next door will be bigger than -- as tall as this building if not taller. Some of the houses are four stories.

Katz: I'll argue with you later about blank walls. I think you do have a series of long extended walls and -- I don't think you can screen a blank wall with trees and have a forest. So I appreciate what you were saying in terms of breaking up the space, and I guess the issue is whether you can continually break up additional space, and you may have to give some of the interior court space up to do that. That's a choice that you make, but that probably would have a different frontage look to the rest of the community. But that's subjective.

Sten: I -- it may be in there and I didn't catch it, but did you submit to anyone a draft good neighbor plan? I heard you'd like to do one.

Smith: We never did. I have one, and I just never got anyone to respond. Seems like I was the only one who wanted to go so it never went there.

Sten: Ok. Thanks.

Smith: I don't know what to put in it.

Francesconi: I don't know. If this is inappropriate, tell me, you were saying you didn't know what the issues were from the neighborhood. Because they didn't respond.

Smith: We did.

Francesconi: I'm sorry.

Smith: Let me clarify. All the comments that were made we heard at the initial meetings that we had before we even went to a preapplication conference.

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Francesconi: I know. But after that.

Smith: They haven't changed.

Francesconi: Well, now the neighborhood -- we're not mediating anymore. Now you heard my concern, ok. Only my concern so far. Can my concern be mitigated? Could you go do something different and still -- or would we lose this unit?

Smith: We've been talking to tim brooks in the last couple days about, hey, what can we do to salvage this thing and get it off of your shoulders? And we didn't have enough time to really go through everything. I believe that my clients, the developers and marquis company, have the good faith to work with the neighbors to begin to mitigate any additional design elements that are a problem in this scheme. The problems that we kind of face is, we don't have the luxury of beginning to diminish the number of units.

Katz: Let me follow up. What I said didn't diminish the number of units. I understand where you're going on that.

Smith: If I can begin to get that feedback, because we have done a lot of changes based on neighbors' comments. I would never have even approached this site if I hadn't heard what their concerns were. As we would continue to get their concerns expressed to us, we continued to work on the design. When the comments stopped we stopped designing.

Katz: So that's really the question that we're asking, is a question of both you and representatives of the neighborhood, whether keeping the number of units and they're lower than what you can actually create, but you did them differently because you wanted another kind of a facility. But can you break up additional space not to sacrifice the number of units, but maybe to sacrifice the inner court design, the one you all -- staff talked was beautifully landscaped for the residents of the facility. I think at the expense of maybe the neighborhood's front door. So if that's something that you think you can do and work with the residents, is that possible from your perspective?

Smith: You know, I have to figure out what it is that no they would like us to do.

Katz: That's fair.

Smith: And we're talking about things like you want to talk about nuance things, reduce the driving aisle from, does that get two more feet of frontage on 29th avenue, and that is going -- and is that going to make it, I don't know.

Katz: We need to continue hearing the testimony. You're right, tim, but I think what you have here, you are the architect, barry, aren't you?

Smith: It's a collaboration, i'm doing the planning and I design the building. It's exterior, and there's another who specializes in assisted living facilities that's doing the interior stuff.

Katz: It sounds to me, and I may be wrong, that there are possibilities for working through some of these design issues that would create a far more compatible less bulk and you do that as you know by breaking up space and doing setbacks here and there, and just provide -- if that's what you really want, little buildings down the road, you can do -- that can be done. How much you have to give up is a question I can't respond to right now. But it's a possibility. So let's hear the testimony, then we'll probably come back to this before we make a decision. Thank you.

Ruth Parvin: Good afternoon, my name is ruth parvin. I own, live, and work at 2925 southeast taylor. I've lived there for 12 years, in a 100-year-old house that i've done significant improvement on. This corner that we're talking about is a major part of the view from my porch and two rooms of the house. I'm not directly across the street, and I do understand the concerns of the people that live there. I guess I sort of started this citizen response back in march of 2002 when I saw the for sale signs go up on marquis, and immediately contacted kathy, who had been a person i'd spoken with previously about noise problems. And I agree, they weren't very responsive to us until kathy moved into her position, and I found we got a lot more response and help from them. Anyway, I

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called and said what's going to happen with this? I immediately had all kinds of fantasies of drug rehab, and halfway houses from the jails and the prisons, and various sorts of things that scared me to death because my house is the major -- it's the cornerstone of my retirement. And I asked those questions. I was the one that started all of those questions. I then went around and leafleted everybody within two blocks of the facility asking them to come to a neighborhood meeting to talk about how we could have input into this, and we had about 10 people show up. I then set up an opportunity for us to go out with the realtor and go through this building, which is a really ugly half century old building that you wouldn't want your family members to live in. I -- and then I developed an email address group and I sent out announcements of every single meeting that was had around this, as well as all the normal neighborhood notifications of it. And I went to three different meetings where we discussed these plans. And they have gone through such significant responses, even things that they said they could not do, they found ways to do it. Very few of the people who have testified today were at those meetings. I thought that we had come to a place where everybody who was still concerned was as happy as we could be with it. A large building is difficult in your neighborhood. I'd rather see victorian houses with families with no teenagers with loud music living there. But given the value of that land and how much it would cost per lot and how much it would cost to build on it, I can't imagine this is going to happen at this time in our history. So what I sort of thought was, we need to mitigate and work with this to get the best possible thing that we could. I began having classes on tuesday nights. I could not go to the meetings anymore, but I thought we'd gotten to a point where everybody who was concerned really felt pretty good about what had happened here. When I then heard that the neighborhood had filed an appeal, I was totally surprised. I guess I can't say anything more about that.

Katz: Thank you.

Roger Jones: Roger jones, 2936 southeast taylor, about three doors down from the site. I have about a 45-year history at that location, that's when my father bought that house. I was only nine years old at the time, so i've seen a lot of changes, i've seen a lot of things happen in the neighborhood, and when that facility was built, it felt as a one-story facility to be a fairly good living facility. But i'm very torn by the passionate and thoughtful testimony of my neighbors who live around us. I wish that they'd been there a year ago when ruth was getting people together so that the developer could be very responsive and integrate these into the plans. Which in my opinion, he did. When the hearings officer said this should be an allowed conditional use, I read that testimony and I said, that's a good use of that location. That is a place where I would like to see 62 seniors live and walk in my neighborhood, and walk in front of my house, people i'd like to meet in my neighborhood, and I think it's a great place to live. The challenge, and I want to respond to your question, it's difficult to do a collaborative event here today when the developer has all of the beautiful pictures of the stone that he wants to put on the outside, and certain kinds of siding, and a list of amenities that he's planning to put in it, it wasn't in that drawing there it's on the one we can't look at down here. And so trying to be collaborative today is very difficult. I don't know if it a solution, but it's a good one -- question, one I know I don't have to deal with. I see it as a facility that will bring a wonderful group of people into our house. And my wife and I are both very dedicated to the neighborhood. This 45 years, the last 20 i've lived at that location, and we were married there in front of the fireplace nine years ago. Now i'm going to turn it over, I think my three minutes are probably -- i'll give my last 45 seconds to linda. Oh, ruth would like to have it.

Katz: No, you can't do that, but it's all right. Thank you.

Linda Jones: My name is Linda jones, I live at 2936 southeast taylor, as roger said. I've also -- what I wanted to address is the parking situation with the residents. I'm fortunate to work at

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willamette view retirement center. I'm the receptionist there. I work there 8:00 to 8:00 every day of the week, 365 days of the year. It's a three-phase retirement center. I this morning called the marketing manager for the terrace, which is our assisted care. I asked him specifically, how many residents we have and how many drive cars. There are 82 residents there, two drive cars. When they go from the regular residential area usually to the assisted care, they normally give up their driver's license. This facility has 560 residents. As for the traffic from the residents, I work in the main building. Between 8:00 and 5:00, we just have the regular residents going in and out. The ones that drive, or catching a bus because we have the bus that comes to the front door. The rest of the time after 5:30, 6:00, the place is vacant. The residents eat their meals at dinner and they usually can pick up their mail, and then they go to their rooms, and they're normally in bed by 8:30, 9:00. It's like a ghost town. I've been there 10 years, I think i've seen everything go through that place, and at the terrace I was told it's nothing different than that. As a matter of fact, it's less because they go to bed even earlier, and at holidays, the majority of the residents, a lot of them will visit their families, so they're not there. And that's the reason I don't think there's going to be a problem with the parking situation, with the residents, because most of them don't drive. It's not as though they're total invalids, they do get around, but they just don't drive cars. And I haven't heard yet, but i'm hoping, that this facility does have a mini-bus that has 17 seats in it. We have a couple of those. And it's great for the residents, they all pile on board the bus once or twice a week, they do their shopping and they come back. And we have very little trouble with the parking situation.

Katz: Thank you, linda. I think we have an issue here.

Rees: A quick comment. I don't believe that data was in the record before the hearings officer, and I just --

Katz: The comparison --

Rees: Different facility.

Katz: I keep forgetting -- we do need to get together before the next legislative session and make some recommendations in changing the procedures. We're bound by them, but they're clumsy.

Linda Jones: I just wanted to verify for the residents around there that spoke to me about the parking situation. I just thought an example might help.

Katz: You can't use it. Ok. So we will reject the testimony. Thank you.

Moore: That's all who signed up.

Katz: Anybody else? All right. Come on up and rebut. You've got five minutes. And then i'm sure the council members have some questions of you, maybe yes, maybe no. We'll try to get to closure as soon as possible.

Tim Brooks: Tim brooks. Let me just touch on a few points and then i'll pass it to stark. With respect to the good neighbor agreement, I think the neighbors' concerns that current management is nonresponsive, even threatening, is really our concern with what would happen if we actually went forward with such an agreement, and the other issue is the enforceability of it. What happens, if, as they have in the past, are nonresponsive and ignore it? We'd like -- if the council could make that mandatory as a condition of approval, we'd certainly like to talk about it. In terms of communication, just briefly, I think one of the issues we've had all along through this process is the lack of visual aid. And that's something that the architect brought up on the applicant's side. The proposal has been in a conditional state of flux, and what we found was that the focus initially was on the operational aspects, because that was near and dear to the neighbors' heart based on the existing use that's across the street, and then the focus changed once the notice went out to the physical attributes of this project, and how massive it was. And I just would like to thank commissioner leonard for his comments, yes, indeed, it is a big deal and that's why we're here.

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There is a substantial increase in the proposed square feet, and commissioner Francesconi, as I mentioned, the primary focus of our concern is on the scale and the massing of the building, but indeed traffic and noise play a part because they affect livability and that's also a concern here. I think the architect mentioned the building mass was compatible with the neighborhood, and all I can say to that is, please have a look at this site. Thank you very much.

Francesconi: I want to make sure you understand my point about traffic and noise. I believe there will be more traffic and noise once this thing -- I believe the traffic and noise will be detrimental to some folks in the neighborhood. Especially those that live nearby. But the problem is, I have to compare to it that 72-unit facility that's there. And I have to decide if this is more traffic and noise than the 72-unit facility. That's just so you are clear. I'm not asking you to agree with me, I just wanted you to be clear.

Katz: Go ahead. Finish your testimony.

Stark Ackerman: With regard to a couple of the legal argument that's tim ramis made, i'd like to say on some of my respectfully disagree, and on others we might not be as far apart as it might seem. With the regard to the application of the conditional use procedures, I think tim suggested that we were saying no, treat this entirely as a new uses, and that's not the case. The code does have provisions saying if you go to a new use, here's what you do. That's not what we're relying on. The code also has provisions saying if you're changing the existing use, beyond a certain amount, you have to go through a type three procedure and treat it as a conditional use review. And that's the provisions we're going through. But you have to review it as a conditional use. Using the conditional use standards, and it says nothing about comparing it against existing or from the base zone. I think later in his testimony and in barry's testimony, they said, yes, we're treating this as green pasture, and we're treating it against the base zone standards. So I think we agree on that. So I don't think we're different on that process. With regard to tim's comments on not meaning to apply the standards for group living, I think that's true to the extent that there is an existing approved use that does not change at will, but this particular use does have changes which are relevant to those standards, and therefore those standards need to be addressed. I'd say with regard to the communications between the applicant and the neighbors, just to supplement what tim said, I think that initially there weren't the drawings that really showed what the impact was, and to the extent that the neighbors did not see those types of drawings, they could not through the process know that their concerns were as real, and that didn't happen until the end. I think there's some different perceptions about what may have taken place with regard to the threat or nonthreat about doing this as a drug facility, and I don't want to belabor that. I'd also say that I think some of the onuses on the applicant to the extent that it became very clear at the earlier hearing and certainly if not then, by the filing of the appeal, that there were some very significant concerns on the part of the neighborhood association, and there was no overture made after that. Tim brooks made an initial call to barry, and that's what the recent conversations were, not because the applicant proposed something. I'd say with respect to whether or not in response to your question, mayor, whether or not there's a way to resolve all this to get together and talk and see if they can give a little bit and the neighborhood association can give a little bit, there's a number of places in the application which basically says that in order for the applicant to achieve the number of units that it feels it's entitled to, it has to have adjustments to building coverage and/or set backs. And so it seems like that's a preconceived notion, and if that's the premise they're starting with, and if to do that they have to have the three stories to the maximum height and the building coverage to extent that it is now at such great numbers and the other massive features, then maybe there isn't room to agree on a design.

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Katz: Ok. Let me ask a legal question. We haven't had one of these for a long time. Even though the drawings were not included in the original discussion before the hearings officer, is it possible at all, and I don't know if this is where the council wants to go, but I'd like an answer just for my own education today, is it possible for them to come back, and I think we've done it before, and work through some of these drawings, even though they were not at the hearings officer's hearing?

Rees: The problem we have, this is an on the record hearing, and anything we do in terms of modifications of the original proposal at this point are not within -- you adopted a resolution in 1995 that if an applicant was not willing to waive the 120-day in terms of us making a decision, these would be on the record hearings, and that's what we have in this case. Because you have a resolution that it's an on the record hearing, at this point I'm trying to think of what you could do to bring in new evidence. I'm not sure that you could do that at this point.

Katz: Even if the applicant waives the 120 days?

Rees: I'm concerned about significant procedural errors because I have no idea how you're going to vote on this, and there are possibilities of procedural errors in both directions.

Sten: Could I make a suggestion?

Katz: Go ahead.

Sten: I don't know if it's possible because I don't know what the votes are, but what if the council made a decision subject to -- a tentative decision subject to some findings we ask the two sides to work on?

Rees: Certainly you have the opportunity to modify the hearings officer's findings, yes.

Sten: And if we wanted some materials brought back in which we could consider how to do those findings -- just an idea.

Katz: We can change some of the adjustments.

Rees: Absolutely.

Katz: Ok. But I'm not sure the council at this point knows which ones and what combination of them do they want -- do our two attorneys have a suggestion?

Ramis: I would just be willing to indicate for the record, we are on behalf of the applicant, Tim Ramis, we'd be happy to waive any procedural aspects that you think would be necessary to accommodate a process. We're not here to battle over the shape of the table, we really do want to come together and get a project. So whether it's the 120-day clock, or any procedural issue related to new evidence in the record, we're happy to stand down on those things.

Katz: There are some legal issues that our attorneys and our staff are raising with new evidence to be able to be discussed, so --

Rees: It would depend truly, if both parties were willing to waive the procedures which would allow it to be only an on the record hearing, if they were willing to -- if you establish parameters for new evidence and both parties were willing to on the record waive procedural defect, then we don't have a problem. It's an -- it would be interesting, but --

Katz: All right. Let's -- before I turn to the council and ask them where they want to go, are both parties willing to waive the procedures and to waive on the record procedures and see if you can -- if you can work with each other to meet some of the design objections?

Ackerman: Mayor, I think I'd have to defer and consult with my client before I could do that.

Katz: And your client is sitting right over there, isn't he?

Ackerman: Yes.

Katz: Go ahead quickly.

Ackerman: If he has the authority to do that.

Katz: While you're doing that, let's hear from the council.

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Leonard: I actually had a question to ask, but they're leaving.

Katz: Of who?

Leonard: Maybe I'll ask staff. Kathleen, maybe you can help me with this. Just so that I can better get my arms around this. If title 33 treats skilled nursing facilities and assisted living facilities as both group living, if that's accurate --

Stokes: Yes.

Leonard: -- and if it's accurate that the conditional use permit has not lapsed more than three years, if that's accurate, is the applicant correct that the conditional use itself does not have to be reheard, that in fact all we need to discuss is the new construction?

Stokes: That is how this was reviewed -- that is how this was reviewed, because the applicants do have in fact, yes, an active conditional use. They can go forward, they can reopen their facility at this point in time and continue it as they did before with up to 72 residents. They can make some physical changes to it, to the existing building to make it work better for them. They can continue to run their operation on the site with up to 72 residents. They felt it would be better to have a new facility for their existing group living use, which is providing a living environment for seniors. Now, in the past 10 or 15 years, however long, maybe 20 years, the way that living is provided -- provided care is provided for seniors has evolved, and this whole concept of assisted living didn't even exist when this facility was built. The applicant and the neighbors referred to it as a commercial enterprise, of course they are -- they are doing this -- their industry, but the code does not look at it as a commercial use. It looks at it as a group living use. This company is providing care for the elderly, we're providing it at the site under an existing conditional use, are going to continue to provide it in some form or another under their conditional use rights at this site. They would like to be able to build a new building that would allow them to do this as assisted living rather than as skilled nursing home as we used to call it. Does that clarify?

Leonard: Yes, thanks.

Saltzman: Do we have something in our code about lighting, external lighting that prevents floodlights from shining right out across the street?

Stokes: We do. And actually, that brings up something that I'd like to comment on just briefly. In the file as part of their initial submittal, so it's under exhibit a-1, the applicant provided information about the lighting to the site showing it meets our code requirements. That there would not be outside impacts from lighting that would exceed code standards. And the approval by the hearings officer incorporated not just the site plan and building elevations and landscape plan, but also the proposal. So even though those things weren't necessarily itemized, that included the building materials list that was referenced, the lighting standards that were proposed, all of those parts and pieces that are -- make up about a half an inch of paper or more in exhibits a-1 and a-2, those are all the proposal, that was all adopted as part of the decision.

Saltzman: Thanks.

Katz: Ok. Before I hear from the council, why don't you come up. Are you willing -- if the council so chooses that direction, would you be willing to --.

Ackerman: Can I ask you to clarify what it is that you'd like to allow and us to agree to before I give an answer?

Katz: Right now -- really, I don't know where the council is on this issue, you've heard people's concerns, but we don't discuss these. These are quasi judicial hearings. If the council would like to send this back so that both you and the applicant have the ability to resolve some of the issues with regard to setback and mass in design changes, would you be willing to waive all of the procedural -

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Rees: I think there would be two things we would be asking for. One is that it would no longer be on the record with respect to whatever issues they were asking you to go back and deal with. And I suspect -- the other would be something that -- that would be the main one. We'd need to have the record opened.

Katz: So that you could identify -- you can bring forward new ideas. It is for -- for us it's very hard not seeing designs or drawings, more updated drawings that nobody really has seen, other than the applicant, to make those decisions. So that's really the issue.

Ackerman: Would there be in essence be a continuance of this hearing?

Katz: Yes. Yes. Depending --

Ackerman: With the understanding -- any new evidence or would it be limited in some way?

Katz: I just want to hear from the council, but if you're at least open to that, we can proceed in the conversation.

Ackerman: We're open to that, subject to discussions about scope and fairness.

Katz: I don't quite know what that means, but --

Ackerman: Yes. You can think about it.

Katz: All right.

Ackerman: We'll be agreeable.

Katz: Where does the council want to go on this?

Leonard: I have concerns about the size of the project and the impact on the neighborhood. Having said that, I am intrigued by some of the discussion that happened after my initial concerns. I'm still learning obviously about this process and what conditional use permits allow and don't, and so I want to -- on the one hand I want to arrive at a balanced rational decision, but on the other I am concerned about the sides of this project and what it replaces.

Francesconi: I'm in the same place. I'm worried about the mass too. So I want to see if design can make it more compatible to the neighbors.

Katz: How are we on this side? Then i'll take a motion.

Sten: My general sense is from some experience from council sends two sides back, it's generally a good tactic to tell both sides they might lose. And that's kind of how I feel right now. There is -- otherwise they don't really work together. On the issues i'll telegraph a little bit, on the issues of deliveries and transportation, all the issues I think people raised, I believe those can be mitigated. If the neighborhood isn't willing to work on a good neighborhood plan, i'm going to have a hard time being sympathetic to that. I believe the issues can be nailed down and I believe they can be enforced. So on those issues, on the other side, i'm not going to say which way i'll vote, because i'd like to you work on it. I think the facilities on the edge of being too big for the neighborhood, and it's a very close call for me on that. So if there was some room to -- it certainly is within the height limits, but I think the argument of the scale is compelling, so if there was some work on the other side to get closer to where the neighborhood is on that, that would make me happier.

Saltzman: --

Katz: Then I need a motion.

Leonard: I would move that we set this over to some time to be determined, to allow both parties to come back with a proposal.

Katz: That the record would be open, which is what you're --

Rees: And I think that for the appellants, we would need to define, and for the applicants, we would need to be designing that. And I will want a definitive statement on the record of what they will -- in terms of not appealing on the procedural issues based on the conditions or the opening of the record -- condition answer or the opening of the record during that period of time.

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Katz: The appellant understands that we don't want you appealing on those kinds of issues, if you are ever going to get to the appeals stage.

Rees: Or the applicant would --

Katz: Either one. Ok. So both nodded yes. They understand. She doesn't talk very often, so when she wants to, I listen.

Rees: Tim, I wanted to make sure I probably wasn't listening as closely as I should, you agreed would you extend the 120-day clock for as long as we needed to come back for the continuance to council?

Ramis: Yes, we willing to extend the clock for a period of time.

Rees: Thank you.

Katz: Ok. Now, the scope, I guess we're sending all of you back to look at the design, address some of the design issues, so that the bulk or the breaking up of the space is dealt with the best of your ability by taking some of the inner space and making -- the inner courtyard space and making some of those adjustments, or anything else that you might think that would help the design and the bulk of this building. Did I state that --

Saltzman: And a good neighbor agreement?

Katz: Yes. It would always help to have a good neighbor agreement. And it's work that's worth while doing, and we have models for them. So it isn't brain surgery. Is that understood? So that was basically your motion. And who wants to second that? We need to time line, we'll get to a time in a minute.

Saltzman: Second.

Katz: Any objections to the concept of the motion? Hearing none, so ordered. [gavel pounded] let's set a time now. How long do you think it would take?

*******:** Four weeks.

Katz: Four weeks? Set the date, karla. What's the date?

Moore: Four weeks out would be october 16 -- october 16 at 3:00 p.m.

Katz: October 16 at 3:00 p.m. All right. Let me suggest to everybody that if everybody is a little bit flexible, we can have a design that's a lot prettier and a lot more functional than the current design at this site, but it does need a little bit of work. That's the consensus of the council. So if everybody's really -- if everybody really means what they've said, we ought to be able to come back and everybody ought to feel good. Ok? Fine. Thank you, everybody. Let go to the next item. [gavel pounded]

Katz: Let's read the next item.

Item 1119.

Linly Rees, Deputy City Attorney: This is an evidentiary hearing. You may submit new evidence to the council in support of your arguments. This evidence may be in any form, such as testimony, letters, petitions, slides, photographs, maps, or drawings. You haven't given the council clerk a copy of the evidence you plan to submit, you should give it to the council clerk after you finish your testimony to the council. Any drawings, photographs, maps, or other items you show to council during your testimony should be given to the council clerk at the end of your testimony to make sure that it becomes a part of the record. Testimony concerning the hearings officer recommendation will be heard as follows. We'll begin with a staff report by b.d.s. Staff for approximately 10 minutes. Following the staff report, the city council will hear from interested persons in the following order. The applicant will go first and will have 15 minutes to address the council. After the applicant, the council will hear from individuals or organizations who support the applicant's proposal. Each person will have three minutes, whether you're speaking for yourself or on behalf of the organization, next council will hear from persons or organizations who oppose

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the applicant's proposal. Again, each person will have three minutes. If there was testimony in opposition to the applicant's proposal, the applicant will have five additional minutes to rebut testimony given any opposition to the proposal. The council may then close the hearing, deliberate and take a vote on the hearings officer recommendation. If the vote is a tentative vote, council will set a future date for the adoption of findings and a final vote on the hearings officer's recommendation if council takes a final vote today, that will conclude the matter before council. I'd like to announce several guidelines for those presenting testimony and participating in the hearing.

These guidelines are established by the code and state law and are as follows. One, any testimony argument and evidence you present must be directed toward the applicable approval criteria for this land use review or other criteria in the city's comprehensive plan or zoning code which you apply -- believe apply to the decision. The b.d.s. Staff will identify the criteria as part of their staff report to council. Three, before the close of the hearing, any participant may ask for an opportunity to present additional evidence. If this kind of ifq second degree made, the council will grant a continuance or hold the record open for at least seven days to provide an opportunity to submit additional evidence and will hold the record open for an additional seven days to provide an opportunity for parties to respond to that new evidence. Four, under state law after the record is closed to all parties, the applicant is entitled to ask for additional seven days to submit final written arguments before council makes its decision. Five, if you fail to raise an issue supported by statements or evidence sufficient to give the council and the parties an opportunity to respond to the issue, you will be precluded from the appealing to the land use board of appeals based on that issue. And finally, if the applicant fails to raise constitutional or other issues relating to the proposed conditions of approval with enough specificity to allow the council to respond, the applicant will be precluded from bringing an action for damages in circuit court to challenge the conditions of approval.

Katz: All right. You said 15 minutes for the applicant? Instead of 10?

*******:** Yes.

Katz: All right.

*******:** But they don't have to use it.

Katz: All right. Let's have a staff report. Is there anybody in opposition to this? All right. Let's have a staff report.

Sylvia Cate, Bureau of Development Services: Good afternoon. I'm sylvia kate, the assigned planner for this review. The applicant's request to change the designation from institutional campus to industrial sanctuary, and as -- a zoning map amendment to change the zoning of the emanuel hospital site from i.r.k. To i.g.-1 and to change the zoning of a city owned parcel tax lot 700, which you'll see later in the presentation, which is within the approved impact mitigation plan boundary from i.r.d. To ig-1. The land use request is a fruition of a memorandum of understanding between the bureau of general services and legacy health systems. This memo was authorized by ordinance number 176210, passed by the council on january 23, 2002. The properties involved are all within emanuel's approved i.m.p. Boundary. However one parcel is under separate ownership. The bureau of general services, and this parcel is developed is part of the Stanton yard maintenance facility. This map shows the relationship of the parcels involved with the approved i.m.p. Boundary for emanuel's campus. This depicts the ownership of the parcels that are involved in the request to change the zoning. This map depicts the zoning as it exists today with the city-owned parcel zoned i.r.d. And this map shows the zoning that is proposed by the applicants. The previously mentioned memorandum of understanding that exists between legacy and the city in that memorandum it is agreed that portions of ownership will be exchanged after this comprehensive map amendment is approved, and is -- and the zoning is

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changed. This result in the city's vehicle staging lot becoming an allowed use in the industrial zone, and underground utilities serving emanuel will stay zoned i.r.d. And become legacy property. The hearings officer found that the proposal meets all of the applicable approval criteria as described in his recommendation to city council. And therefore, the hearings officer recommends the approval for the comprehensive plan map amendment and for the requested concurrent zone change. This is a very quick site tour of the property involved in this review. This is a view looking north along north kerby street, the paved area that is part of the stanton yard's maintenance facility is seen here with development that is associated with emanuel immediately east of the city-owned parcel. And this is a view of the legacy-owned parcels that are currently vacant across the street from -- across north kerby street, and are in the western most portion of the approved i.m.p. Boundary. The hearings officer recommends approval of the requested comp plan map amendment and concurrent zone change. And that concludes my presentation.

Katz: Thank you. Does anybody want to testify?

Ben Schonberger, Winterbrook Planning: My name is ben, i'm a representative of the applicants in this case, legacy health systems, and bureau of general services specifically for legacy. I'm a land use planner, I work for winterbrook planning, 310 southwest fourth avenue. We prepared the application and shepherded it through this process that's gone on about a year now. Sylvia's initial point is the most important, that this is the consequence of a negotiated agreement between the hospital and the city and the fruition of a memorandum of understanding that was finalized more than a year ago. Unlike the previous case, we received what I interpreted to be a resounding vote of inference from the elliott neighborhood association, lee may later put on his neighborhood association hat as opposed to his journalist hat in supporting or opposing testimony, as whatever he wants to do. But in any case, it was an unusually complex and involved process for a relatively simple boundary change. I'll let thomasina speak to that on behalf of the hospital. In summary, we agree with the recommendation of the staff and of the hearings officer, and we urge your approval. Thank you.

Katz: All right. Thomasina.

Thomasina Gabrielle: I'm with Thomasina Gabriel development services. 2424 northwest northrup. Portland, 97210. As been mentioned, i'm here working on this project as a staff person for -- as a consultant to emanuel hospital. However, ben and the staff have already really told you the main points of this case. I'm going to put on half of my regulatory reform hat and say that this is one of these instances where we really have clearly discovered a code glitch. It just happens that when they did the i.m.p. Chapter, which is actually a pretty good chapter for the institutions, they neglected to really deal with the -- what happens when a i.r.-zoned property is sold. The i.r. Zone is tied to ownership, that's an unusual case for zoning when the zoning is tied to ownership, and this is I think the second case that has really been in front of you, p.c.c. Had to do the same exact process because they sold their southeast center on 82nd avenue to goodwill. I have to tell you that the application fee for this is \$23,000. It's -- it's probably the staff would tell you that they spent that money, sylvia probably spent at least 100 hours on this case. It seemed like every point in the process was one where the staff and the applicant and everyone involved said, we're really sorry, this is really kind of silly that we have to do this, but we have to do it because the code gives us no leeway. The city council couldn't fix it, the bureau of directors couldn't fix it, the staff couldn't fix it, no one could fix it, so here we are. We've spent money, and the city has really spent money, and what i'm here to propose is -- this is the thing. As much as I know about regulatory reform, I would like to be in front of you today with a recommendation that you direct a staff person at some bureau to go and write the code to fix this glitch. And when I talked with ray and susan feldman, we found

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that there really isn't a person we can assign this task to, but I would really encourage you and the coalition would probably help you assign it.

Katz: How big is that task?

Gabrielle: Hmm. Maybe sylvia can help me with this. I don't think it's -- it really -- you have to go look at the comprehensive plan and change a conversion chart, and you have to go write some code in the i.m.p. Chapter, but it seems doable. I think really it's like, if you had the -- when you did i.r. Zoning you had a parentheses behind it in the comp plan that said this is where the zone goes back to if the thing gets sold, and you have to go through a type two process, that's almost the solution. And somebody just needs to write it.

Katz: I'm sure that --

Leonard: So noted.

Katz: It will be taken care of.

*******:** Let me know, we might help you.

Katz: Ok.

Lee Pearlman: My name is lee pearlman, I live at 512 northeast braze. When i'm not writing, my i'm -- -- I serve on the land use committee of the elliott land use -- neighborhood association, which is sometimes known as greater emanuel hospital. We have butted heads with emanuel over the years on various things, but this does seem to make good sense, and if you're going to tell people where they can't build, you really have to tell them where they can. We were the -- emanuel was the first institution to use the i.r. Zone, and in the process, discovered there are a number of glitches. There was some disappointment I think both from emanuel and the neighborhood as to how it worked out.

Katz: Ok. I think it will be -- if it's -- if it sounds as simple as I think it sounds, I think it will be able to be done. But I don't think we need to spend a lot of money and a lot of everybody's time to get it done. All right. Anybody else want to testify? If not, i'll take a motion.

Leonard: Move to accept the hearings officer's recommendation.

Sten: Second.

Katz: Roll call.

Francesconi: Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

Katz: Mayor votes aye. [gavel pounded] thank you, everybody.

Moore: We have the ordinance.

Katz: I saw the next page. 1120.

Item 1120.

Francesconi: Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

Katz: Mayor votes aye. [gavel pounded] you did read it?

Moore: No, I didn't.

Katz: The record will show that we all voted on this particular item. Thank you. We stand adjourned. [gavel pounded]

At 4:45 pm Council adjourned.