



CITY OF
PORTLAND, OREGON

OFFICIAL
MINUTES

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **15TH DAY OF OCTOBER, 2003** AT 9:30 A.M.

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

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

Items No. 1191 and 1192 were pulled for discussion and on a Y-5 roll call, the balance of the Consent Agenda was adopted.

TIME CERTAINS	Disposition:
<p>*1180 TIME CERTAIN: 9:30 AM – Approve Oregon Health & Science University Meter District Pilot Project implementation for a demonstration period of 6-9 months to determine if a larger, permanent meter district is appropriate (Ordinance introduced by Commissioner Francesconi)</p> <p>(Y-5)</p>	<p>177970</p>
<p>1181 TIME CERTAIN: 10:00 AM – Implement the Northwest Transportation Fund (Ordinance introduced by Commissioner Francesconi; amend Title 17, add Code Chapter 17.19)</p>	<p>PASSED TO SECOND READING OCTOBER 22, 2003 AT 9:30 AM</p>
CONSENT AGENDA – NO DISCUSSION	
<p>1182 Statement of cash and investments August 28, 2003 through September 24, 2003 (Report; Treasurer)</p> <p>(Y-5)</p>	<p>PLACED ON FILE</p>
<p>1183 Accept the bid of Tapani Underground, Inc. for Tomahawk Island Dr. Mains Package in the amount of \$1,186,552 (Purchasing Report - Bid No. 102390)</p> <p>(Y-5)</p>	<p>ACCEPTED PREPARE CONTRACT</p>
Mayor Vera Katz	
<p>*1184 Authorize contract for construction consultation services on claims resulting from the Southwest Parallel Interceptor Project (Ordinance)</p> <p>(Y-5)</p>	<p>177941</p>

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<p>*1185 Accept a \$93,370 grant from Oregon Criminal Justice Services Division for overtime costs for the March 17, 2003 - April 16, 2003 Federal Orange Alert period (Ordinance) (Y-5)</p>	<p align="center">177942</p>
<p>*1186 Amend contract with HDR Engineering, Inc. for continuation of track inspection services at Union Station (Ordinance; amend Contract No. 32716) (Y-5)</p>	<p align="center">177943</p>
<p>*1187 Change the Salary Range of the Groundwater Program Manager Classification (Ordinance) (Y-5)</p>	<p align="center">177944</p>
<p>*1188 Create a new Nonrepresented classification of Technology Services Contracts Coordinator and establish a compensation rate for this classification (Ordinance) (Y-5)</p>	<p align="center">177945</p>
<p>*1189 Authorize a rental agreement with the Oregon Association of Minority Entrepreneurs for office space in their business center at 4134 N. Vancouver Avenue (Ordinance) (Y-5)</p>	<p align="center">177946</p>
<p>*1190 Authorize the Purchasing Agent to amend the contract with Gresham Transfer Inc. to provide biosolids transportation for the Bureau of Environmental Services and provide for payment (Ordinance; amend Contract No. 40463) (Y-5)</p>	<p align="center">177947</p>
<p>*1191 Authorize payment of \$400,000 to the Portland Development Commission for the Downtown Marketing and Promotions Program from a General Fund Special Appropriation for Downtown Marketing and Promotions (Ordinance) (Y-5)</p>	<p align="center">177968</p>
<p>*1192 Authorize contract with JohnsonSheen Advertising, Inc. for Downtown Marketing and Promotions Services and provide for payment (Ordinance) (Y-5)</p>	<p align="center">177969</p>
<p align="center">Commissioner Jim Francesconi</p>	
<p>1193 Set hearing date, 9:30 a.m., Wednesday, November 5, 2003, to vacate a portion of the Alley in Block 34, Portsmouth (Report; VAC-10010) (Y-5)</p>	<p align="center">ADOPTED</p>
<p>1194 Direct the Portland Office of Transportation to amend the City Transportation System Plan consistent with the Eastside Streetcar Alignment Study recommendations and forward the amendments to Metro for inclusion in the Regional Transportation Plan (Resolution) (Y-5)</p>	<p align="center">36172</p>

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<p>*1195 Authorize an Intergovernmental Agreement with the Oregon Department of Transportation for \$20,646 to conduct a Context Sensitive Solutions Workshop for the I-5 Delta Park to Lombard Environmental Assessment (Ordinance) (Y-5)</p>	<p align="center">177948</p>
<p>*1196 Authorize the continuance of negotiations for the purchase of property required for the East Columbia to Lombard Connector Project and authorize the City Attorney to commence condemnation proceedings, if necessary, and obtain early possession (Ordinance) (Y-5)</p>	<p align="center">177949</p>
<p>*1197 Accept dedication for NE 99th Avenue south of NE Glisan Street and authorize payment (Ordinance) (Y-5)</p>	<p align="center">177950</p>
<p>*1198 Amend Intergovernmental Agreement with TriMet for additional City work related to the Streamline Program (Ordinance; amend Contract No. 51340) (Y-5)</p>	<p align="center">177951</p>
<p>*1199 Amend lease agreement with the City of Lake Oswego for the Jefferson Street Branch Rail Line Corridor and extend the term until June 1, 2007 (Ordinance; amend Agreement No. 26233) (Y-5)</p>	<p align="center">177952</p>
<p>*1200 Accept three year grant of \$50,000 from U.S. Fish and Wildlife Service for participation in the Urban Conservation Treaty for Migratory Birds Program (Ordinance) (Y-5)</p>	<p align="center">177953</p>
<p>*1201 Issue a Permit to Point of View Telescopes to install, operate and maintain thirteen pay for view telescopes on park property at various sites (Ordinance) (Y-5)</p>	<p align="center">177954</p>
<p>*1202 Authorize an Intergovernmental Agreement between Portland Parks and Recreation and the Housing Authority of Portland for joint park planning, design and construction administration as part of the New Columbia development (Ordinance) (Y-5)</p>	<p align="center">177955</p>
<p>*1203 Authorize the Director of Parks and Recreation to enter into an agreement with Portland Parks Golf Program, Friends of Trees and Portland Parks Urban Forestry Division for Southeast neighborhood tree planting (Ordinance) (Y-5)</p>	<p align="center">177956</p>
<p align="center">Commissioner Randy Leonard</p>	

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<p>*1204 Amend revocable permit allowing U.S. West Communications, Inc. to install, maintain and operate public telephones on City Streets (Ordinance; amend Ordinance No. 174341) (Y-5)</p>	<p align="center">177957</p>
<p>*1205 Amend contract with Clair Company to provide additional one and two family residential plan reviews for structural engineering issues and to increase the amount by \$40,000 (Ordinance; amend Contract No. 34364) (Y-5)</p>	<p align="center">177958</p>
<p>*1206 Amend contract with SW Consulting Engineering to provide additional one and two family residential plan reviews for structural engineering issues and to increase the amount by \$40,000 (Ordinance; amend Contract No. 34363) (Y-5)</p>	<p align="center">177959</p>
<p align="center">Commissioner Dan Saltzman</p>	
<p>1207 Authorize award of contract to Murray, Smith & Associates, Inc. for an amount not to exceed \$200,000 to provide engineering services for Bull Run Groundwater Supply Design (Ordinance)</p>	<p align="center">PASSED TO SECOND READING OCTOBER 22, 2003 9:30 AM</p>
<p>*1208 Accept a U.S. Fish and Wildlife Service grant in the amount of \$455,000 to help develop a habitat conservation plan for the Bull Run water system (Ordinance) (Y-5)</p>	<p align="center">177960</p>
<p>*1209 Authorize contract with the U.S. Geological Survey for streamflow and water quality monitoring without advertising for bids (Ordinance) (Y-5)</p>	<p align="center">177961</p>
<p>*1210 Authorize acquisition of property in the Johnson Creek floodplain owned by Robin Jones (Ordinance) (Y-5)</p>	<p align="center">177962</p>
<p align="center">Commissioner Erik Sten</p>	
<p>*1211 Authorize subrecipient agreement with Portland Housing Center for \$107,242 for homebuyer education and counseling services and provide for payment (Ordinance) (Y-5)</p>	<p align="center">177963</p>
<p>*1212 Accept Intergovernmental Subrecipient Agreement with Multnomah County, Office of Schools and Community Partnerships for \$1,636,745 and provide for payment (Ordinance) (Y-5)</p>	<p align="center">177964</p>

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<p>*1213 Accept an Intergovernmental Subrecipient Agreement with Multnomah County Department of County Human Services for \$40,903 for homeless and housing programs and provide for payment (Ordinance) (Y-5)</p>	<p align="center">177965</p>	
<p>*1214 Authorize Intergovernmental Agreement with Portland Community College for advanced cardiac life support training (Ordinance) (Y-5)</p>	<p align="center">177966</p>	
<p>*1215 Authorize a contract and provide payment for the purchase of three fire apparatus for Portland Fire and Rescue (Ordinance) (Y-5)</p>	<p align="center">177967</p>	
<p align="center">REGULAR AGENDA</p> <p align="center">Mayor Vera Katz</p> <p>1216 Adopt the Budget Calendar for FY 2004-05 and implement recommendations by the Government Finance Officers Association to improve the City budget development process (Resolution) (Y-5)</p>		<p align="center">36173</p>
<p>1217 Amend Title 33, Planning and Zoning, to update and improve City Building and land use regulations and procedures regarding size of trees, building coverage and nonconforming situation reviews (Second Reading Agenda 1153; amend Title 33) (Y-4; N-1, Leonard)</p> <p>Motion to suspend the rules to allow Commissioner Leonard to change his vote from no to aye on 1217: Gaveled down by Mayor Katz after hearing no objections. (Y-5)</p>	<p align="center">177971</p>	
<p>1218 Amend Title 33, Planning and Zoning, to update and improve City building and land use regulations and procedures regarding lot validations and lot segregations, attached residential infill in the "a" overlay and other land division items (Second Reading Agenda 1154; amend Title 33) (Y-4; N-1, Leonard)</p>	<p align="center">177975 AS AMENDED</p>	
<p>1219 Allow for accrual of vacation credits for up to a maximum of three years earnings for Chief Derrick Foxworth and for Chief Ed Wilson (Second Reading Agenda 1175) (Y-5)</p>	<p align="center">177972 AS AMENDED</p>	
<p align="center">Commissioner Jim Francesconi</p> <p>1220 Declare intent to initiate local improvement district formation proceedings to construct street improvements in the Lents III Extension Local Improvement District (Resolution; C-10006) (Y-5)</p>		<p align="center">36174</p>

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<p>*1221 Authorize Intergovernmental Agreement with the Tri-County Metropolitan Transportation District of Oregon regarding operating support for the Portland Streetcar RiverPlace Extension (Ordinance) (Y-5)</p>	<p>177973</p>
<p>*1222 Amend contract with Portland Streetcar, Inc. to provide additional professional and technical services related to the extension of streetcar service to the South Waterfront area (Ordinance; amend Contract No. 31428) (Y-5)</p>	<p>177974</p>
<p style="text-align: center;">City Auditor Gary Blackmer</p> <p>1223 Assess property for sidewalk repair by the Bureau of Maintenance (Hearing; Ordinance; Y1049)</p>	<p style="text-align: center;">PASSED TO SECOND READING OCTOBER 22, 2003 AT 9:30 AM</p>

At 10:59 a.m. Council recessed.

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WEDNESDAY, 6:00 PM, OCTOBER 15, 2003

**DUE TO LACK OF AN AGENDA
THERE WAS NO MEETING**

OCTOBER 16, 2003

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 16TH DAY OF OCTOBER, 2003 AT 2:00 P.M.

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

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

<p>1224 TIME CERTAIN: 2:00 PM – Appeal of Portland Adventist Hospital, applicant, against the Hearings Officer’s decision for failing to recognize the existing laundry facility as a legal nonconforming use when approving the conditional use with adjustments at 932 SE 60th Avenue and 6040 SE Belmont (Hearing; LU 03-116866 CU AD)</p>	<p>Disposition: CONTINUED TO OCTOBER 29, 2003 AT 11:15 AM TIME CERTAIN</p>
<p>1225 TIME CERTAIN: 3:00 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 (Previous Agenda 1118; LU 03-111111 CU AD)</p>	<p>CONTINUED TO NOVEMBER 6, 2003 AT 2:30 PM TIME CERTAIN</p>

At 5:16 p.m. Council adjourned.

GARY BLACKMER
Auditor of the City of Portland

By Karla Moore-Love
Clerk of the Council

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

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Closed Caption Transcript of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

OCTOBER 15, 2003 9:30 AM

Katz: Good morning, everybody, the council will come to order. Karla, please call the roll. [roll call]

Katz: We have no communications this morning?

Francesconi: You're kidding.

Katz: All right. This let's do consent agenda. Any items to be removed? Oh, there is one that I -- 1191 and 1192 to be pulled off for discussion. Any other items to be pulled off the consent agenda? If not, roll call on consent agenda.

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

Katz: Mayor votes aye. [gavel pounded] all right. Let's read 1191 and 1192.

Items 1191 and 1192.

Katz: If you recall, I took this item back into the office for -- to make some changes on the contract because there were some new ideas that were interjected at the time that the contract was reviewed, and we wanted to make sure that those new ideas were evening rated. And I know some of you were worried about whether we were going to put the money into marketing or not, and I told you that we were. We'll have to take about \$300,000 out of contingency to make this happen, but if we're going to have a marketing program for downtown during the holidays, this is necessary. So having said that, I know commissioner Sten was interested in making some comments on that, and i'm going to turn it over to him.

Sten: Thanks, mayor. I'm going to support this today, and actually just pulled it a couple weeks ago to have a little more conversation. There's been lots of discussion about what we need to do to jump-start marketing of downtown, how we need to market the city better to improve our business climate, whatever you might think of where it is now, and as I had just a chance before the last item came forward to take a quick look at the proposals, I thought there were several good proposals. The johnsonsheen one, which won, I think a solid approach that's worked in the past to basically entice shops to come downtown during the holiday season. The runner up, the metropolitan group, was a different type of approach, was looking at a kind of -- I can't do it justice in a couple sentences, but how would we organize better to try and promote Portland business. And it tied into the neighborhood businesses, it tied into the restaurant association, and really was I think instead of spending the money to market commercials, we're seeking to spend the money to organize and earn free media as well as make different partnerships. As I understand it now, the idea is to do a little bit of an experiment with the metropolitan group and take a chunk of the money and try that approach. I'm very supportive of that and appreciate the mayor's working on it, and my sense is that while the advertising is important, I don't think we would have as much concern as we do right now if that approach alone was adequate. Of course I don't think we can do this on our own, and what I like so much about the metropolitan group was trying to get to the convention folks, the visitors folks, the restaurants, and take the many campaigns out there and get more synergy and work together. And particularly to tie the neighborhood businesses into downtown. So I think this is a step in the right direction and wanted to just lay a little bit of that out, not take too long, and thank the mayor for doing the work on this.

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Katz: I don't know if anybody is here from johnson and johnson, is anybody here from johnson and johnson? But i'll give you my comment on that. I hope that as you develop the campaign, your branding of Portland is better than downtown Portland. There's -- it could be downtown anybody. It's got to be downtown, what's so special about downtown Portland. So just think about that as you create not only a branding for the downtown, but a campaign that will incorporate some future new ideas through the metropolitan group. Ok. Anybody want to testify on these two items? Ron? Did you want to say anything? Anybody in the audience? All right, roll call on 1191.

Francesconi: I'll just brief comments on both of these i'll do all at once. First I appreciate the attention that both the mayor and commissioner Sten brought on this. We actually have a serious issue with a 15% vacancy rate in downtown, and marketing has to -- if we don't have a successful holiday season, that 15% number could get higher. And our whole regional land use and transportation system depends on a vital central city, and marketing has to be part of it. So we appreciate the talent that johnson and sheen brings to this, and we have to focus on the central city. Having said that, the whole idea of better marketing the neighborhood business districts, which the metropolitan group and commissioner Sten have highlighted, is very important. Part of the national main street movement is to highlight that where cities assist neighborhoodes in their businesses. So the small business council is taking up the whole issue in addition to fees and regulations that the city imposes, how we can better support the neighborhood business districts, including marketing. So I think that would be a body that could work with the metropolitan group and johnsonsheen as we move this forward. Thanks. Aye.

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

Sten: Again, i'm glad to support this. We'll continue to work on this with the whole council. I would say I think the real challenge here is to get all of the different factors on to the same page, we'll never get anyone saying the same thing, but working on a joint campaign, and I hope this has - - by using the talents of both groups we have the opportunity to do that. I think if we're all together pushing in the same direction we can get people shopping, and all the issues the mayor has focused on. But I think it takes a new approach, and I appreciate the council's willingness to look at that. Aye.

Katz: Just want to remind everybody that we're spending \$400,000 to market the downtown, and to market the central city for the holidays. And -- in cooperation and in assistance with the business community, the Portland business alliance. So that is a very important message. Having the continuation of the messages that Portland is not friendly to business as we spend \$400,000 marketing downtown, doesn't make any sense. This is a message to johnson and johnson, the metropolitan group, and the Portland business alliance that as we think through how we brand the downtown, take a new approach to it, that the message needs to be the same message, that it is a good place, it is friendly to business, it is marketing its downtown, it has a branding strategy, and we invite people who've never been to the downtown during -- especially during the holidays, since this is targeted for the holidays, to come into the central city and shop and play. You can't send those two same messages. This is not friendly place, for business, and then invite everybody to come downtown. I hope people understand that. Aye. [gavel pounded] 1192.

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

Katz: Mayor votes aye. [gavel pounded] all right. Let's get to time certain. 1180.

Item 1180.

Katz: Commissioner Francesconi.

Francesconi: Thanks, everybody, for coming. This is an attempt to increase onstreet parking as a way of increasing the ability of our largest emprowider to attract additional patients and customers. Our largest employer being ohsu, which creates as we all know, tremendous dividends for our local economy. But it's also important that we have a collaborative working partnership among ohsu, the

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homestead neighborhood, and the city. Parking, as we all know from recent and past experience, is a hot button issue. Where parking spaces is tight, such as the marquam hill campus, it can be a real challenge, because the university needs it to succeed, but then we also need good relationships among diverse interest groups. These diverse interests, ohsu, the homestead neighborhood association, doernbecher children's hospital, the shriners hospital, v.a. Hospital, marquam hill campus, the city of Portland, have come together to form this project advisory committee, and they've been working on this for the past year. I'd like to thank them for all this -- their effort on this very tough issue. If you hadn't taken this approach, we know what controversy would -- would have resulted here in front of us. Here today to present this project are angela timmon and mark van bursik, keith clayview, they're joined by city staff, who do a very good job in outreach, I must say, from transportation, will stevens, the project manager, and ellis mccoey, parking operations vision manager. I'm going to turn it over to ellis to introduce this pilot -- what is a pilot project.

Ellis McCoy, Parking Operations Manager, Office of Transportation: Thank you, jim. I'll restate my name for the record, i'm ellis mccoey, the parking operations manager, the office of transportation. All of us are here today to ask council to approve an ordinance that would create a pilot metered district on public right of way along the ohsu campus. Each of us would actually like -- will have an opportunity to speak with you. My comments are going to be very brief, however. What i'd like to do is to sketch out the policy context for our request. City code provides for council to approve new metered districts, given the delineation of the boundaries and given proper public notice and outreach. In addition to that, a parking meter district policy that was created by the office of transportation and approved by council in 1986 further articulates the processes and procedures for creating a new meter district. One of the primary policy statements at that policy -- that that policy has is with regard to the function of on-street parking, and that function is to fully support adjacent land uses. As an example, if the companies that occupy the land uses need turnover for their customers, the parking controls should be set up to provide that turnover. If the existing situation is that commuters currently occupy that capacity on a long-term basis, then that environment is not consistent with the policy and is perhaps not the highest and best use for that on-street parking at that time. In addition, the policy recognizes the important role that parking meters play, and being an negative tool to provide the turnover in those areas onstreet, and it also facilitates demand management objectives that the city or the neighborhood might have. The last point i'd like to make before turning it over to ohsu staff is that this on-street pilot project would enhance the objectives of the transportation demand management strategy set out in the marquam hill plan, which is adopted by council in july of this year. So with that, that ends my very, very brief comments. I'll turn it over to ohsu.

Angela Timmen, OHSU Director of Parking: Mayor Katz, members of the council, I am angela timmon, director of the parking office at ohsu. Thank you for the opportunity to provide testimony on the proposed ohsu metered district pilot project. The demand for parking at ohsu far outweighs the supply. We have more than 11,000 employees, as well as upwards of 3,000 patients and guests who visit our campus daily, all needing a parking space. The reality is ohsu has less than 4,000 parking spaces available for this type of use within our off-street structures. The ohsu parking office is forced to turn away between 30 to 70 cars daily. Many of these folks are patients, visitors, and guests, and some are even our own part-time employees. Through a partnership with the city of Portland and the homestead neighborhood, ohsu has identified a portion of the ohsu campus currently under the city of Portland's jurisdiction, which could be better utilized to serve this population needing sort-term parking accommodations at ohsu. There are approximately 70 spaces in this proposed pilot project location at gaines road and sixth avenue. Currently these spaces are free of charge and are used primarily by ohsu employees and an all-day single occupancy long-term capacity. It is our position pay-to-park on-street parking will be more efficient, regulating parking

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time limit and will lead to a more equitable allocation of scarce parking spaces. Additionally, the meter district will create better parking turnover and availability for visitors, vendors and our patients. Historically the advent of an on-street parking management system is intended to support the vitality of a given area by encouraging turnover, improving circulation and access, and promoting alternative modes of transportation. This is achieved through managing the supply and pricing of on-street commuter parking, which allows short-term visitors, employees, and guests an opportunity to utilize our facilities and conduct their business as necessary. We would respectfully ask that the city council approve the pilot project, allowing us to implement the smart metered district as described, with an opportunity to continue to evaluate the value of this program to those individuals who use it. Thank you for your time and consideration of this matter.

Mark Van Buskirk, Vice President, OHSU Facilities and Construction: I'm mark van buskirk, ohsu's vice-president facilities and construction. From our perspective, all I would like to briefly comment upon is the positive outcome i've seen from a lot of hard work from ohsu, the city, in our neighboring community. We think that with your support this pilot project will be able to achieve significant improvements to our parking and access, difficulties, they are mutual. I care about getting our patients, staff, visitors to our business each day, but I also care about being a good neighbor and a good partner with the city. With that i'd ask your support.

Katz: Sir, go ahead.

Keith Claycomb, Homestead Neighborhood Association: I'm keith claycomb, I represent homestead neighborhood association as anybody represents a volunteer group. I am -- have been involved in transportation for several years with the neighborhood, working with a parking committee as a member of the parking committee of the university. We are not in favor of unanimously going after this on-street parking, however, we need to have the facts to know whether it's going to be to our benefit, maybe financially even, we don't know, will it work, and what about the parking needs of the people that do not have the chance of riding public transportation. At that time in the morning some of them come very early, or they get off very late. And the parking office, we've been working with the parking office on that. So we are standing by, working with them, waiting for the facts, evaluation, the university, and the parking -- city parking have worked to identify these people, and I think that it's going to be at least a definitive answer come out in about nine months to a year, whether or not the neighborhood will support it. That doesn't mean we'll fight it, if -- whether we'll support it. And the way we might do it has been said, if it is revenue positive, that we could have some of the money -- extra money used to improve parking in the neighborhood. Thank you.

Katz: Thank you.

Will Stevens, Portland Office of Transportation: My name is will stevens, i'm with the Portland office of transportation, and i'm going to quickly walk you through a presentation on the development of this particular pilot project. Many of these points have already been stated very eloquently by the members at this table, so I don't intend to spend a great deal of time on this presentation, I just wanted to touch on key highlights. As you've heard, ohsu approached the city with the need to provide short-term spaces on the on-street environment for their campus. This need has been supported by data collection in that we have determined that approximately 87% of the street -- on-street capacity is being used in the long-term manner by commuters. And as angela mentioned a moment ago, on average, they're turning 30 to 70 visitors a day away from their parking booth. This gives you just an example, quick example of the on-street environment on gaines road. This is the proposed pilot project area you see in front of you. The gap on the left side of the street is actually a bus layover zone. That's the reason it's not parked up. I wanted to point out the very critical process in any project development that includes partnerships among businesses, business communities, and the neighborhood, and that's the development of a

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stakeholder group in the form of a project advisory committee. And to the right of the screen you'll see the members that have been involved in this process since its inception over a year ago, and they've been very, very instrumental in helping us get to the project development. The key elements that we identified as a group were the challenges presented in implementing such a district -- pilot district, potential opportunities, the goals and objectives to get us to success, the location and scope of the project, and obviously the public outreach to satisfy our need to ensure that people are well-informed about what lies ahead. The challenges we found, we need to justify clear need for the district. We also needed to ensure there were minimum impacts to the neighborhood in the form of parking incursion. To ensure overall project success, there needs to be adequate enforcement, both on campus and in the neighborhood through the a.p.p. Program. And if we get to a permit -- permanent project, we need to find a revenue allocation plan that the neighborhood and ohsu will support. Our opportunities are to create a short-term supply for visitors and vendors and patients, but also for part-time employees and students as well. We also see this as an opportunity to make the on-street compatible -- component compatible to what is a pay-to-park environment. The neighborhood has to pay for the privilege of parking in front of their homes this, is a pay-to-park area. Increase in parking enforcement activity in the neighborhood is an opportunity that we could realize through this project. And as ellis mentioned earlier, this would support current strategies through the marquam hill plan you adopted in july. Provide future revenue for transportation improvement out of the revenue allocation if we get to a point of implementing the full district. And we have found that parking meters just simply provide a better parking control and management tool than do time zones. Our goals were to, again, create short-term parking for ohsu visitors, make the on-street system compatible with the pay-to-park environment, increase parking enforcement, and again, support the t.d.m. Strategies. I think one of the biggest benefit that's come out of this process is the partnership and relationships that we have developed with the homestead neighborhood association and ohsu. I think it's been a real win for everybody involved in this process. In terms of the location and scope of this project, we asked ourselves what pilot project area would be most likely to inform us on what it would mean to the functionality of ohsu and the impacts to the neighborhood. We chose gaines street because it was the one area that is closest to the adjacent neighborhood, and it also has -- it is the area where there's the highest visitor demand for short-term supply. This particular area of pilot -- of the pilot project covers about 70 on-street spaces, and will entail seven of the new central pay stations, smart meters. This gives you an idea of the -- this map gives you an idea of the meter district evaluation area, the entire area that we're potentially looking at for a full-scale meter district. The next slide singles out the pilot project area and gives you an approximate area where the machines will be placed. During our public outreach, we -- city staff, in partnership with kpac members have presented this project and its process to the neighborhood home -- homestead neighborhood association on a number of occasions as well as the ohsu parking committee, the marquam hill transportation partnership, and the afscme union general membership. We went beyond that in terms of conducting mass mailings, open house forums, and we even went so far as to dedicate an internet website and email address. I think this next slide is also a very critical point to touch on. In response to the public input we received, we have worked very diligently with ohsu to determine how we could meet some of the concerns and needs that we've heard from the employees that would be losing that on-street -- free on-street parking. And I think one of the most creative -- creative points to come out of this deliberation is the vendor space parking reallocation. Ohsu has committed to taking 10 to 15 spaces out of their off-street structure that are currently designated for vendors. We would move that to the on-street component, designate it as such for vendors, that would free up those space in the off-street system for employees who are early shift a.m. Workers who have no other option but to travel by car. We also have open -- had open discussion was ohsu to reinstate their shuttle service

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from satellite lots that are at the bottom of the hill off campus that would allow giving early shift workers another opportunity to arrive to work by automobile. We also have in place existing programs such as carpool, flex car, and tri-met bus service and park and ride, as well as the ohsu parking booth pass that folks can have access to on a daily basis. Our next steps in the process would be to monitor and evaluate the success of the pilot project program. We'll be looking at this period as a demonstration period for six to nine months, it will be essentially informing us on the demand for turnover and the potential possible impacts to the adjacent neighborhood. P.a.c. Members and city staff will be back to council at the conclusion of the demonstration period to report back our findings. In conclusion, I would like to close by saying that we would ask that you approve the pilot project for a demonstration period of six to nine months. Thank you.

Katz: Questions by council? Thank you, ladies and gentlemen. Let's open it up to public testimony.

Stephen Edlefsen: Hello. My name is Stephen Edlefsen, I'm from Forest Grove, and I don't have much to say about the parking. I wasn't very certain about the things on the agenda this morning, so I went around and tried to find out. I think it's fairly interesting. I imagine they probably need parking. Possibly something better than was presented could be done. It seems ok. I wonder what else could be done, what isn't being done, will the monitoring be as thorough as I imagine when I hear six to nine months. I don't wholly like the smart park things, they're pretty neat, they're kind of junky. Sometimes I'm more frustrated than impressed by them, but I see a lot of good in them. I think they're pretty neat. I like the parking meters and I'm sure at the time they were new, people didn't like the parking meters either. I hope maybe something interesting and really good will happen and not something just sort of general.

Katz: Thank you.

Edlefsen: Thank you.

Katz: Anybody else? If not, roll call.

Francesconi: I appreciate all your work on this, given the controversy around the tram. If we can have a partnership emerge from this, this would be terrific. I also want to thank the homestead neighborhood, because you're taking some risk that there's going to be some displacement into the neighborhoods, but the whole group has really assured that we're going to monitor this and see if that in fact occurs. And so pdot is really committed to watching that. And then the other benefit that could be for the neighborhood is a sort of -- a source of revenue, as you indicated, to help pay for the transportation improvements that we promised as part of the Marquam Hill plan. So this would be a source of revenue, and again, can't decide what those are until we work in -- with the neighborhoods to determine what they should be. But a source of revenue from this can help as well. So again, thank you for not endorsing this, but working with us to determine what effect it will have on the neighborhood. Aye.

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

Katz: Mayor votes aye. [gavel pounded] thank you. 1181.

Item 1181.

Katz: All right. Come on up. They're going to leave you alone, Jeannie? They've abandoned you already.

*****: Oh, I think I can handle it.

Katz: Oh, there's Debbie.

Jeanne Harrison, Portland Office of Transportation: Debbie's with me. Good morning. Jeanne Harrison with the Portland office of transportation. The ordinance before you is an amendment to title 17, which is needed to implement the recently adopted northwest district plan. The plan established a northwest transportation fund bonus option in two areas of northwest Portland. In the northwest plan district, it includes the e.x.d. zoned property bounded by Pettygrove, 23rd and the i-

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405 freeway and includes two blocks north of the highway. In the guilds lake industrial sanction ware plan district, it includes subdistrict b, which other properties zoned ig 1 with a mixed employment comprehensive plan designation. The northwest transportation fund bonus option will be available to property owners who want to develop at more than the 1-1 floor area ratio for nonresidential development in the northwest plan district, and at more than a 1-1 f.a.r. For office development in the guilds lake industrial sanctuary plan district. Up to the max allowed by title 33. The purpose of the fund is to provide transportation improvements to support planned growth in northwest Portland, and the floor area ratio will be held to the 1-1 f.a.r. Unless a fee of \$2.90 per each square foot above the base f.a.r. Is paid into the transportation fund. The amendment to title 17 authorizes the manager of the bureau of transportation engineering and development to collect these fees for the transportation fund and expend them on a number of transportation improvements in a designated area of northwest Portland. The fee is indexed annually to the Oregon composite construction cost index. Fees collected through the northwest transportation fund will be used for transportation improvements in an area that's generally bordered by pettygrove, northwest 27th, northwest nicolai, and the i-405 freeway. The improvements could be used to increase capacity for any number of modes of travel or to mitigate impacts of traffic in this area. A list of improvements is not being adopted with these amendments to title 17, which improvements are needed and the timing of the improvements will depend on the amount and location of new development. It would be premature to create a list now, but we will develop a process to identify and prioritize projects as development occurs over time. The process will include input from nwda and nina, as well as property owners and developers. Are there any questions?

Katz: Questions? All right. Let's open it up to public testimony.

Frank Dixon, NW District Association: My name is frank dixon, I live on northwest johnson. I'm speaking on behalf of the nwda, the community organization for northwest Portland incorporated as its president. The nwda has consistently opposed the removal of subdistrict b from the industrial sanctuary as part of the northwest district plan. I will not repeat nwda's testimony of september 17 that relates to council's action today, but will submit a written copy for the record. The justification for today's ordinance had its genesis when the planning commission made its recommendations to make changes to the northwest district plan that allowed greater commercial development in parts of the transition zone. Council altered this recommendation by limiting the planning commission's changes and then approving esco and other property owners' requests along vaughn street to receive a comp plan designation that would permit commercial office space that is unrelated to their industrial activities and is currently prohibited under the comprehensive plan to protect the industrial sanctuary. This change, whether it was because esco threatened to leave Portland, or for other reasons, was done without an adequate transportation study or a plan for necessary transportation improvements. The esco fund, studied by d.k.s. Associates, to determine the amount of money to charge developers to fund 50% of the mitigation measures necessary to accommodate the buildout north of pettygrove and in subdistrict b, is seriously flawed for a number of reasons. I have time to mention a few. First, while the d.k.s. Study did consider traffic increases for a buildout of c.n.f. Properties, the study failed to consider the impacts resulting from the buildout of the rest of the transition area and the river district. The d.k.s. Study is also flawed in that it -- it's its proposed mitigation measures run realistic and are in direct conflict with much of the northwest district plan that is [no audio] the d.k.s. Measures include installing a traffic signal midway up the entrance ramp to i-405 at northwest 22nd street, and somehow despite the high grade ramp, traffic down to 22nd, a local neighborhood service street that runs the length of the neighborhood. Other mitigation measures d.k.s. Relies upon are adding traffic signals and turn lanes along vaughn at 24th street, 26th street, and 27th street, all local neighborhood service streets. In the case of 27th street, the d.k.s. Study seems to require the removal of neighborhood traffic

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mitigation measures in place since the 1980's to keep inappropriate traffic from the industrial sanctuary out of a residential area composed primarily of family houses, residential infill, and farther into the neighborhood, chapman school. In addition to the inadequacy of transportation planning to determine the mitigation measures necessary to accommodate the comp plan, changes approved by council, the bonus scheme itself is flawed and the full buildout must first occur to generate the 50% of the estimated funds necessary to plan for and construct the traffic mitigation measures.

Katz: How much longer is your --

Dixon: A minute.

Katz: Go ahead.

Dixon: The source for the remaining 50% of the estimated funds has not been identified. Esco and their fellow property owners would not approved an l.i.d. after they've already paid a fee for their bonus f.a.r. And there is -- anyone here today that's seriously believes j paco dot or the federal government is likely considered -- to consider funding these mitigation measures a priority given the long list of unfunded transportation projects in the region. Since there is no reasonable expectation that the city will have sufficient funds to do the necessary traffic mitigation measures related to the increase in f.a.r. Permitted under this ordinance, it should be tabled until valid and achievable transportation plan exists. Thank you.

Katz: Questions of frank? All right. Stephen?

Stephen Edlefsen: I don't fully understand this proposition. I suppose I should have learned about it this morning earlier. I'm still becoming familiar with this process. I know how -- I -- I don't really like new street lights. I sort of find street lights frustrating. And i've heard things stay the -- I prefer things stay the same.

Katz: Thank you. Anybody else? All right. This will pass to second. We're at regular agenda right now. Item 1216.

Item 1216.

Katz: As i've always said, every couple of years you ought to go back and see if what you're doing makes some sense, what the best practices are around the country, to give council advice, and to pick and choose those items that require the council and the city to consider changes in the way we do business. One of these was our budget process. Many of us have been involved at the legislature with the budget process, or in other communities with the budget process. We have ours, we change it and tinker around the edge every once in a while. But there's been a report that's been written making some recommendations to us for some changes. And what you have before you are those are the changes that the office of finance and management has brought forward. So i'll turn it over to mark.

Mark Murray, Office of Management and Finance: Mark murray, city's office of management and finance -- financial planning director. As the mayor stated, this is in direct response to the gfoa study in particular and there will be a more in-depth response to their recommendation. So it will be coming to your office over numerous recommendations that we were either already implementing or will be implementing over the next couple of years. But this one in particular relates to the suggestion that council adopt a budget calendar to give a little more structure and security for the system to both council, the bureaus, and our office. We regularly prepare and distribute a budget calendar, but as you know, it can be an extremely dynamic document. This resolution will codify it and hopefully give a little more structure and guidance to all of us. It will encourage orderly development of the process, we believe. It will enhance opportunities for the bureaus to explain and defend their budgets to the mayor and commissioners. It also supports the managing for results efforts, which focus on the planning sections, so this will allow planning prior to budgeting by focusing on the particularly on the financial plans of the enterprise bureaus. So the

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significant change in the process itself and the calendar is one to codify the calendar itself, but also to put more emphasis on the financial planning for environmental services, water, and transportation. Now, the changes to the calendar itself were developed in consultation with those three bureaus in particular before we brought this forward to the mayor and council. So what -- the change will be that those bureaus will have an independent work sessions with council in January to discuss the financial plans and receive feedback from you prior to September submitting their bureau budgets. So their bureau budgets will be submitted a little later than the other bureaus. We worked through this with the enterprise bureaus, we worked with our team to ensure that we could do this without too much of a hit on anybody's staff. We do have those agreements from the bureaus, and discussions with our team indicates that we can support that. So we're asking council to do in response to the GFAO recommendations in particular is to adopt budget calendar, recognizing indeed it can change, but it gives us guidelines and hard dates to work from. I might also mention that as part of our efforts to improve performance internally, one of the new performance measures we're holding ourselves to is how many dates for deliverables do we really meet. So you'll see that, for instance, in the next budget document as one of our performance and measures. Are there any particular questions on the ordinance or the process, changes in the process?

Katz: On the resolution. Any questions on the resolution?

Francesconi: Just one question. But first, pdot, transportation likes this. One of the purposes, if we could flag major issues to the council and have a discussion about it, so requiring us to come in with the five-year capital plan would be great. So we should have been -- so we approve that. The question, and this may not be the right forum, but kind of the citizens side of this, the citizen input on this, and discussion, and -- which is a kind of two-way thing where we get input, but it's also an education process, is there a different calendar for -- that lists that, or are we looking at how we're doing that? I'm still not convinced, despite a lot of different noble attempt that's we quite have that right.

Murray: We're not convinced we have that quite right either, commissioner, but what we're doing for this year is, as you're aware, every other year is more intensive in terms of public outreach. So -- but I might also say that in this year's budget are your -- appropriation was cut essentially in half. But even with that, we have brought forward a proposal where we will, or will be bringing forward a proposal, we laid it out, we will be going out with the survey to get more depth answers there. We will be doing community forums this year, but one less, so there's only four. But another effort we would like to explore is, we weren't able to pull it off this year, but to talk to some citizens' groups about how we might better involve them in the process, and at which time. So going forward to the next time around, we have a better effort. That one has not been fleshed out yet, and shared with your offices, so we have some ideas, but we haven't made it to your offices yet on that. So for this year I'm afraid we intend to walk through the process of the past with an effort to look forward to the next cycle.

Katz: Further questions? All right. Any public testimony? Yes, mark?

Murray: One other thing I might mention, we've also been instructed to get more involved with labor where possible, and we're trying to roll that into our efforts as well, which may include a proposal to have a work session with -- to involve them in the work sessions or separate work session with council and labor.

Katz: That's good news. The other is that there has been, or there is an attempt by the Portland business alliance to review some of our budgets, and there may be interesting recommendations that make some sense that we might want to adopt at a point where that's finalized and not in any draft form.

Murray: That's correct. We reviewed two of the drafts in our office, and there are some good ideas, good thoughts in there.

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Katz: And some errors that --

Murray: Yes.

Katz: -- need to be corrected as well. All right. Thank you. Did you want to add anything?

Celia Heron, Office of Management and Finance: No.

Katz: Since you're doing all the grunt work? No. All right. Thank you. Anybody else want to testify? Roll call.

Francesconi: Aye.

Leonard: I just -- this is an appropriate time for me to make a comment about the work product that i've seen mark produce, and a conversation I had with tim grew last week will be consistent with these remarks. I have really enjoyed working with you, mark, and tim grewe, at all -- in the past -- in my first 11 months. Everything that i've experienced with you and the office has been solution oriented on the cutting edge, and I just can't say enough how much I appreciate your work.
Aye.

Saltzman: Aye.

Sten: Good job. Aye.

Katz: Thank you both. We will continue to review the recommendations and bring them forward. But we didn't want to delay at least the adoption of a calendar for us to start our work. Thank you.

Aye. [gavel pounded] 1217.

Item 1217.

Katz: Roll call.

Francesconi: Thanks for all the work on this by everybody. Aye.

Leonard: So we're not having testimony obviously?

Katz: No, this is second reading.

Leonard: Maybe I can ask a question before I vote, because I don't want to make -- is the next ordinance we vote on --

Katz: Let me just -- both of these are second reading, and we don't have questions or testimony on it. We may -- if you want to we can have a question on 1218.

Leonard: Ok.

Katz: But right now let's vote on 1217.

Leonard: Ok.

Katz: Do you want to vote on --

Leonard: No.

Katz: 1217, no?

Leonard: Let me make sure.

Katz: Ok.

Leonard: Give me just one moment. I thought we were going to be discussing both. It will be no.

Katz: Ok.

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

Katz: Mayor votes aye. [gavel pounded] 1218.

[NOTE: AT THE END OF THE MEETING THE RULES WERE SUSPENDED AND COMM LEONARD WAS ALLOWED TO CHANGE HIS VOTE TO "AYE" ON 1217.]

Item 1218.

Moore: Sandra wood and some of the builders wanted to be here, I don't know --

Katz: This is a second reading, everybody.

Francesconi: Is it all right if we just had an explanation of it, no discussion, but just an explanation? Is that all right?

Katz: Where's -- is staff here?

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Moore: The last time certain ran shorter than they expected, so they were probably thinking around 10:30.

Katz: All right. Then let's set this aside if council isn't sure what they want to do. But this is a second reading, and unless the council is ready to open this up again, we're going to have staff explain it for the council, but we're going to vote on it today. All right. 1219.

Item 1219.

Katz: Roll call.

Francesconi: Yvonne and anna, thanks for your work on this and for leveling the field for everybody. Aye.

Leonard: Aye.

Saltzman: Well, I do want to say that i've certainly heard from other bureau directors about our actions of two weeks ago, so i'm not sure this levels the playing field for everybody. It does for the police chief and the fire chief. But certainly there are other bureau directors who have equally valid issues about accrued vacation time. Aye.

Sten: Aye.

Katz: Well, I was surprised, I noted the addition of chief ed wilson. This original came --

Leonard: Why would you be surprised?

Katz: -- to deal with a police officer who, during the course of many, many years, rarely got to take any vacation. But that's fine. Aye. [gavel pounded]

Francesconi: This is the only surprise you had from being gone, that's not too bad: [laughter]

Katz: 1220.

Item 1220.

Andrew Aebi, Local Improvement District Administrator: Good morning, mayor and commissioners. I'm andrew abebi, local improvement district administrator. The resolution before you would initiate local improvement district formation proceedings for the lents iii extension local improvement district and would improve an additional 400 feet of streets on southeast ellis street east of 104th avenue and southeast reedway street between 103rd avenue and 104th avenue. It would increase the size of the lents iii project by approximately 10%. Construction of the improvements would be combined with the lents iii southeast 104th and ramona l.i.d. approved by council in august. Actual formation of the l.i.d. would be considered by council at the l.i.d. formation hearing next month if you approve this resolution. This resolution is a result of new petition support on these streets and the lents iii southeast 104th and ramona l.i.d. was formed. Cost to these property owners are the same and guaranteed at 62 cents per square foot. In the Portland development commission is continuing to offer a grant and deferral program which may pay all or part of the assessments for eligible property owners, who are low-income. This l.i.d. would also utilize a new green streets design for storm water disposal, using a swale in lieu of sumps or storm sewer. The petition before you today reflects petition support of 88% as measured by the assessment methodology. And reflects a new record level of support petition support for an l.i.d. The resolution before you directs the initiation of l.i.d. formation proceedings and gives authority to schedule an l.i.d. formation hearing and to notify property owners. This hearing would be scheduled for november 19 at 9:30 a.m. if you approve this resolution. Thank you.

Katz: Thank you. Questions? Anybody else want to testify?

Moore: We have stephen edlefsen.

Katz: Let me counsel you. If you don't know what it is, then maybe you ought not to testify.

*****: [inaudible]

Katz: Probably you ought not to say anything. Anybody else? Roll call.

Francesconi: Ken, we're able to do these because they're supplemented by p.d.c. with their tax increments. Aye. **Leonard:** Aye. **Saltzman:** Aye. **Sten:** Aye.

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Katz: Mayor votes aye. [gavel pounded] 1221.

Item 1221.

Vicki Diede, Office of Transportation: Good morning, mayor and commissioners. My name is vicky, i'm with the office of transportation and i'm the city streetcar project manager. This i.g.a. with tri-met will allow for their participation in helping us to fund the operating and maintenance costs for the extension of streetcar service to riverplace. Our existing agreement, tri-met will pay for up to two-thirds of our annual operating and maintenance costs to a maximum of \$1.6 million. Our estimate on the incremental o& m costs to get to river place is an additional \$600,000, and they've agreed to that same two-thirds kind of arrangement. So what that will do is bring their new yearly maximum to \$2 million. The balance of the resources needed for riverplace extension will come from private sources, which are the fairs and the sponsorships of cars and stops, as well as pdot resources. And there are some miscellaneous provisions in this i.g.a. One of them has to do with reserving the lincoln street right of way between southwest naito and the new harrison to facilitate future light rail on lincoln, which is a part of the I think recently adopted locally preferred alignment. Tri-met also asked that we recognize that they have no obligation to pay for any of the capital or operating costs for the tram, and that the city and tri-met will start meeting probably the beginning of '05 to look at long-term management and operation structures as our agreement runs to the end of the -- the middle of '06. I would respectfully ask that you approve this amendment. Or, i.g.a.

Katz: Questions? All right. Anybody else want to testify? Come on up.

*******:** I know a little more about this.

Katz: Identify yourself for the record.

Stephen Edlefsen: Stephen christian edlefsen, I come here from forest grove, Oregon.

Katz: Forest grove has city council, do you testify there?

Edlefsen: You know, they were like my first goal, and somehow I just never made it in, and now I want to, like, let all these other cities improve me, all these other towns and cities and areas improve me, so when I go to speak with -- before them I don't make any mistakes.

Katz: If I was you I wouldn't say, I learned this from the Portland city council. I wouldn't say that at forest grove.

Edlefsen: Fortunately i'm me. I like streetcars. I like streetcars a lot. I've been on a lot of streetcars. I think they're fun. I really like the antiequey looking one. Because I like that. I'm sort of dissatisfied with the streetcar. I don't know what it is. As I set here today I thought it's pretty nice. The inside sort of makes me anxious a lot of times. I guess that's what I don't like, and it's really blocky on the outside. I saw a green one yesterday, I rode it yesterday, and it was pretty cool. The green one was really nice, and I felt pretty good. I don't know what my complaints are about the route. It seems like it doesn't go where I want to go. I guess that's what it is. I don't want to go up to 21st or 23rd, and if I want to go up there i'll walk or take the bus. And I don't know, maybe it's the new area I really don't like. I just don't have anything good to say about it. Yesterday I sort of saw some I like, I still see the like I have for it. Having the streetcar go to the water seems nice. That will be pretty. People will get to go to the water and ride the streetcar to the water. Seems like it's really expensive. Seems like it can't pay for itself and it's not worth itself. But maybe the beauty and the fun, it can provide are worth that. I wonder, like, it said, had like 160,000 riders, I guess that's individuals, not individual rides. Seems like it can't pay for itself and it will be too expensive to use if we make people pay for it. Maybe the money can be gotten and you guys don't have any problem with that. I guess that's it.

Katz: Thank you.

Saltzman: Can I ask a question of vicky?

Katz: Yes.

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Saltzman: I was noticing in the agreement it states twice that the city will not ask tri-met for capital or operational funds for the aerial tram. And I was just curious, has tri-met's role been foreclosed all together, or is this something that hasn't been dealt with yet and they don't want to imply anything at this point?

Diede: I believe looking at the development agreement with the various partners for the south central district is that there's no requirement for tri-met to participate in capital appointing -- operating for the tram, and they just want to reaffirm it.

Saltzman: But they could in fact end up being the operator as long as they're not necessarily paying for it? Am I reading between the lines correctly on that?

Diede: No, I think --

Saltzman: Have we even gone that far yet?

Diede: I don't think they've gone --

Saltzman: We don't know who's going to operate the tram at this point. It could be tri-met.

Diede: It's one of the options. It would be a difficult conversation to have with them, but it is still an option.

Diede: I had a question about that. I had a minute 20 at the time he started speaking.

Katz: Just one second, I want to make sure we finish this conversation. Are you finished, vicky?

Diede: Yes, I am.

Katz: Go ahead.

Edlefsen: I hope it won't increase tri-met fares. I know fares have gone up recently and a bunch of buses have been added and that kind of makes me anxious, seems to sort of take our culture away from us. I hope this will if anything, make fares go down and maybe make tri-met more nice.

Katz: Thank you. All right. Anybody else? Thank you, vicky, thank you, steve. Anybody else want to testify? All right. Roll call.

Francesconi: Aye. Commissioner, I can talk to you more about the tram in the next --

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

Katz: Mayor votes aye. [gavel pounded] all right. 1222.

Item 1222.

Vicki Diede, Office of Transportation: This amendment concerns the gibbs extension. I wanted to give a quick update on the riverplace extension. We'll be coming back to council next month for a -- seeking council's approval for a preconstruction contract for the general contractor, and we're in that selection process right now. A construction management agreement plus the project finance plan, and this action, that we take mechanics no will launch the construction of the .06-mile extension from Portland state to riverplace. But the action before you in amendment 17 to the agreement with Portland streetcar inc. is kind of the first major step of implementing the extension from riverplace, an additional .6 miles to gibbs to connect the streetcar to the south waterfront central district and to the marquam hill tram. The work plan in amendment number 17 is largely directed toward meeting federal funding requirements, preparation of an environmental assessment and other grant application procedures, aimed at using the \$10 million in regional transportation funds that are allocated in the south waterfront development agreement, and hopefully additional monies from a new f.t.a. grant. I should note that over the last eight or nine months we have been working with the federal transit administration on the riverplace project extension project to qualify it for future federal match. But the federal transit administration has not approved any streetcar projects any place in the country, and they're having trouble fitting us into their federal approval process. But we do have the local funds ready and available for the extension to riverplace, and should push comes to shove we'd build that as a discrete project. We're more optimistic about working with the feds on the gibbs extension for several reasons. One will be working with them from the beginning of the process. We've developed a pretty good working relationship with them,

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and we will be proposing a project that's less than \$25 million, which is a threshold they've indicated to us really cuts down in some of the complex project justification process. So if in the weeks ahead the federal process for gibbs proves also to be unworkable, we will make every effort then to revise the work scope and amendment -- in amendment 17, but our main goal is to complete the gibbs extension by the december 2006 deadline as established in the development agreement. So the feds have proven to be a little more difficult to work with than we thought.

Katz: Questions of vicky? Anybody else want to testify on this item?

Stephen Edlefsen: My name is stephen edlefsen, and I come from forest grove, but I have a post office box in hillsboro. I wish the names used in describing these things are different. More describing the area, or more commonly used. South waterfront district, perhaps gibbs district is more well www.fcc.gov, perhaps i'm simply unfamiliar with it. Gibbs is a name which seems like it might be. They'd be easier for me to understand, and they'd be easier for me to imagine the areas as they are affected. Perhaps that separation is good for the planners. I suspect it's in this situation, not. I wonder about the federal government, or -- relying on federal government funding. It seems a dangerous and tricky -- it seems dangerous and tricky. It could set us up to be dependent upon them, it could cause us to become lax or casual, and become so we have a much larger problem than we would if we didn't accept their money at all.

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

Francesconi: So as vicky indicated, we're going to get this streetcar to gibbs and to make the connection with the tram, it would be a lot easier if the federal government would help us. And so some of the earlier talk about supporting the streetcar at the federal level so far hasn't materialized. However, with the help of senator smith and congressman blumenauer, we're hopeful that this will - - the federal government will meet some of its responsibilities in transportation and job creation to local communities. We're not going to be able to continue to expand the streetcar beyond south waterfront without the help of the federal government. And so we're doing what we can to set the stage for that. And we have terrific people working on it. Aye.

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

Katz: Mayor votes aye. [gavel pounded] karla, why don't you make sure that we have somebody coming down from planning.

Francesconi: It's pretty self-explanatory. But I don't know. I don't need it.

Leonard: I need it.

Katz: He needs it. All right.

Moore: Someone is here now.

Katz: All right. Just sit down. We're not quite ready yet. Item 1223.

Item 1223.

Katz: Anybody want to testify on this? Passes to second. Let's jump up to 1218.

Item 1218.

Katz: Before we vote, this is a second hearing. Commissioner leonard has some questions, so that's why you've been asked to come down.

Leonard: Would it be appropriate for me at this point to ask for a suspension of the rules?

Katz: To ask questions or for the other vote? We'll do that after this.

Leonard: Ok. My questions are this. We've all sat through hours and hours of testimony, but the part that has concerned me and if the planning commission wants to testify to help me with this, that would be helpful as well, is we focused in the city's comprehensive plan and the argument of this issue with what i'll call an artful reading of goal four of the city's comprehensive plan. And I am concerned by the action that we take today that in fact we violate provisions of the city's comprehensive plan in section 4, and i'll just be very specific and read you the ones I think apply, and i'd like you to tell me how these issues were flushed out in this discussion. Specifically, 4.7,

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balanced communities, and it says, strive for livable mixed income neighborhoods throughout Portland that collectively reflect the diversity of housing types, tenures and income levels of all of the region. And then it drops down and says, objective b, maintain income diversity within neighborhoods by allowing a mix of housing types and tenures including houses, houses on smaller lots, small houses, etc. Then again, to be brief, and just to talk about the provisions that apply specifically to this action, 4.10 is housing diversity, and objective c says, accommodate a variety of housing types that are attractive and affordable to potential home buyers at all income levels. And over at 411, housing affordability, actually, let me skip that, 413, humble housing is the title of that provision, and ensure there are opportunities for development of small house was basic amenities to ensure housing opportunities for low income households, members of protected classes, households with children, households supported by reduced resource consumption. And the two objectives it lists are ensure that regulations facilitate the option of development of small homes and b, reduce barriers to the development and finance of small homes. The reason I -- I would not have raised that had I not read what we have and what we're going to vote on. What I read, item 46, in what this would purport to be a justification for the action we're going to take, is it says that the amendments that we're voting on are consistent with goal 4 housing, because they do not change policy or intent of existing regulations relating to housing. I don't get it. We're amending the code to prohibit small houses from being built where they intentionally were -- where they were originally allowed to be built, and we're changing it. How does that not violate these provisions I just read?

*****: I think the --

Katz: Why don't you identify yourself. Do you feel comfortable responding to that? Because I have a member of the planning commission here who --

Sandra Wood, Planning Bureau: I think in addition to their response, it would be great to have a member of the planning commission respond to that. But I think the comprehensive plan talks about neighborhoods and diversity and neighborhoods, and you're correct in that. And neighborhoods don't necessarily have just one zone in them. They have multiple zones in them. So the fact that there's r-5 zone and r-2.5 and r-2 in the same neighborhood, and as part of the resolution that commissioner Sten had proposed, was to expand the provisions in the r-2.5 and the r-2 to apply citywide and not just in the a overlay. So that will expand --

Leonard: We're not doing that in this vote today.

Wood: No. That will be in policy packet two.

Leonard: My question is this -- in this vote today, we're basically restricting the ability to build houses that goal four says we need to not restrict. I'm asking, how is it that we can vote today to approve something that would appear to me to directly violate that goal?

Wood: I guess our feeling is that it doesn't directly violate that goal. With the design standards that were passed with the emergency ordinance for that we allowed for attached housing to be built with that. With also the attached infill residential provision in this, as part of this packet in the r-5 zone, if the lot has been vacant than the zoning -- the density can increase and attached houses can be built. So you were talking about different housing types, which attached housing is being proposed in several of these provisions. The one that was already passed for the emergency ordinance in the design standards. And also the infill design option.

Katz: I'm going to cut this off for now. Amanda, why don't you come up. I know you feel strongly about it, but I don't want you to address the issue itself. If you can address the comp plan, there is a difference of opinion as to whether we're in violation of the comp plan or not. And I think that's the issue that --

Leonard: That is the issue.

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Amanda Fritz, Planning Commission: I'm amanda fritz, a member of the planning commission, however we weren't expecting there to be testimony, so i'm not --

Katz: I understand. Go ahead, since we're doing it.

Fritz: First of all, would I say the planning commission is delighted at the attention to the comprehensive plan. It's one of the true blessings of this whole process, is that more and more people have come to realize how important the comprehensive plan is and how we need to pay attention to it. So thank you for raising that issue. Secondly, the comprehensive plan map is the most specific part of the comprehensive plan. There is case luba, I think it's clackamas county versus damascus community church that says specific parts trump the aspirational parts. The comprehensive plan map says these areas are r-5 and the comprehensive plan says that's suitable for one house per 5,000 square feet. The purpose of the zoning code is to provide certainty for everyone and the purpose of zones so we specify where we want particular lot sizes. So if we want homes on 2,500 square foot lots, we zone them r-2.5 and everybody knows they're appropriate for one house on a 2500-square-foot lot. We have r-5 zones, where people should be able to expect they can have 5,000 square foot lot. However, several years ago the council did amend the code so in every zone you can have accessory dwelling units. So we already have a provision for very small affordable houses on r-5 lots that's available.

Leonard: Those are like in-law apartments?

Fritz: They can be for anything.

Leonard: What i'm specifically asking is, and it's no more complicated than this, I think a fair reading of this section by the planning commission would have led one to believe that by taking the position the planning commission did, you are removing a stock of affordable housing that was goal four was intended to create and maintain that by this action today we are removing. And what i'm hearing you saying is that you looked at a map and that map trumps the goal of creating small affordable housing.

Fritz: Well, the evidence in the record is conflicting as far as whether these new houses are more affordable than the old houses. There was a lot of evidence in the record that the houses being torn down were more affordable than the ones that were being built. But i'm pleased that it's going back to the -- that the issue of the vacant lots is going back to planning commission, because I think there's a considerable will in the community as well as the planning commission to craft some regulation that's could ensure that the new houses are affordable. So i'm looking forward to bringing that back.

Katz: Ok. I think we'll put the end to this discussion and have a roll call. You did read the item, didn't you?

Moore: Yes.

Katz: Roll call.

*******:** Point of order. There was an incorrect statement made --

Katz: We have incorrect statements made all the time. Roll call.

Francesconi: There's agreement on the council at least that we need more small housing units, and with all the conversations in the last few weeks, the last week, especially given enrollment numbers in portland public schools, it's clear that we need more family housing with kids to support our schools. And to do that we need smaller units, and we need smaller lots. The question is, so we have agreement on that. At least on the council members, members of the community, and from what amanda just said, members of the planning commission as well. The question is how do we do it. I believe you have to -- the comprehensive plan and the goals that were read by commissioner leonard are aspirational, but the comprehensive plan dictates that we deal with the zoning, have the right zoning. And you can't just change r-5 zoning. You just can't do it. The way to do it is the way commissioner Sten is talking about, to expand 2.5 and 2 throughout the city, and that's the right

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-- in the right places, and that's the way we need to do it. So contrary to commissioner Leonard's point, I think the comprehensive plan supports this, doesn't -- it dictates this, and that's why this has been my consistent position. If you start throwing out zoning, you can pick aspirational things throughout the comprehensive plan to support whatever you want. So we do have to stick with this.

Having said that, we have what is emerging as a crisis. Not only for Portland public schools, but for families living in our city who need more affordable options. Not to mention a home builder industry that's based on small businesses that needs supply to deliver. But now we're doing it, I believe, through the right process. Aye.

Leonard: Well, I would -- that is a persuasive argument and I was attempting to get myself to the place where I could vote yes today. And the reason that I raise these concerns are specifically some of the issues coming from those who've brought this to our attention originally. And let me tell you what that is. The original concern that was articulated to me when this first came on my radar screen back in January was that these houses that are being built are ugly. And I drove around personally to some of the neighborhoods and looked at them, and agreed, some of them could have been designed better. So I worked with the council and some staff at the planning commission, and we developed design standards so that we would ensure that any of those houses built from that date we took that action forward, would be houses that were built in such a way that they reflected the style and character of that particular neighborhood. We're still in the process of developing a design standards book that will be used to pick from houses that reflect the character of the housing stock in that neighborhood. Then I heard, after we did that, well, no, the issue is tearing down existing housing. Characterized by some as we heard today, as affordable. Affordable is a polite way to characterize some of that housing. It is often times abandoned and can't be sold because nobody wants to buy it. So it's purchased by someone, removed, and then two of these smaller designed houses are put in its place. Commissioner Sten, listening to that concern, proposed the amendment that we discussed last time, that doesn't allow for the removal of the housing stock. And I thought it was a fairly -- where he was going was a fairly creative resolution. But then the part that concerned me, and the part I continue to hear, and I continue to get emails on, is, but what about these vacant lots? We need to prohibit these houses from going in on vacant lots. So in my reasoning, I went, one, we fixed the design issue. Two, we fixed the problem of removing houses, but that's not good enough. Now, I heard a member of the planning commission say last time they were going to take this issue fairly and on its merits and try to resolve it fairly. And I'm going to be watching closely to make sure that happens. Because when I'm coming to the conclusion of, is that the issue isn't design, and it isn't removing existing housing stock, it's some other issue. Affordable housing being built in some neighborhoods. And that concerns me. And it concerns me deeply. Because I've heard from a lot of people in the community that aren't here today that occupy those houses or want to occupy those house who feel a little bit intimidated about this whole subject. So I feel a special obligation to make sure that the issue is focused, that if we can get to the place where we can get to the intent of commissioner Sten's amendment last time, I'll be on board. But I'm not going to be on board for a drive by the community to avoid having these affordable housing stocks built in Portland neighborhoods. No.

Saltzman: I am in fully support -- I supported the design standards that commissioner Leonard originally led in this effort, and I am particularly concerned, I know we're at the point now of going forward, but I want to echo the concerns commissioner Leonard just expressed about vacant lots. I think we heard a lot of testimony about tearing down house and putting up small houses. But I think we also heard a lot of testimony about the need for these small houses, and the demand for these small houses. And the conflict seemed to be tearing down existing housing. So I am going to be equally diligent about watching the planning commission on this one, and its statement that's it's going to be fair and balanced in coming back with us about recommendations for small houses on

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vacant lots, because if it goes awry or drifts away into an endless process again, then I don't think the planning commission will have delivered on what it said it will, and delivered integrity, and I think once again the council will have to act, once again we'll have to set up the dynamic that we acted without proper process, but we are losing, we lost 2,000 kids in our school districts, housing is going up here, we need to have vacant lots are the best opportunity, and I think the design standards that commissioner Leonard has led with the home builders are good design standards that make for attractive affordable, albeit some what different looking housing, but it is affordable and there's no reason why it shouldn't be allowed in vacant lots. So I'll be watching this with diligence. Aye.

Sten: I was going to just vote, but I guess I'll make a comment. I feel like I've spoken enough about this. I actually want to compliment both sides for hanging in there and working together, not together, maybe, but working with the council -- together to some extent -- on each piece of these. I don't think I need to really spend a lot of time outlining my passion for affordable housing, and I clearly went on the first vote in the direction of saying, it is so important to get affordable housing, I see that as more important than some legitimate concerns on the other side. As I've looked at this over the summer and watched neighbors have fund-raisers to take this to court, I realized that I think it needed to be resculpted a little bit. I don't think the basic premise is all that different, except that I'd like to and this amendment does, whatever this package is at this point, block the demolition of the housing. I had originally proposed putting the vacant lots, since this was my legislation, the vacant lot into this package, and at the request of the neighbors, have simply said, let's have a planning commission hearing to let people talk about it. That's all it is. I've communicated with the planning department, the planning commission, that that hearing is going to happen at the end of October, and I intend to bring this back in the middle of November. So it's really just a simple process that I think is appropriate, and I think it -- it could actually maybe improve my legislation. It certainly isn't perfect. So I'm hoping that the process continues to work. I couldn't agree more on the vacant lots and the notion that family sizes are shrinking dramatically and prices are going way up. And that's one of the main reason kids are leaving the suburbs. We need smaller units, we need place that's work, and some of the other pieces of this package are allowing detached homes in R-2 and 2.5 zones. That's something I believe the neighbors will like better. And that is something that the council has put in place for good policy reasons originally that limits the builders' ability to build a product that the market wants in the zone where it's zoned for that. So this is a package of trying to -- I continue to take both sides at their face values, there's always somebody who says, what I really want is this, or what I really want is that. But if you look at the design that builders are willing to work with commissioner Leonard, which I think was terrific, and didn't have to on the design standards, I think commissioner Leonard did a great job on that, if you look at the neighborhoods' willingness to look at things like the R-2.5 zone, vacant lots and other pieces, I believe most people are reasonably close in what they would like and are in a difference in terms of how do you actually implement the comprehensive plan. Ultimately the comprehensive plan is a balancing act and you have to balance these different goals against each other, and ultimately that balance falls to this council, not to an objective reading or ultimately to the staff. And from my point of view, this package gets the balance a little better, but I want to keep working with everyone to make it even better than that. So there's been a lot of talk about the process, as the person who voted one way and tried to reshape it and come the other way, I think that's the process working well and I want to compliment both sides for sticking with this and trying time prove it, because I think both sides have fought hard but fairly, and we have a better result than what we started with. Aye.

Katz: I'm smiling because this is almost a fairy tale. Commissioner Francesconi and I were right at the very beginning to vote on this issue. I made a motion on the vacant lots, and there wasn't three votes on that. Now we're -- all after sudden everybody is supporting the vacant lot notion. That's

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fine, and I appreciate commissioner Sten coming back and rethinking this. But this is not an issue about housing. You want to provide affordable housing and deal with the housing issues, we have a variety of tools and we ought to focus on that. That's absolutely correct, commissioner Sten has been working on this for years. The council has been working on it for years. Appropriating resources, whether it's federal dollars, general fund dollars, tax increment financing dollars, to affordable housing, and if we had additional resources, we would do even more. This is an issue about the comp plan. This is an issue about a zoning map. This is an issue about commissioner Sten is right, is a balance between all the goals. Not one goal has a higher priority than the other goal. But when you talk about this issue, this is about the comp plan map. And it's about the zoning designation. That's what this issue is about. Now, I appreciate commissioner Leonard's efforts on the design issue. That was an attempt to try to solve one of the problems that was very evident that the community and many of us have flagged over and over again. But the kernel of this issue is the comp plan, and the designation under the comprehensive zoning and the map. Hopefully this will come back and we'll put an end to this. I guess I just thought maybe it ought to go up to Luba and be resolved at Luba. Council was willing to come back, commissioner Sten approached this very thoughtfully, and we'll wait until the planning commission comes back with council and advice to us. Aye. [gavel pounded] thank you. I'm going to ask the council for a suspension of the rules to allow commissioner Leonard to change his vote from no to aye on 1217. Do I hear any objections? Hearing no objections --

Leonard: I just want to explain the reason for that. I was tying these two ordinances together because they're so closely related. But I did vote yes on the first reading, as trying to get into a compromise, I -- so I don't want to go back on that. Thank you.

Katz: Commissioner Leonard votes aye on 1217. And no on 1218. All right. Thank you. [gavel pounded] we stand adjourned until Thursday.

At 10:59 a.m. Council recessed.

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2:00 PM

[Roll]

Katz: Commissioner Francesconi is out on City Business, Commissioner Saltzman's absence is personal. I expect them to listen to this tape so that we can act on these issues if in fact they come back to us at some future time. Let's take 1224.

Item 1224.

Katz: This is -- i'm going to turn it over to you, but this is the laundry tale. All right.

Linly Rees: 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 before the hearings officer. You can't bring up anything new. This hearing is designed only to decide if the hearings officer made the correct decision based on the evidence that was presented to him. If you start to talk about new evidence -- 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, city council will hear from interested persons in the following order -- the appellant will go first and have 10 minutes to present his case. Following the appellant, persons who support the appeal will go next, each person will have three minutes to speak to council. This three-minute time limit applies regardless whether you're speaking for yourself or on behalf of an organization. The principal opponent will have 15 minutes to address council and rebut the appellant's presentation. After the principal opponent, council will hear from persons who oppose the appeal. If there is no opponent, council will move directly to testimony from persons who oppose the peel avenue supporters of the appeal conclude their testimony. Again, each person will have three minutes. Finally, the appellant will have five minutes to rebut the presentation of the opponents to the appeal. Council may then close the hearing, deliberate, and take a vote on the appeal. If the vote is tentative, the council will set a future date for the adoption of findings and a final vote on the appeal. If the council takes a final vote today, that will conclude the matter before council. If you wish to speak to council on this matter and have not signed the list located outside council chambers, please sign up at this time with council clerk. There are several guidelines for this on the record hearing. The evidentiary record is closed. This is an on the record hearing, 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 previously submitted. 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. If you believe a person who addressed council today improperly presented new evidence or presented a legal argument relying on evidence not in the record, you may object to that argument. Finally, under state law, only issues that were raised before the hearings officer may be raised in this appeal to council. If you believe another person has raised issues today that were not raised before the hearings officer, you may object to council's consideration of that issue. Additionally, if the applicant fails to raise constitutional or other issues relating to proposed conditions of approval with enough specificity to allow council to respond, the applicant will be precluded from bringing an action for damages in circuit court to challenge the conditions of the approval.

Katz: Thank you. Declaration of conflicts of interest by council members? Ex parte contacts by council members? Hearing none, anybody wants to challenge us? I have a question. I understand

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that the parties in this obscure issue have sat down and worked something out. Is that considered new information under this --

Rees: It is related -- the solution that will be proposed is related to the issues that were raised at the hearings officer. Will be no new evidence per se.

Katz: Is there anybody in the audience representing the community on this issue? Ok. Because -- we'll hear everything, because we need to hear everything. We'll hear you --

Rees: You don't want to fast forward?

Katz: No. We'll do it quickly, but we'll hear it. And if any of you read your emails, you -- we'll have to pass an ordinance at the same time as we act on this issue, so it will have to be continued at a date that we identify in a few minutes, but let's go through all the hearing procedures now so at the time we don't need to open up the hearing on this item again.

Kathleen Stokes, Bureau of Development Services: Thank you, mayor Katz. I'm kathleen stokes, from bureau of development services. I did provide a memo for you. Did you get copies of that?

Katz: Yes.

Stokes: Great. The appeal of land use review 01-116866 cu ad, which means it's conditional use -

Katz: Before you start, we are -- we're going to have a chinese bioscience delegation walking in on us, and since I have no clue what their time schedule is, when I see them I may interrupt you.

Stokes: That's fine. It's zoned both residential and one part zone commercial. The conditional use review is required because of the portion of the site is zoned residential. The proposal is a little complicated to explain, but once you get it, it's quite simple. [laughter] Portland adventist health as they are now known, wants to sell part of their holdings in this neighborhood to the current operator of their skilled nursing facility, which is marquis care. They're going to keep part of the site where they have some operation that's are still going on, including an outpatient clinic and parking lots, and they're keeping part of the property as vacant land. A portion of the vacant land is -- they're asking for that to be removed from conditional use status so that they can later sell it for residential development without having to go through another review to do that. This current review is triggered because whenever the size of a conditional use site changes, it has to be approved through a conditional use, because in this case it's changing by more than 10%, it's a type iii review. The review is also identifying the uses that are on the site, sort of cleaning house with some leftover or unresolved situations as to what exactly are the uses here. And we've identified the skilled nursing facility as a group living use. There's no change in the development or the operation of that, it's just as it has been for the last almost three decades. And then there is a small portion of the building that will still actually be operated by adventist health. They're going to lease it back, and they are operating an outpatient substance abuse clinic, and that's been in operation for several decades. Through the sale, the hospital site will become a separate conditional use site, so we're sort of morphing into two sites. Will be one -- one will be 3.8 acres and the old hospital building with the uses I've already described, another part will be the remainder of adventist conditional use in the neighborhood. And then there will be the 1.5-acre part that will not be conditional use anymore, it will eventually be sold for residential redevelopment. The issue that brings us here today is that the applicants have a laundry facility in the old hospital building. It's been there since the hospital was built in 1894. But when the hospital relocated in 1977, they continued to use this laundry to serve the hospital that was no longer located on the site. And the code does not allow that, it says if the laundry is serving off-site facilities it's considered a commercial laundry and it's industrial service use, which is not allowed

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as a conditional use. I've got some maps here that show the various parcels, the various uses that are located on there. I think everybody has a pretty clear understanding, so I'm going to go pretty quickly through these. If you have questions, stop me and I'd be glad to walk you through it. I did put animation in there. There's the hospital, there's the vacant land, and there's the clinic. This one shows how the ownership will be split after the sale. With the shaded area belonging to adventist health and the crosshatch belonging to marquis care. In order to accomplish all this, there was a need to ask for approval of a couple of adjustments. These are sort of technical things because building coverage is figured according to the size of the site, the sites getting smaller, so the allowed building coverage gets smaller, so they ask for an adjustment to allow a larger amount of building coverage, even though there's no new building. Also in a similar vein, because the vacant parcel is getting bigger and it already was bigger than the base zone allowed, it needs an adjustment to allow them to do that so that they can exempt that out to -- later, to sell it to someone who will sell it for residential development. One more site plan shows the building coverage, basically the footprint of the existing hospital, and then the parcel that is getting bigger. The approval criteria for the reviews for conditional uses, it's reviewed under institutional in other uses, which is 38.815.105 a-3, and the adjustments have to meet the criteria of 33.805.040 a-f. A few pictures of the site. Main entrance to the building on Belmont, mixed use neighborhood, there's multidwelling buildings, single dwelling residences, this is the clinic on Belmont. Parking lot serves the clinic, that's part of the remnant of the original conditional use. The south entrance of the main building faces Yamhill. The grounds of the hospital, a portion of that is the vacant land that would be removed from CU status. The site is adequately served by transit, there are two bus stops showing in these -- that last side in this one. And then this is the eastern edge of the building which is generally the service entrance, and it's in this area of the building where the laundry is located. There's a picture of the parking area adjacent to that portion of the building. Then a view of the major part of the building where the additional park can lots are located. This is the main parking lot that would be sold along the hospital site to Marquis Care. As I said, the existing development will be remained. There is no physical change involved, it's a matter of recarving the property and changing ownership. So no impacts are considered to occur on the neighborhood as a result of the conditional use review or the adjustments. The conditions will remain the same as they have and the only changes are that the conditional use site is getting smaller and the ownership is being divided. The adjustments allow the owners to proceed with the sale and facilitate the opportunities for returning some of the land to residential use. The issue of the laundry facility was discussed at length during review by staff, by the applicant's representative and by the hearings officer. Staff maintained and the hearings officer agreed in his decision that the laundry facility is an accessory use and considered uses on the site. So it could continue to serve the skilled nursing facility. But there are no rights under the code to take this conform -- what was a conforming situation before the hospital moved and grant nonconforming rights. So what we're saying is that the approval of the conditional use review and adjustments is appropriate as approved by the hearings officer. But use of the laundry to serve an off-site use is -- can't be allowed through conditional use approval. The code doesn't give us the authority to do that. So the resolution of the issue of this has to be looked at under a separate process. And this is where the concept comes in that actually all the parties involved have agreed to, and that I put in the memo to city council, which is that council come back hopefully in two weeks, I think we can get it on the calendar by then, to discuss an ordinance that would supersede the code for a period of 10 years to allow a phasing period for the laundry facility to be replaced in a different location, and that they -- in the meantime, it could serve the needs of the off-site use. And we probably would want to, since this

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was all triggered originally by a letter from a neighbor who talked about trucks coming to the site and noise issues, we would want to put some conditions on that that said that there could only be x number of trucks, that the applicant tell us how many are necessary, and we would limit it to that number, and then as the -- as already required by city code, that they adhere to the requirements of title 18 for noise standards in the area. And with that proposal, that concludes my presentation.

Katz: Ok. Let's hear from the appellant, which in this case is the hospital. Why don't you come on up. Share with us your issues. Is there anybody else that wants to testify on this? It's just you, steve? Ok.

Steve Abel, Stoel Rives: Good afternoon. For your record, steve able, stoel rives, 900 southwest fifth, Portland. We appreciate all of staff's work on this, and have been very happy to enter into a resolution of this kind of difficult issue. I think it's important, though, that I put some context to the issue. Before I do so, I want to make sure that I recognize a couple of folks from adventist medical center here in the audience, darryl jones, the president of adventist medical center, as well as mark perry, the c.f.o. of the medical center. And bev booken is here, who is the land use planner on this. I came in because of this particular issue. As kathleen indicated to you, the adventist medical center has been located at 60th and belmont for quite some time since before 1900, at 60th and belmont. There's always been a laundry facility servicing that particular site. The issue that has arisen is when the hospital moved to 102nd and main, part of the laundry facility, the use of that laundry facility also moved. So about three truck trips per day, round trip truck trips, visit that site and service the laundry that comes from 102nd and main. That really is the sole issue in this particular case. Staff, the city attorney, and I disagree with the legal issue. I think there's a basis upon which that use can continue, either as a nonconforming use or as an accessory use to the existing and continuing long-term care facility. But we're not going to get into the legal issue, because it would be -- it's been a cantankerous one. We've ended up with a resolution that makes good sense. Let me give you some context to that resolution. The resolution is to allow for that off-site facility to continue use for a period of 10 years. That 10 years is an important time frame because that's the period of time in which this transaction with marquis care has a continuing lease back for use of a.m.c. at that particular laundry facility. At that 10-year period the lease back goes away and the right to continue the off-site laundry goes away. That's why 10 years was selected. It makes good sense. We also think the amount of laundry that goes to that facility is minimal. Three round trip truck trips per day is all. You can imagine in this kind of urban neighborhood how many trucks are servicing other users that would make three trips be almost meaningless. During the period of time that this has gone on, which has been in excess of about 40 years or maybe up to 40 years, noise buffering has gone on at this particular laundry facility, the city has found it to be completely in compliance with noise regulations. There are no off-site impact issues that remain. So we've got a di minimus use that the code, because of its funny quirks, doesn't seem to allow, yet the practical equities say continue that use for a period of 10 years. That's the request we're making. It's not economic to build a new laundry facility for this amount of laundry, but at the same time that laundry has got to get done in order for these operations to continue. So with all of that, we agree with the condition that has been offered, the resolution to phase this out at about the 10-year time frame. Kathleen mentioned one additional condition relating to the number of truck trips. Right now it's about three round trip truck trips. That's a 10-year period we're talking about. I need a little flexibility there, and I haven't had an opportunity to ask my client about that. What they think would be the right flexibility. But if we could say 10, frankly, I think that probably would be ok. If they're jumping up and coming at me, i've got the wrong number. If it was 10 round trips --

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Katz: They just left the room.

Abel: That's even worse. So I would be happy to answer any questions, but really, we are very pleased that the staff, your staff has worked with us in coming up with a resolution. It's been a very good -- this is how it should go most of the time. Thank you.

Katz: You're welcome. All right. Questions by the council? Anybody else want to testify on this? All right. So I don't see any --

Rees: One procedural item there. There were some letters from neighbors, and i'd like to make sure that folks in the audience know those letters were entered into the record, and if anyone has an objection or would like to review them at this time, they may do so.

Katz: Ok. Anybody want to review them or have any objections? Ok. Did you want to add anything?

Stokes: Just perhaps clarify that what we're recommending is that council does not actually vote on the appeal today. That preserves the applicant's appeal rights until an ordinance would be voted on. So we are hoping that we'll have the ordinance on the agenda two weeks from now, and so we would come back and work out all the details about how many truck trips and everything.

Katz: Ok.

Moore: That's on the 28th.

Stokes: So we would come back and -- you could vote on the ordinance I think --

Katz: It would be on the ordinance and on this. At the same time.

Stokes: And then afterwards vote on the --

Katz: I would -- you would have to vote on the ordinance first. Right. Do we have everybody here?

Moore: Four people on the morning of october 29.

Katz: Just make sure in case somebody decides they want to take a leave of absence that both commissioner Francesconi and commissioner Saltzman read this so they're prepared to vote.

Stokes: The morning of the 29th?

Moore: Yes.

Katz: Ok. So if I understand, we -- yes, steve?

Abel: I want to make sure we continue that to that time and date certain, so we don't have to renotice anything.

Katz: Right.

Moore: Time certain.

Katz: Do you -- the date is set. Did you want to set the time?

Abel: I think we need to set the time as well.

Moore: Time certain for 11:15 for the morning.

Katz: I want to make sure everybody is prepared to stay for a while, maybe we'll get through by noon. If I understand you correctly, we're finished with this item, and we'll be continuing it to october 28 --

Moore: 29th.

Katz: -- 29th, 11:15. All right. Thank you.

Abel: Thank you.

Katz: 1225. Oh, wait. It's a 3:00. We'll need to wait. All right. We'll take a recess until 3:00. [gavel pounded] [recess] [roll call]

Katz: Commissioner Saltzman is on personal business. We have some guests here from china, and I would like to extend a very warm welcome to our guests. They are a bioscience delegation,

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led by deputy director general mr. Penn of the science and technology bureau of their municipal government. Did I get that right?

*****: Yes.

Katz: Come on up. Before have a seat for a second. I want to congratulate china for its first manned mission into space. [applause] and we as the city of Portland are very involved in the bioscience industry, as you are, and so that we hope that your work here, and I don't know how many days are you staying?

*****: One day.

Katz: One day? Oh, ok. That within that one day that your schedule is so busy and so crammed, that we can learn from you, and you from us, and hopefully have opportunities for further discussion. You're mr. Penn? Did you want to say anything? Who's the interpreter?

Translator: Good afternoon, respectful mayor Katz and council members, and the audience here. Mr. Penn, from the science and technology bureau. We are the provincial capitol of canton province. We have a history of over 2,000 years, and one of the most beautiful cities. We have -- we get an award from the united nations as most beautiful city.

Katz: Are you sure he's not director of tourism? [laughter]

Translator: No. We are also a city of -- with most respected in regards to technology. We're very honored to be in this city. We understand -- we hope we establish more relations with the city of Portland, especially in science and technology.

Katz: Excellent.

Translator: Welcome.

Katz: Thank you. And have a wonderful trip. [applause] as I keep saying to our citizens of this city, we are an international city, and that's what it's really all about in a small global economy. All right. Item 1225.

Item 1225.

Kathleen Stokes, Bureau of Development Services: Thank you, mayor and commissioners.

Katz: One second.

Linly Rees, Deputy City Attorney: Because this is a continuance, I get to spare you the long diatribe.

Katz: You get to spare us. Ok. Go ahead.

Stokes: I'm kathleen stokes, bureau of development services. This is a continuation of the hearing of land use review, and this is a continual use because there is a proposal for a new building which creates additional floor area on an existing conditional use site. It's actually a continuation of the use, which is a group living use serving elderly. The new building is proposed because the method of providing service to the elderly has changed with the times rather than using the site as it has been historically for what was used to be called a convalescent home, current language is a skilled nursing facility, it's now -- the owner plans to use it for assisted living, which provides a little bit better quality of life for the residents. But also according to their proposal, requires more room per resident because they have independent units. We left off last month with the dispute between the neighborhood regarding the proposal and the applicant. Council directed both parties to meet to try to resolve some of the issues, in particular concentrating on the -- as the name tags say today, bulk and mass of the building. I have been in touch with both the applicants and the appellants, and it's my understanding that not all of the issues have been resolved. In fact i'm not sure that really any of them have been resolved, but I think that both parties will fill you in a little better on that. I haven't gotten any final word from either side. What I do know is that the applicants have made modifications to the design to try to address the neighbors' concerns, and they have proposed a

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good neighbor plan to address operational considerations that the neighbors have raised concerns about. The changes to the design have eliminated the adjustment that was originally requested for setbacks, although setbacks are met now on all sides of the property. According to the information that i've just received in the last couple of days from the applicants, the overall square feet of the building coverage, which required an adjustment, has been reduced, it hasn't been eliminated because the code actually doesn't provide for large group living uses in the building coverage standards. It has been reduced by 200 square feet according to the applicant's calculations. There are also some modifications to the roofline, which lowered and didn't make it look as tall, or instead they were using dormers that would be cut in and -- to provide the head room. And they added some porches and other things to create more articulation in the design and of course to meet the setbacks moved some of the outdoor space to the edges of the site instead of the interior. That's just kind of a quick overview. The applicant intends to provide more detailed information with drawings that council can consider, and i'm sure that the appellants and the applicants will give council a status report on their discussions. As I said, my sense of -- from my conversations with them is that there was still a stalemate occurring -- a stalemate occurring. I did provide extra copies because I wasn't sure council had copies of applicants' latest submittal dated october 14. If anyone in the audience needs to look at those, there are extra copies on the table behind council clerk. So that's pretty much my update.

Katz: All right. I guess the council at some point will try to make a decision whether to make a decision today or whether there is enough possible ground work that's been done between the appellants and the applicants to justify further continuation to see if we can get to a happy conclusion for everybody. That's usually the goal, it's not always possible, and I guess one of the issues that the council will measure is whether it is possible and make a determination as to what the next steps are. So let's hear from the appellants. We'll use the same format, 10 minutes, three minutes, 10 minutes, for the applicant, three minutes, i'm sorry, 15 for the appellant, and then five minutes for rebuttal by the appellant. So who's representing the appellants, which is the sunnyside neighborhood association? There you are. You have 10 minutes, so divide it up any which way you want.

Tim Brooks, Sunnyside Neighborhood Association: Thank you, madam mayor.

Commissioners. Tim brooks, sunnyside neighborhood. With me is paul loany, our land use cochair, and then stark ackerman, an attorney helping us on this appeal.

Katz: Speak up.

Brooks: Yes. Well, first let me just thank you for the -- we feel like we've been listened to, and we really appreciate it. The comments and the questions that were raised at the last meeting in september, I think regardless of the outcome today, I think everybody appreciates the thoughtful consideration that you've given this matter. It's something that was an issue with the hearings officer process. Many neighbors felt they just weren't heard, and the decision didn't seem to reflect their concerns. I'll start with the good news. We have come up with a good neighbor agreement. Let me pass that around. This is something that we sent to marquis on tuesday, and i'll just briefly highlight the process we went through. What it represents is a -- an integration of the work that cathy levee had done with marquis and offered to us, and then we used a sample assisted living facility good neighbor agreement that we had, and kind of combined the two. And that's what you've got before you. Back on october 7, we formed a good neighbor agreement subcommittee. We met to discuss the approach and how we wanted to proceed. We met last sunday to look over the integrated copy and see what we should retain and what we should get rid of. There were some maybe overly burdensome pieces in the example we had that we got rid of, but we retained at least

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most of what marquis had provided. And like I said, we submitted this tuesday to all the neighbors and marquis. We haven't heard back -- we've heard back from some neighbors, not yet from marquis, but i'm optimistic that we could, you know, address their comments and come up with something to produce a successful agreement. Having said that, the primary issue at hand for us, and I think it was for many members of council last month, was this issue of mass and the scale of the building. And in our view, the mass and scale and building size are not changed in any significant way through this proposal, and we basically -- we were told at the first meeting we had that there will be no reduction in units, and I think the approved decision from hearings officer says, approve 62 units, I think we're still at 62 units. There will be no reduction in square footage, I think that was a concern that the council members also identified. They at that meeting indicated there would be an increase in building coverage. Apparently they've reconsidered this and we're now seeing that they've reduced it, but I would just put to you that 200 square feet is not a significant reduction in an 18,000-square-foot building. But I think the most telling part of their submittal, which I just received a copy of today from marquis, and just -- I haven't given it the just review it deserves, but just looking at -- on pages 3 and 4, there is a matrix here which goes through all of the issue -- well, most of the issues we identified in a brainstorming session at our first meeting with them, but what is noticeably missing from this list is bulk and mass. That was an item that featured very prominently in the list that we generated, and is nowhere on here. And I would just put to you that it's not on the list, and quite frankly, it has not been addressed. It's a point that stark will touch on, and I think there are other neighbors that also would speak directly to that point.

Katz: Watch your time. I just want to flag that to you.

Brooks: Let me -- can I just -- we've got five minutes? Let me just say a few words about process.

We had two meetings with the neighbors and marquis, one with just the neighbors to debrief neighbors on both sides. Then the subcommittee meetings I mentioned. We gave a lot of latitude at the meetings, a lot of floor time for marquis. We did discourage the attorneys from attending these meetings. On september 27, the architect indicated that he could do a lot to address the primary issue at hand. At the second meeting, however, we were very disappointed in what we saw. What we saw was a focus on addressing the secondary issues. The ones that are listed in this memo. We did not see any real effort to address the primary concern, and again, the concern raised by council. I then immediately called mr. Ramis expressing our concerns and the desire to work more on this, and the hope for another meeting. He called the following monday to say that he hadn't seen the marquis submittal at that point, but would get back to me. I hadn't heard, but after our neighbor meeting, I called again to mr. Ramis to say that some other ideas had come up at the meeting, including an example of another assisted living facility in northwest Portland that there was pretty broad consensus around, among the neighbors. When I finally heard back from him last friday, he indicated he would go visit the site, look at some of the other alternatives we had talked about, and quite frankly I haven't heard back. That was the last I heard. I did hear from my office today that there was a message from him, but I haven't been able to get to it at this point. With that, let me turn it over to stark just to highlight some of the code points.

Katz: Identify yourself.

Stark Ackerman, Attorney, Black Helterline: I'm sorry. Stark ackerman, i'm an attorney with black helterline. I think where this leaves us is essentially in the same place that we were a month ago. Where my clients' concerns had to do with the building coverage and the bulk and scale and mass of the proposed structure. And just to reiterate a little bit, we believe that because of the proposal, which has not materially changed, that the approval criteria which apply to this particular

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application, have not been met. And two in particular i'd like to bring to your attention. One relates to the conditional use standards, which must be made as part of this review, and particularly one dealing with physical compatibility. That standard says that the proposal must be compatible with adjacent residential developments based upon size and scale, or the proposal will mitigate those differences. And I think here we still have a situation where the size and scale of this proposal really overwhelms the adjacent residential development. And there isn't any mitigation that really offsets that. Things haven't materially changed in the last month. There's been a dropping of a setback, that doesn't change the size and scale, really. There's been a nominal change reduction in the square footage, but really, it's functionally the same. I think when you think about this, you ought to consider the purposes of conditional use review in the first place. And the code says conditional review -- conditional use review provides an opportunity to allow the use when there are minimal impacts to allow the use but impose mitigation to address identified concerns or give the council an opportunity to deny the use if the concerns cannot be met. Here the impacts are not minimal. Here there's no mitigation which really addresses or resolves the concerns at hand, and I think therefore to maintain the integrity of that process, you really are only left with the choice of denying the application, because it hasn't met what the conditional use review is supposed to do. The second point i'd like to make, and the second criteria i'd like to direct you to relate to the adjustment that's requested for building coverage. And that adjustment says that granting the adjustment will equally or better meet the purpose of the regulation to be modified. The purpose of that standard that's being modified, the building coverage standard, is in the code, the building coverage standards control the overall bulk of structures. They are intended to assure that taller buildings will not have such a large footprint that their total bulk will overwhelm adjacent houses. The standards help to define the character of the different zones by limiting the amount of buildings allowed on a site. And here we're still in a situation where they're requesting adjustment to significantly increase the building coverage allowed in that zone from 6600 square feet to 17,000, almost 18,000 square feet. It's overwhelming adjacent housings, it's taller than adjacent buildings and this will have the opposite effect of what's intended.

Katz: Thank you. Ok.

Rees: Mayor? If I may make a procedural suggestion advisement, you had said we'll follow the order of the last testimony. It's my understanding that the applicants will be presenting information from their document. I'm concerned that if we have all the --

Katz: You and I are thinking on the same -- you -- I was going to make that switch as well. I forget, you used to work with me. [laughter]

Francesconi: Is now the time to ask a question? Or do you want to do it later?

Katz: Why don't we have the applicant present their proposal so that everybody can hear it and then we can -- then we'll open it up for questions. Then we'll let the public testify. You've got 15 minutes.

Tim Ramis: Thank you, mayor Katz, for your attention. I'm here on behalf of the applicant. I have with me today phil fogg from the marquis company, who can enlighten you as to the instructions given to the architect and answer any questions you may have about the unit count in this issue of 62 units versus some reduction. The barry smith, who has been working with the neighborhood, though i've tried to field the occasional phone call, barry has been doing the work directly with the neighborhood. We thank you for the opportunity to work further with the neighborhood, and let me give this summary of what I understand to be the status. Number 1, with respect to the good neighbor agreement, we are in agreement. The neighborhood as you've heard has reworked the proposal that we gave them. We've had the opportunity to review that, and we

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accept their changes. So we're there with respect to the good neighbor agreement and the operational limitations that the neighborhood seeks on the project. Number 2, as you've heard, we've developed a revised design for the project. It eliminates the need for setback adjustments. It gives some general change to the design moving space that was previously interior to the project to the front as usable front yard and incorporating porches and other changes that barley will tell about you. Third, as you've heard, disappointed on all sides to report that we're not there in terms of an agreement on the design. We set up a three-meeting process or protocol. The first was to identify issues, the second for us to present design solutions, and the third to see if we could reach agreement. Tim did call me and indicate that it would not really be worthwhile for us to go to the third, because our design was not able to address the interests of those who are focused on the issue of reducing the number of units. And since we were unable to do that and still maintain the affordability of the units, we had not addressed the concerns of those for whom that's the prime issue. Marquis would hope that it would not be disadvantaged in the process by proposing a project that is consistent with the number of units that are permitted on the site under the existing conditional use. Which as you recall, is 72. We have proposed 62 units, and it would hope not to be disadvantaged by proposing that. I'd like to mention also that this comparison between an 18,000 square foot project and a 6,000 square foot one is a bit of a false comparison, because in fact, if the project were developed -- if the property were developed as single family homes on nine lots, there would be the ability under the code to have lot coverage of 14,000 square feet. So really, that's the range we're talking about. The difference between something over 17 and 14 that would be allowed if it were developed entirely as single family units. Also, keep in mind that any application these days for a group living situation would require a lot size -- a coverage adjustment because it's not provided for separately in the code. I'll close there, mention only that I've responded to the legal argument that's have been raised in a memo, and have concluded that your staff and hearings officer applied the correct criteria. I think the real issue in the case is not the criteria, it's the judgment about the design.

Phil Fogg, President, Marquis Health Care: I'm phil fog, i'm the president of marquis health care. We're located at 830 northeast holladay. I wanted to address you very quickly and give you some facts about our organization. We're a Portland-based company. We do provide senior care services both skilled nursing, assisted living, home care, and rehab. We are based in Portland, where we have 650 staff members who provide those services. I want to give you a little background. This facility we're talking about that is on the existing property today was a skilled nursing facility that became so physically outdated that it was not feasible to operate it any longer, and between that and a move toward community-based care services in our state, it became necessary to close it down. Which we did in july of 2001. We went through a feasibility process where we had a study that showed a need of up to 100 assisted living units. And as we evaluated that, we came to one decision which is we wanted to serve the needs of the entire community. That meant we wanted to provide care for not only the private pay clients, but for the low-income medicaid clients. In order to do that, we had to make some decisions. One of those was that we had to have enough units to make this project financially feasible and financable. And in order to do that, 60 units was the lowest amount of units that we could have to make this project work financially, to go lower would put this project at risk in the future. Having said that, I think that we have tried to work in good faith with the neighborhood association. We have tried to do everything that we can to make this a -- not just an average project, but an excellent project, and i'm going to have barry go over some of those design program issues that we've done, and we've also tried to

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provide some comparisons of other projects that serve the same community, so you can get a sense of our perspective.

Barry Smith: Would you turn it on? My name is Barry Smith, my office is 620 Southwest Fifth Avenue, Suite 604, Portland, 97204. We went through after the last council meeting, went back to the site and tried to evaluate what it was that we could do to begin to reduce massing and bulk on the site. We looked at the existing facility, and saw how it related to the neighborhood. And its condition. We realized that it was in need of repair. And we also realized that it was not necessarily within -- it wasn't in character with the neighborhood. We saw that there were other assisted living facilities in Portland that also weren't in character with the neighborhoods that they were in, and we could appreciate the concerns the neighbors had for not having some of the same samples or same mistakes occur. We also went back to look at the neighborhood to see what kind of scale and style and massing were in the neighborhood. We saw examples of great single family houses, some in good repair, some not in great repair. We also saw there was particularly around the site, a number of what we call apartment complexes, or plexes that were very detrimental to the character of the neighborhood, and we didn't want to repeat those mistakes. We decided to go through a series of analysis that was recommended that we attempt to do. This is what I would call a figured ground study, that is, prescribed when evaluating massing and land use patterns by in a book "Collage City," which was done in the 1960's. Part of the neighborhood, this is our new revised scheme within the pattern of the neighborhood, it's very similar to the new urbanist projects we've been working on, like Fairview Village, which received a lot of governors' livability awards.

We drew secretaries through the site looking at neighboring properties and the buildings that we're proposing to see what the height differences were. We looked at moving the entrance of the facility onto 29th Avenue, which is a busier street, but realized that was starting to mimic some of these land use patterns that you had seen on some of these apartment sites that are detrimental to the neighborhood. So we've come up with a scheme that is still an assisted living facility for 62 units, but we went about dealing with the massing and bulk issues. Massing in the Portland's Title 33 is defined as a combination of building coverage height setbacks that has a three-dimensional impact on the property. The goal is to break down larger buildings with smaller architectural elements like gables, roofs, overhangs, porches and setbacks that compliment neighboring properties. Height can get measured in many different ways in Portland so that we can deal with each individual street scene. We did a series of analysis of the project in relationship to the neighboring properties. What you can see in white are neighboring houses that we went out and measured and surveyed with the building behind it, so on Salmon Street you can see the Salmon Street houses and the height of the building across the street, along 29th Avenue you can see the section through the houses and how the building steps down that we're proposing as they do. On Southeast Taylor you can sigh how because of the sloping nature of the site, that the new facility is up above the hill, and even the houses beyond on Salmon Street are up above. And then there's a section on 28th Avenue. It's still an assisted living facility. What our charge is, is how do we get these rooms in here to function for people that have some problems with being ambulatory, and service the need to make the facility function and operate so that they can maintain all the agreements it's made in the good neighbor agreement. We eliminated, as we push and pull, as you can see on the corners, we're pushing and pulling to get into a similar scale in nature to the single family patterns. The increased yards, we put porches on. Porches are problematic as a security reason because it's not always great to have people in assisted living facilities be able to exit the facility without going through a central check-in station. We eliminated a number of the two-family -- two-bedroom units, we took some of our interior group activity space and put them on the

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corner. We kept some two-bedroom units so that when love happens in the future, you can always have a place for your partner, but you may not want to share a bedroom with them. [laughter] as you can -- we have now a series of drawings of the building in relation to the neighborhood. One of the critiques we had last month was that there was no sense of context. Here is the arrow -- aerial view from salmon and 28th avenue. We're just going to go around the block. There's the aerial view and there's a street view. This will also be similar materials you'll have on the 8 1/2 by 11 handouts. This is the corner of 29th and salmon. You can see that we've used larger setbacks, up to 20 feet, with projecting elements like a house, so you would have a house and a yard, a house and a yard. In the case of an assisted living facility, that space that would be yard space between two houses has to be a continuous corridor. So we pulled the -- pull the elements out and we've added porches. Where the building begins to get taller we did something that we call low heel truss. Basically making the top floor look like it is occupied attic space. So it only appears as a 2 1/2 story building with a liveable attic, which is a common theme we find in the neighborhood. Here's salmon and 29th avenue, southeast taylor and 29th avenue, again, we've really broke the building down to something that would be permitted if this was a 50 by 100 lot on a corner. We do have relationships to the street or to corners, we're trying to develop it in a residential nature that is similar to the patterns that we would see in new development and the patterns in the neighborhood. Here's that street view, and here's the final view from 28th and taylor, and then looking down the street of taylor street from the intersection, you can see the new building is really in a similar character and has similar elements as the adjacent properties. We did a color study which we showed last time. It didn't get reproduced real well, but we're trying to show the difference in materials. I'm going through the mitigation measures. I dog eared these bullet points. We eliminate add driveway on southeast taylor. There was a complaint this seemed like a drive-through facility and there would be headlights into neighboring properties. We increase setbacks and we made usable front porches. We added porches, we used dormers on the top floor. These are all element that's are used to break down and mitigate massing. We decreased the building coverage even though the last time I said as we push and pull the building it generally increases building coverage. What we're able to do was eliminate two units that were going to be used as a guest facility and one as additional nursing space, so that we actually got a smaller building and still we were able to achieve the pushing and pulling to mimic the neighborhood cadence. Setback adjustment eliminated, land use pattern reflects massing and bulk, but it's also a pattern we find in new urbanism, where we have houses and apartments and pedestrian oriented living facilities all working together. And they really do benefit from one another. We got the good neighbor agreement worked, drafted, and you can see even though there is some very nice single family house that's are detached, there are also other types of buildings in this neighborhood, so as a context, the whole thing can work together. And that's the work that we did.

Katz: Ok. You've got about another minute. Do you want to use it?

Ramis: Let me just close by saying we appreciate the comments that the council offered the last time. We particularly appreciate the comments that were offered by the community, and we've attempted to address them. Marquis has faced in these meetings essentially three interests that have been voiced. One is from those who feel -- who support the project and feel that this kind of housing opportunity is natural and necessary in the community because it allows people to stay in their community rather than to have to move the a suburban location to get this housing resource. Second, we've heard from those who said we can only support it if certain of our issues are addressed. We've attempted to do that, and there is a third interest group, which does not support

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the project and will not support it unless it essentially it is morphed into something else which is far, far smaller, and we're unable to reduce the units to do that.

Katz: Thank you. We've got -- thank you.

Leonard: Are we going to ask questions now?

Katz: Yeah, I -- you want to ask questions of staff?

Leonard: I was going to ask a question of this panel before they left.

Katz: Go ahead.

Leonard: I want to give you an opportunity to help me clear up an impression i'm gaining. I want to be very forthright about that. In your testimony last, the impression i'm gathering is that you're not rebutting the concerns that the neighbors are raising so much as you are -- and I wrote down three different things you say -- I don't want to reach the wrong conclusion, so I want to give you a chance to hopefully clear up what -- the impression you left with me, anyway. One thing you said was there are other examples of projects that don't fit within other neighbors throughout the city. You also said there's some houses in the neighborhood that are in good repair and some that aren't.

And then finally, you said there are apartments within the neighborhood that don't fit in the neighborhood that -- the impression i'm getting is that you're attempting to create an appearance of the neighborhood where this project might be justified whereas in other better neighborhoods it would not be justified. And I want to -- and i'm slowly and darkly reaching that conclusion, and I want to give you a chance to pull me out of it.

Smith: Thanks for giving me that opportunity. You know, that's not the case at all. What I see this project as is a project that actually will start pulling a neighborhood together that has some things that are pulling it apart. The -- it's a historic neighborhood that I think would be close to being a candidate for national register status. When we've done national register surveys before, one of the things we have to do is we have to list properties, and we used to do it by colors, from purple to black. As to whether or not the property was of a significant nature by itself, or all the way down to being a detriment. There are some very, very great examples of houses in this neighborhood. There's some house that's are -- that need help. There are some of these kind of post-world war ii apartment complexes with parking lots on the corner that are really disruptive to the neighborhood. They create traffic problems, they create some density problems, they don't have the care that they should have, and they're not necessarily good neighbors. And then there's this existing facility. I think that the existing facility probably contributed to the nature of the neighborhood in the immediate context, because as properties became no longer usable or no longer desirable, they were torn down and these apartment buildings were put up in their place. And I think having an assisted living facility probably made the single family detached houses that were around the area less desirable, so you would see less people wanting to move into them, and the opportunity for tearing them down. What I see the new project as is something that is going to begin to tie the fabric back together in the neighborhood. The basic land use issues that we dealt with about traffic and access and all these things that are reflected in the good neighbor agreement are real, and they will decrease the detrimental aspects that group living facilities could have in the neighborhood. By changing the type from a skilled nursing facility to an assisted living facility, what we've provided is a group of residents that are going to be more active in the neighborhood. They're going to be 62 pairs of eyes passively supervising the street, they're going to be people -- this is a very pedestrian oriented project. There are going to be people there who are going to walk throughout the neighborhood, take advantage of the bus system, walk to the commercial streets on hawthorne and belmont and be very active. The architecture, then, is something that's also reflective of -- it's a very cute building. It's really a wonderful building. I was trying to compare it

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to some other assisted living facilities that I don't think are very cute buildings, and I can see why someone who doesn't have a lot of experience looking at drawings, particularly the drawings we had last time, could come to the impression that when they hear the word assisted living facility and they drive by one that snots very friendly, they think this one isn't going to be friendly either. The last thing was, I talked about the land use patterns that we do in new urbanism. What we're finding is, is that the kind of -- the lack of integration of building activities really is not good for any neighborhood. We do not want all apartments to be in one zone, all single family houses to be in one zone, all commercial spaces to be in one zone. We fought for 40 years to have these more integrated communities. What they do is they support one another, and they actually create a fabric that is like I said, going to help tide -- tie the neighborhood together where it does have problems. So I appreciate what everybody has said. The neighbors have worked very hard to make this the best facility possible. And I think it's going to be the best one in the state.

Leonard: If I could ask one more, are there -- I was looking through the pictures that you had of the other facilities that you operate. And they are indeed very attractive facilities. But I'm wondering if you have any that are this size that are located precisely as this one is proposed to be, in a neighborhood.

Smith: The appellant, Tim Brooks, brought -- the land use chair, Tim Brooks, brought up the Bishop Morris house on Marshall and Northwest 24th. Tim Ramis tells me that was a very controversial project as well, and now it's seen as a great example, because it really fits into the neighborhood.

Leonard: I'm asking just physically.

Smith: Physically, yeah. People think --

Leonard: No, no. I'm asking is it physically, is it the size of this structure that we're discussing?

Smith: It's actually bigger. It's actually a four-story building, and the setbacks are similar to what we're proposing. We have generally a 2 1/2-story building with setbacks similar to the Bishop-Morris house. So we don't have a picture of it, but --

Leonard: I was going to ask that.

Smith: What's so amazing is that we were asked to look at an example, and I didn't realize it was a four-story building, and you won't notice the size and massing and bulk because of the measures that were used to mitigate. By adding the porches, using the setbacks, using the yards and landscaping, by having the difference between the building masses shown, so it was kind of ironic and it was -- when it was brought to our attention that it was seen as an example of what we should look at. It's actually bigger, actually has less of some of the mitigation measures than what's being proposed in this case.

Leonard: Thank you.

Ramis: Commissioner, we just managed to come up with a picture of it. This is the Bishop-Morris house in Northwest Portland.

Francesconi: I want to preface this question by saying, I hate these kind of cases. It's not primarily because of a conflict in good public policy, because we have a terrific neighborhood here, we want this to be compatible with the neighborhood, it's not compatible with the neighborhood. So we have to try to mitigate. Then we have something we would like to do here of housing for seniors. So that's -- but that's not the primary reason I hate these cases. The primary reason is we get into a standard that's very subjective, because it gets the council into design. And cute can be kind of in the eyes of the beholder. So that's -- I want to preface that remark, because that's the heart of it, as I view this, when we're looking at the physical compatibility standard. And I think what we're doing is trying to mitigate, and we have to decide whether you've sufficiently mitigated. That's how I'm viewing it. And I appreciate the work of both sides to limit it to get it down to this,

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because you've done a lot of work to get it to this point. But my question is, did you consider -- not diminishing units, but stepping it back, doing stair-stepping back, or slinking the size of the courtyard, so you could see through some more of this to make -- are there other architectural drawings? You don't need to share them, but did you try other approaches to make it more compatible that you couldn't -- because there's -- I have to tell you, i'm not sure you've done enough to make it compatible to the neighborhood.

Smith: Right. The nature of the building type -- one of the big things we did, this is a daylight basement building. We're cutting the building into the site so that it's more of a 2 1/2-story building along salmon street, and it grows to a three-story building on the corner of 29th and taylor. The nature of having to have corridors that are linear and connected so that people can move through them really prevents us from having breaks in the building. The interior courtyard we did diminish and put some of the space on the front. So we could increase those yards. I don't think bishop-morris house has a stepping in the corridor sections. I think the stepping occurs by breaking the building mass down with porches and gardens. Those are the same measures that are being taken at this case, again, they're -- the real architectural devices to break down building mass.

Francesconi: I'm not an architect, and again, that's why this is also so hard for me on the design questions, because applicants shouldn't have subjective criteria that we can interpret different ways. But the bishop-morris house was -- went through several variations before it came to the council. There were several attempts to improve the design. I wasn't on the council, but that's my history. As I look at one of these photographs, it sure looks to me like it's stair-stepped. This photograph in the bottom left column does show it's stair-stepped back. And I think that was -- I don't know, but I think that might have been one of the redesigns that happened the third time around. I think. I'm not sure. I wasn't here.

Smith: All right.

Francesconi: I'm just -- whether it was or wasn't, is it possible to do that? To break it up more?

Smith: You know, I gotta tell you, in what we use as a definition of stair-step, the bishop-morris house is not stair-stepped. What it does is, it has some planes go out and some go back, that has things like porches and things like that. Somebody asked me at one of the meetings, do you think - - they asked if I thought I was an expert about infill housing and design. And I am. You know. It's what i've been doing for a long time, and I have a lot of -- I have a portfolio growing of newspaper articles talking about projects that we've done that look like they've always been there.

Leonard: Do you have examples of 15-foot-wide houses?

Smith: I might have done the first 15-foot-wide house. On north haven for a young developer named george hale and generations development. We also did a project of three-story buildings in your district on 24th and continuum buy that the three-story buildings are right on the street and everybody seems to love it. We even cut down all the street trees and replanted them and they there was no problem. What i've been experiencing, we've worked very hard in the last month. We've done a lot of work on this. We've made a lot of changes. We've pushed this thing as much as we know how.

Katz: Don't take this personally.

Smith: It's not personally at all.

Katz: You are working for a client, and i'm sure there may be things you want to do that your client is telling you that isn't possible.

Smith: That's actually not the case. The client's been great. The porches were an issue because I told you of the security thing. The client has given me carte blanche to make any measures that we need from a design point of view to do it. Except being able to reduce the number of units. In the

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dynamic that we've been going through, we reached a logger head where the principal opponents of the project said, we cannot accept any additional mitigation measures as being substantial enough to make this building any better unless there is a significant reduction in units. That being said, the one thing I couldn't do is go back and recreate a fate is that didn't have the make-up to work so that it was operationally functionable. So that it could meet its obligations.

Katz: Ok. All right. Further questions? Thank you.

Sten: Tim, could you outline kind of the heart of your argument that whether -- that building coverage should be compared to the existing building coverage as opposed to the base zone?

Ramis: There's two components to it. Number 1, we don't think that makes a whole lot of difference, because if you're comparing it to the base zone, and the base zone would dictate that you could do 14,000 square feet of lot coverage, if you created nine lots, which are permissible on the block, and did single family homes, could you create 30-foot-high houses on 14,000 square feet of coverage. So we're hoping in this building somewhat more coverage, but not a huge amount. Second, it's our view that under the code section that deals with physical improvements, physical changes rather than use changes -- let me cite the section here -- at page 815-5 of the code it addresses major physical alterations in nonconforming uses, and it says all other alterations to the site will be reviewed through a type iii procedure. So it speaks to review of the alterations. And so you can't review the alterations without looking at them in light of what's being altered. And what's being altered is a building that's already substantially the same size as what we're proposing. So our view of the code is that you have to look at what's there, we think the hearings officer and the staff have been correct in that advice to you, even if the contrary analysis prevailed, it wouldn't make a lot of difference because of the 14,000 square foot opportunity that's there under the code now.

Katz: Are there any questions of the appellants?

Francesconi: Yes.

Katz: Thank you, gentlemen. The appellants, why don't you come up for a second. Then we'll open it up to public testimony.

Francesconi: I just have one question.

Katz: Ok.

Stark Ackerman: Excuse me madame mayor, as a point of order are you having us respond in our five minute rebuttal?

Katz: No. This is just for questions by the Council.

Francesconi: I just have one question and it's kind of the flip side of the question I just asked. Short of taking out units, reducing the 62, what kind of architectural design changes do you think are necessary that haven't been done in order to make attempt to mitigate—what are you looking for in terms of design changes short of taking out units?

Brooks: Tim Brooks, Sunnyside Neighborhood. Let me preface this by saying there are architects among us, among the neighbors that could speak much better to this point. I do think that there were some of the points mentioned about the primary objection being that there had to be a reduction there had to be a reduction in units. I think that mischaracterized our position.

Francesconi: That's why i'm asking. I guess that's another way of asking.

Brooks: I think that's not the case in this matter. I think we are, we're very -- we had worked with this. Oni and talked with people about the process that happened in northwest with the bishop morris house. And it seemed like that came a long way to result in a win-win position. There were some other techniques. When I mentioned this example, and this is the one I was referring to that had broad consensus among the neighbors, I did caveat it by saying it's four stories, it's a bigger

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building. You can get the feeling of something that really fits in with the neighborhood. And I just never heard back on that point. But it's the techniques of stepping back the building, some of the other ways to really break up the -- articulate the building that I don't think are in the proposal that we have seen today.

Francesconi: Ok.

Katz: Thank you. All right. Thank you, gentlemen. I am going to -- you had another question? All right. Hold on. Hold on.

Sten: You briefly articulate your argument on why I should look at the base note. And then do you agree the base load allows 14,000 feet?

Ackerman: I would answer that by saying that I believe you do look, have to look at the base zone. I believe that the code only establishes a procedure for circumstances such as this, where the development itself, that is, the building is changing as opposed to the use changing. And it just says, and tim referred to the section, and I don't have it in front of me, but i'll rely on that for the moment. That basically, adjustments are made through a type 3 procedure. It doesn't say explicitly in there that the review will only consider changes to the existing. This is a situation where you're tearing something down completely. The code only says that you go through a type procedure. Now, I believe that under those circumstances, you have to go through a type 3 procedure, applying the standards for the development for the building itself as if it were a standard conditional use review. Particularly in this situation where this is not a proposed modification they didn't. That particular site had circumstances in the past where there were requests for modification and the decision came out saying we are modifying the existing approval to do this. This is how the application was presented initially, I believe, as it's a straight conditional use approval, and I think unless the code explicitly says that under those circumstances you only consider what was there before that you have to treat it as a change from the base zone, not from what was there before.

Katz: Ok.

Ackerman: To answer the second part of your question, I would say that, yes, I believe there's a way of reading the code that says 14,000 feet is what is allowed but if, in fact, that's the case what is being proposed is still 25% greater than what would otherwise be allowed by the zone.

Katz: Thank you. All right. We are going to allow testimony because additional information was presented. However, the testimony ought to be directed toward the new information presented. We don't want to hear the same testimony we heard a month ago. Additional changes have been presented. There are still some objections so we need to address just those objections and those additional changes. Ok? All right.

Moore: Supporters.

Katz: Supporters of the appeal.

Katz: I'm going to limit the testimony to two minutes each for everybody.

Katz: I can't see your little signs. But we have got everybody wearing one sign and others -- who is that?

*****: Bulk in mass.

Katz: Bulk in mass?

*****: Sunnyside. Ok.

Katz: I hope you are not addressing any of us under bulk and mass. [laughter]

Darell Potter: No. My name is darrell potter. And I resided with my family at 2813 s.e. Yamhill for 15 years. And what I want to talk about is, in the 60's and the 70's, there was a flight to the suburbs that decimated our neighborhood. And in that context, the apartments and the hawthorne gardens nursing home were built. In the last 20 years, there's been a resurgence in our

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neighborhood. And the homeowners have put a lot of time and effort in improving the houses, improving the neighborhood, and now, the hawthorne district, the sunnyside neighborhood, is a magnet that's reversing that exodus. And in that context, I believe that's how we should be looking at this proposal, the context of where we are now and the trajectory that the neighborhood is going to go into. And within that context this assisted living facility doesn't comply with the zoning ordinances. It doesn't maintain the overall image and character of our neighborhood. It would stick out like a sore thumb and really undo all the work that we've done. The other thing I want to address is, the examples that marquis putted for, they gave us a list of seven assisted living facilities in Portland. Out of these, two of them are commercial zones. And that's really where their design belongs. There's one in a -- institutional zone. There's one of them in a high-density zone. There's three of them in r-1 and r-and only one that's in an r-5 and that one r-5, the mccawley terrace happens to be in our neighborhood and it's an example of what an assisted living facility should be in an r-5 neighborhood. And what it is -- it's on a lot that's big enough that allows real landscape. It's set back from the street. It has back yards on its backyard. And it fronts a major street.

Katz: Thank you.

Francesconi: So would you accept that building in your neighborhood?

Potter: No.

Katz: You wouldn't?

Potter: No. You are talking about which picture are you showing me?

Francesconi: The bishop morris house.

Potter: No, I wouldn't. We are an r-5 neighborhood. And when you point -- it's very complicated for me had you hold up a picture of the bishop, because that's a four-story building that's in a completely different character of neighborhood than our neighborhood. And that's the difficulty with these also. That the reason that they're hard-pressed to show something in an r-5 neighborhood that's on such a small property is that that's an unprecedented design. You are not going to find that anywhere else in an r-5. And that's, to me, that's the whole point.

Katz: Ok.

Francesconi: Thank you.

*******:** At your request, madam mayor, I will paraphrase this.

Katz: I need your name, though. And grab the mike, will. Grab the mike.

Will T. Neill: My name is will neill. I live at 2831 s.e. Taylor street. On september 18, marquis was instructed in these chambers to address the mass and bulk of the proposed structure and its impact on the neighborhood. The neighbors were also encouraged to work on a good neighbor agreement with marquis. My neighbors and I have participated in two public meetings with presentations by marquis. Their architect, barry smith, presented two tour and reactionary designs. Neither one of which reduced mass and bulk in an effective manner. In one design to remove one point of entry and egress from taylor street he simply moved the entire building to within five feet of the existing home on the block, and designed the corner parking lot on 29th avenue. Of self-described questionable permissibility. This design deprives the neighbor of privacy and light did not reduce the mass and bulk of the proposed 40,000-square-foot building one iota. In a second design to reduce glare from headlights he eliminated one driveway and some parking spaces. With this design he repossessed having a loading dock on 29th avenue for semi trucks to make delivery. Again, this design do not ameliorate the mass and bulk of a 40-square-foot building in a residential neighborhood and increases the negative impact on livability. He simply moved a 40-foot-square monster around a too small property. The newest design removes a token 200 square feet, a mere

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1% change. And was not presented to the neighbors although marquis was informed that the neighbors were ready and willing to listen at any time. These token changes and the condescending manner in dealing with neighbors including an out of control outburst during a permit hearing, threats of leaving the lot empty or selling it for drug and rehab, and the most recent neighborhood meeting accusing a neighbor, a licensed architect of being crazy and an idiot seem to be part and parcel of their strategy of not addressing the concerns of the neighbors in any meaningful or respectful manner.

Katz: Thank you.

Sara Neill: My name is sara neill and I live at 2831 s.e. Taylor street and since the last meeting that we had, I did some investigating into the availability of assisted living, given that it's proposed to put a very large structure in a residential zone. I did check on the internet, and found on the city of Portland.com site that there are 96 locations in Portland of related programs or assisted living, 34 are located in southeast Portland, 28 in southwest, 26 in northeast Portland, five in northwest, and three in north Portland. And, in fact, the closest assisted living which is a large facility, is only nine blocks away from hawthorne gardens. There's a great variety of care. We have, within very close in the neighborhood, there's a facility for people, assisted care for people with aids. There is a care for people with alzheimer's. We are replete with care in southeast Portland. So given that this does not fit in with the neighborhood, by not having this, we do not in any way diminish neighbors' ability to have care within the neighborhood. Also I went out to look at assisted living buildings and found that as my neighbor mentioned they are on main streets where they are of a much closer fit to their surroundings. Also I noticed on the new proposal that they have many of their views, they have aerial views, they have a view with kind of mountains in the background. And I took a look at what is the view from the street in a similar type construction, which I did have a picture for you. Three stories high is very tall and imposing. This is a legal setback on 63rd and division. This is still a huge building to be put across in a residential zone.

Katz: Thank you. All right.

Katz: Go ahead.

Mick Servoss: Commissioners, madam mayor, my name is mick servoss, I live at 2725 s.e. Taylor which is the eye sore apartment complex kitty corner on the northwest corner of 28th and taylor to the block that we are discussing. I am actually going to discuss some of the ideas that were presented. I will skip over the fact that we have discussed the good neighbor agreement. You also asked us to present ideas. I am not an architect either but I did throw out some ideas just to see if it would be a catalyst. Some of the ideas that I presented could be dismissed, one of which was, could we have an entrance to their parking lot from a corner of 28th or 29th and taylor? That has to be dismissed because of regulations. I also offered the idea that we could have setbacks by removing areas and putting them in other locations, giving it the feel. For the most part that hasn't been addressed the way that I just was giving it as an idea. The other idea that I had, and I am again just giving ideas to jump-start the talks, was they have underground parking, but there is area underneath the building that will not be used at all. I suggested that they move the parking to that area and move some of the upper story units down into the basement where regulations would allow it to be in basements due to air and lighting. That was dismissed because it would require digging. I wanted the council to realize that we did offer ideas, realizing we are not design experts. Just as a catalyst and we were some -- I felt summarily dismissed. I feel that it's turned into a high school debating team. Who's going to win from the most points? I would like to see, without a reduction of units, some of these ideas taken and go with it.

Katz: Thank you.

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Julie Chapman: Hi. I'm Julie Chapman. I live at 2806 s.e. Taylor street. Ours is the house that is surrounded by the proposed structure. We have been going through this process for the last several months, and I am struck by how closely it resembles the Indian parable of the 12 blind men and the elephant. It depends where you stand next to the elephant how it appears to you and how large the bulk is and how it impacts your own living situation so that people in the north side of the structure are, and downhill are impacted by the bulk coming up in front of them, and people on the south side may not have the same blockage of sun that other people do. The only thing I wanted to bring up today was just to reiterate because it hasn't been discussed by the people that I was impressed that the structure has only been reduced in size by 1.1%. That didn't strike me as meeting the intention of the council when we left last time. I was also struck that, even in their own statistics, where they were saying they would be allowed to have the 14,253 square feet, they have exceeded that by 24%. In closing, and also having driven by Bishop Morris today just to see what everybody's talking about, to see what the appeal is, what I notice about that is they have actual porches. That porch is huge. That porch extends through more than two-thirds of the building, I think. And it actually has a feeling of being integrated into the neighborhood. Whereas this building because of its size doesn't allow for that kind of -- it feels impervious. And their concerns about patient safety -- I guess they're not patients -- resident safety is a real one but somehow that's been mitigated in some other structures. And that's all I have to say except that it still feels like an elephant to me. It's large.

Katz: Thank you.

*******:** Thank you.

Katz: Somebody grab the mic and start.

Steve Zwierzynski: Just a few points without being redundant here. The Bishop Morris project, that's in an R-1 zone. No offense but R-1 zoners pretty much a free for all. One of the things allowed is four stories by right. And, of course, we are in an R-5 zone here. Assuming that the council still is concerned and shares our concerns about bulk and mass, while there's other issues here that are being discussed, including the need for the service, economic feasibility, really those other issues are entirely irrelevant if the council still shares concerns as we do, essentially with the size of the building. Because that hasn't changed. And it seems that that alone is the biggest violation of the type and size of building that is allowed in this area as a matter of right under the zone. Even if the calculation is pushed as it is aloud under an R-5 zone to 14,000 square feet for the entire rest of the block, if that was done on separate lots those would be separate buildings probably eight or nine buildings and it's, that's not apples to apples when you are caring that coverage to one story that has two or three stories. The two aren't even comparable even if you use a 14,000 square foot measure. One other thing is that in terms of the height, too, and this sort of brings in the subjective standards that apply in a type 3 proceeding, you know, using the height as, going from the highest part of four corners is again I believe under the code was intended to be applied and uses where there is a lot of issue. If you spread that over the block it seems the abuse is paramount in that standard because if you have a block with a slope like we do you get the high corner on Taylor and 29th and that could be twice as bad if the slope was bigger so to use that on an entire block in terms of using the corner and being to extrapolate out to give yourself a higher level on a lower corner shouldn't apply.

Katz: Thank you.

*******:** Thank you.

Susan Lewallen: Susan Lewallen. I am at 2803 s.e. Taylor street. I would like to talk about context today, a little bit about the context of cooperation. For the number of hours that my

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neighbors and I spent talking in good faith, a 1.1% reduction is not what we hoped for. It also, the 62 unit that is they must have is their choice. I think in the spirit of cooperation, that does not mean that their choice must be my consequence. Also I think I know a little bit about the context of truth and validity. In the meeting we learned all along there were really 46 units as we had asked in the public record instead of the 62 that the applicant had submitted. I think that's kind of fuzzy math to say that now that it's 62 again it's reduced. And I would like to check the validity of some of the other figures mr. Smith is proposing. I understand something about the context, the 80est context of this city and my place in it. I and my neighbors are nobodies. On a scale of one to 10 even our combined incomes wouldn't even let us register. It's a big deal us to but really it's one block in one part of an old neighborhood that's on the wrong side of the river. But in the context of principle and precedent, in the context of the fair and equal application of standards and codes that have made this city great, it's a really important case. It's important because it's not about personal taste. It's not about what one neighbor could live with or what one neighbor can't abide by. It's about the rules. It's about following the rules. And it's about context of what fits into a residential neighborhood and r-5 zone neighborhood and what is simply too huge, too massive to be allowed. And when today those contexts are followed, the woman doing our supper dishes or the home owner rakes his leaves will have that renewed sense of quiet confidence that Portland is a great city because it's a city that treats even the nobodies fairly. And it's that kind of a city that I have brought my students to for 22 years on field trips. I don't just live in Portland. I'm sues soon llewellyn. I love this city.

Katz: I don't know if it was part of what you were trying to describe. But you are not nobody. And you aren't living on the wrong side of the river.

Leonard: There's a lot of us here that live on that side of the river.

Francesconi: Three out of four.

Katz: But it may have been part of how you wanted to present the picture. I took you very literally if and I wasn't supposed to I apologize.

Lewallen: No. I love my neighborhood. I really do.

Katz: Good.

Lewallen: I love both sides of the river actually.

Katz: Good. Go ahead.

Lily Witham: I'm the secretary of the buckman community association. I was asked to come here today to officially ask the city council to support the sunnyside neighborhood appeal. Having said that I would like to say that I think that having assisted living facilities within neighborhoods is a great idea. I think that elderly people are very valuable part of our population, and I think it's a great opportunity for them to be able to stay within their neighborhoods as they transition through different housing needs. I do feel personally that this project is completely out of scale. When I looked at the drawings up there today, all I saw was this big, looming roof line. And I am wondering if the roof line could be broken up architecturally and lowered perhaps. I think landscaping could solve some of the other issues, some of the little set backs. You could have trees in front of them. All of our southeast neighborhoods have a lot of gardens, a lot of old-fashioned flowers growing in them. So I am asking you to support the scaling down of the project. Thank you.

Katz: Thank you.

Michael Lewallen: I would like to submit drawings.

Katz: Ok. Are you the architect?

Lewallen: I am an architect.

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Katz: Ok.

Lewallen: What I have given you -- excuse me. My name is Michael Lewallen. I reside at 2303 s.e. Taylor. And I have taken -- there was some discussion about this, the building in this neighborhood and particularly a couple of houses across the street so I have done a drawing that basically goes through an elevation study that had been done by Barry. And the black is the, was the new development. The red was the existing facility. And I located the Taylor street. I had like to point out and residence house, Jennifer, across the street and in the block behind it and it was to show on a typical r-5 zone that you would get this scale of house on a particular lot. As opposed to what you would see on the left side the proposed development that is done in black. And I will like to also, we have come up to this base zone standard of the allowable square foot that could be built on as far as the building footprint. And the maximum allowed may not be a common sense thing to do. And it may not be a standard that would ever really be used. Because in the context of an r-5 zone, where you have single family homes, if you do list the 2500 square-foot house which should be fairly typical for our neighborhood that really is a 1200 foot footprint. With that development, we are really looking at somewhere between 7,000 and 9,000 square feet of building area as opposed to 14,000 that would be allowed under certain circumstances. I also would like to note that this building, from early on several months ago when we first met to review it, the building had almost the exact sale scheme that it does today. It has really never changed. We have had minor little modifications and now we have a couple of porches added and rather interesting roof line that has been added but the scheme never has been altered. It was inner stood back from looked at and said what can we do to make this project fit in? This building has now gone from maybe a bland what we called Howard Johnson-esque building in a brown dress to now we have almost a Bavarian style and so many roof lines and articulations that it's -- draws attention to itself even more so. And its bulk is --

Katz: Thank you.

John Noel: I live the 2814 s.e. Salmon. The elephant hides his mass and bulk. How many teenagers have you ever given them instructions to go pick up your clothes? What does the teen do? He goes to the bedroom picks up a sock, comes out and tells us it's clean. They feel in their eyes they have cleaned their bedroom but they haven't. Why? Because you failed to instruct them on what you mean by "picking up their clothes." that's what's happened here with the Marquis. When we were here last time you told all parties to go back, work on a solution we all could live with. The problem is both parties were at odds because of what each thinks the description of bulk and that mass is. Marquis has the feeling if they reduce the bulk and mass of building by 400 square feet they have complied with your instructions about reducing the bulk and mass of the project. We don't. Marquis has each time of the meeting we have had with them, they have said they are not going to come down in size at all. It's going to stay at 40,000 square feet. So what we are being stuck with is stuck on a lot zoned for a rabbit. If you look at handout I just handed out, I think she is supposed to hand out to you the Marquis gave this handout us to. They were supposed to illustrate how other assisted facilities fit in their neighborhoods, how they were designed and fit in. What is unique about these is that those lots were designed for elephants. They weren't designed -- and zoned for elephants. They were designed for business and large buildings. Not our neighborhood. Our neighborhood is zoned for r-5 for rabbits, for individual homes. And so it doesn't matter what, how you cover this building, you paint it red, put bricks on it, put expensive wood on it or gold plate it with encrusted jewels, it's still an elephant and it's big and it's massive. Thank you.

Katz: Thank you.

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Ellen Noel: I'm ellen, 2814 s.e. Salmon. 59 a meeting this past month between my neighbors and marquis representatives to discuss the issue of mass and bulk of this proposed facility, one of the representatives passed out these copies that my husband mentioned and were handed out to you. In looking at these pictures, I couldn't see how they were made to fit in. But moreover, all I could see was an attempt to distract me with a matter of style when I thought we were going to work on the question of mass and bulk. Recently I went to see the marquis assisted care center on martin luther king to see how it fit in with the surrounding area. It sits next to mlk on the edge of a residential area on top of a hill overlooking the columbia river plain to the north. I compared that to the facility proposed in my neighborhood, which as we know is pretty bulky and I imagine it's shoe horned into our inner city neighborhood as if by an overly enthusiastic shoe salesman needing to push a shipment of size 5's to a size 7 clientele base. And I can only see it being way too cramped.

Recently my husband and I decided to plant a tree in our greenway. We had a few ideas what we would like but knew that we could not have just any tree because there are only certain trees that are allowed to keep the roots from tearing up the street and the sidewalk. So we went to Portland nursery and we talked to the horticultural expert and received a list of what was allowed which was smaller than we would have liked but -- and it didn't include any of the trees we had considered but we went home with a beautiful little japanese maple that fit the code and we were satisfied. Like the trees in the greenway I would not like to see this building across the street in my home overwhelm the area. I insist the codes be enforced to protect the value and livability of my neighborhood. Thank you.

Katz: How many more? That's it for this appellants? Are we going into the --

Moore: We have about four more after them.

Katz: Go ahead.

Martha Peck Andrews: Good afternoon. I'm martha peck andrews 2533 s.e. Taylor street. You asked us, madam mayor, to address the new information today so what I would like to talk about is to refute two of the erroneous and misleading arguments that have been made by the applicant.

You have a document I believe from barry smith, the architect, and he goes through a fairly convoluted methodology of recalculating building coverage. I suggest that he's wrong because he's basing that on 2500 square foot lots. And I believe city council recently passed an ordinance that doesn't allow 2500 square foot lots in the r-5 neighborhood. [laughter] even if we did follow his methodology which is flawed we would have a building 25% bigger in its footprint. It is the fell elephant. Second point I would like to make is that -- I guess turn the page here -- he talks about the number of units as being 62. And there's a matrix in here. Item number 6 on page 3 of mr.

Barry smith's document talks about density. It says there's no change to the number of units. There still are 62 units but two units have been depleted so I think that we need to have the applicant tell us exactly how many units they are proposing. I think they have misled us. Finally, I would like to say that several people before me specifically mr. Potter and mr. Sarkinski that buildings are fine but they need to be appropriately cited in the appropriate zone. The r-5 zone is not appropriate for a building this big. The applicant has used today a new argument that there's a financial hardship, they need 62 units to make the project fly. I believe that we should ask the city attorney if financial hardship is a legitimate argument to use when you are asking for variance. Thank you.

Katz: She's shaking her head.

Rees: I think it's appropriate. We have attorneys on both sides here. Its probably appropriate if they want to weigh in on this issue.

Katz: We will wait until the very end. Better think about it.

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Ellen Johnson: My name is ellen johnson and I 25 live at 29 in a s.e. Main and I want to raise an issue that hasn't been discussed before at this issue and that is whether or not 62 units is, in fact, the break limit. It was at our first public or first community meeting with marquis when the principals said there was no way they were going to reduce it below 62 units. That's what -- you need the 62 units to make it break in order to build it and I had may made me think, why? What's 62 units? What's so magical about that? It occurs to me the reason it's 62 units is because that's what you need to meet your debt service and your debt service is directly related to your form and method of financing. I work in the area of affordable housing. I am probably the only person in the state of Oregon who has read the state consolidated plan, Washington county's consolidated plan and Portland's consolidated plan and all of their fair housing plans as well. So this is an issue that is important to me and I know that if you are going to do a low-income housing project, which is, that is if you are going to maintain it at a 50% ratio of low-income people living there, then you can't build it affordably without some degree of subsidy. Low-income housing tax credit projects have fewer committed units to low-income people than this project ask. So what I would like to say is I don't believe that when the principals say 62 units is it and any opposition will result in a denial of needed housing, I think it's a disingenuous at best. Had they come in here and said we had tried to look for federal funding, we considered it but we cannot use it for whatever reason that we might be somewhere else. But frankly, I think it's disingenuous at best.

Katz: Thank you.

Moore: Was there a jillian on southeast yamhill?

Katz: Come on up if your name's being called.

Paula Carlson: Thank you. I'm paula carlson. I live at 1124 s.e. 30th, which is salmon and 30th. I also live a few blocks away, work two blocks away on 30th and belmont sew that is my area. Thankfully, I do not live where these people poor people have to live and have to put up with this but it is going to affect me directly fairly seriously because of the increase in traffic. With 4 residents, the number of support delivery trucks, people visiting, things like that, the traffic on 30th is going to just grow and grow and grow. Right now, we have traffic, we have the big trucks starting at 5:30 in the morning. They are going up 30th with the construction, with the delivery trucks, it's just going to get worse. Thank you.

Katz: Thank you.

Jennifer Richmond: Hi. Jennifer richmond, 2823 s.e. Taylor. There are two routes that the applicant could have taken to achieve more positive physical compatibility with the building. One was to design a smaller facility. And the second was to use suggested architecture tricks to mitigate the existing bulk and mass. The applicant chose the second path and evidently is no magician because the rabbit failed to pop out of the hat. The applicant presented two options at the october 2 meeting between the neighbors and the applicant. Neither was acceptable to a majority of the participants. The package you received on october 14 utilizes a modified version of the design presented at the september 18 council meeting. The applicant's efforts to reduce size resulted in a difference of 200 square feet of coverage. Neighbors were told this area would be taken from residents' activity space. The number of units remains at 62, which is identical to the september 18 council meeting. And in an attempt to meet set back standards, gardens and parking vehicular circulation space was sacrificed. The good neighbor agreement presented to you by the applicant states that all employees would be required to park on the site. However, the neighbors were told that the changes shown in the new building layout would preclude this from happening. During the october 2 meeting, the applicant used the height of my house as an example of how the building corresponds with existing homes. My home is 25 feet tall. Directly across from my

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house, the facility could be 42 feet high from its sidewalk to top of roof. That's 40% taller. My frame of reference is how tall I am, 5'4". My home is approximately four and a half times my height. My everyday view of the proposed structure would be seven and a half times my height. That's not the same thing. Attractive vegetation does not a good building make. I am a landscape architect. Oh, shoot. Oh, well. Thanks very much.

Katz: Why don't you finish your sentence.

Richmond: Thank you.

Katz: You are a landscape architect.

Richmond: Yes, I am.

Katz: And --

Richmond: The planting plan scares me. It would be a daunting task for even master gardener to maintain the species to a level of acceptable appearance.

Katz: Thank you.

Shanti Cahn: My name is shanti cahn. I live directly across the street from 28th avenue. I have lived in this home for 22 years. And my father, may his memory be blessed, purchased the home and live there had until he died in 1990. My son, who is in an m.d./ph.d. Program and his wife who is in post doctoral program in survey rick are planning to live in the home soon. And so that I will be moving on to another neighborhood or maybe staying with them for five to 10 years. I love the home. It's big enough for all of us. I am very distressed that the massive, gigantic monolithic proposed building is so probably proposed in our neighborhood. It's simply too huge and too massive to imagine living with. I won't be able to see anything other than building. I like jennifer am similar height as are my grown children in their 30's. And we have looked for to such joy to this being a three generation home for our family. And I am shocked that we are moving at such alacrity and quickness to impose such a very, very tall building on the neighborhood in general. Certainly several houses of individual size to those that are already in the neighborhood, is absolutely 100% different than the quality of life that we will experience with a massive business proposed here. So I ask you sincerely to apply your best compassion to those of us who live in this neighborhood, and reject the current proposal in its height and mass.

Katz: Thank you.

*******:** Thank you.

Katz: Ok. Thank you. All right. Let's have -- how many?

Moore: We have five.

Katz: Two minutes each. Go ahead.

Roger Jones: my name is roger jones and I reside on southeast taylor about 100 feet, 150 feet away from the site. And for years, have been involved in housing issues in the neighborhood. So this isn't new. But one of the, I just want to say that the residential care facility siting conferences and committees and codes and so on hopefully have been represented here and housing is a big issue. But it's the housing for the 72 people that don't have a house right now. The 72 senior, elderly folks that live there two years ago, that facility is lost. Those beds are gone. The 72 people are still in the neighborhood. They live somewhere else. But they have lost 72 beds in our neighborhood. This plan is going to give us 62 beds. I don't know how many of us actually advocated for the no net housing loss issues of the history, but if went back to single family dwellings in this neighborhood and took those 72 beds away, I think it's going to impact the -- it's going to impact the community the larger community. One of my neighbors mentioned the bishop morris house. And I wanted to go and look also to see what the bishop morris house was. The fact is that while the design is beautiful and these pictures show it and it feels like it should be fit into

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the neighborhood, as four story building it's 61,000 square feet. It's 1 1/2 times the size of the "elephant" that we are looking at to site on 29th and Taylor. In closing, I know two minutes is gone almost. But some of the folks that haven't had a chance to weigh in on this aren't here. It's like seven out of eight of the board of directors of the sunnyside neighborhood. They're not even here. They're not testifying. I don't know where they are. But I would like to see this building built the way it is. It feels like it's going to fit in the neighborhood and I know the developer has been trying awfully hard to get this to work.

Katz: Thank you.

Linda Jones: I'm Linda Jones, 2936 S.E. Taylor. And I, too, am for the building. People are talking about how large it is. My husband and I have walked around the block numerous times. We are only like he said 100 yards from there. There's the apartment complexes that are right across the street from it is taller than what this building -- it looks taller than what this new building is going to look like. People are concerned about being able to look into one another's windows. In our home, we have houses built up on a 10-foot-high wall above our house that looks directly into our house. Our house looks into the apartments across the street because we are higher than they are. There are trees and plants in that type of thing for during the summertime that obstruct the view so you don't have to worry about it and the rest of the time we close our blinds. We are fortunate too live in a neighborhood that there are different types of buildings there. Fortunately, we are not a cookie cutter neighborhood. Heaven help us if we go to that. But I feel that this building would contribute a lot to our community. I personally do appreciate what Barry Smith has done. He has really tried to change the roof line. He added the porches which I am thrilled to death about because that would bring the senior citizens out to the neighborhood. They would be neighbors. They could sit on their front porch and talk to the rest of us like we do. I hope you approve this for that reason. Thank you.

Mike Holzgang: My name is Mike Holzgang. High address is 601 S.W. Second Avenue. I would like to say I am here in a dual capacity. Both my mother and mother-in-law father-in-law were residents in Marquis facilities. My father-in-law was a Marquis facility on Southeast Hawthorne, George. To have had to move by virtue of the fact that Marquis couldn't run that operation on a profitable basis was very disturbing to my wife who took very good care, takes very good care of her father-in-law who had a stroke and who has been in a nursing home, skilled facility for eight years. My mother-in-law recently passed away. She was also a resident of Marquis facilities. My father who is head of critical care medicine at St. Vincent's who teaches residents, that come through the St. Vincent's program stated to me without inducement he said this is a cleanest nursing home I have ever been in. Because he's gone to visit both of my in-laws. I will tell you to have heard that these guys are disingenuous just raises my blood pressure. I can hardly deal with it. Because these guys are about as straight as you can get. They have made every effort and attempt to design a facility here that deals with all the needs of this community. And I respect the fact that everybody has an opinion. And I respect the fact that I can state my opinion. But these guys have probably increased the cost of this project at least by 15 or 20% in addressing the needs of this neighborhood. So what I am going to say, I am a commercial real estate broker. And I have been in the business for 24 years. And I will tell you, it's great to rehab facilities if you can. There's an economic factor that exists here. The creative service center which we are all familiar with that was designed to address the neighborhoods and everybody's needs for the business community, was economically unsuccessful to the tune of probably 30 or 40%. And I am telling you that we need a place for these residents who are on Medicaid and Medicare and if we don't have that --

Katz: Thank you.

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Holzgang: -- it's very sad. Thank you.

Katz: All right. Come on.

Sue Matranga-Watson: My name is sue. I live at 2822 s.e. Salmon. I live right across the street from the marquis facility. And this has been a very long process for a lot of people. I support the new building going in. I have felt that marquis has worked with us in the neighborhood. Sometimes I feel like the neighborhood had, was dragging their feet and had their own, some of the neighbors, had their own perception of what they wanted and they weren't going to budge. But I feel that marquis has worked over and over and have tried to address some of our issues including traffic, including density, including the arc text design. I have lived across this nursing home for 13 years. And I am sad that it has been empty for two. It is, it has had homeless people there. There have been drug deals that I have gone outside and stared at people because it has been an empty building. I looked for to having people back in my neighborhood, seniors, which, who I work with, in my neighborhood so I can have, again, a sense of community instead of this empty shell that is sitting there. My partner who cannot be here today because she has to take an 84-year-old friend of ours to the doctor's, wanted to say and state that when she looks at the building as it is, she feels that it doesn't fit in because it's too small in the fact that all of us in the neighborhood most of the houses are two story or three story, if you include an attic. And so having a building that is two story will actually, 2 1/2 stories will fit in as opposed to the one-story building that it is now. Thank you.

Ruth Parvin: I'm dr. Ruth parvin. I live on southeast taylor. I live on the right side of the river. I bought a house that had a nursing home on the corner and I spent a lot of time before I bought it addressing, assessing, interviewing neighbors and I realized that I could afford this house because of the nursing home there. The property values were actually a little bit more accessible. When it came time to nimby around about this building I was on the street trying to organize the neighbors. This has not been a process of a few months. Marquis has been meeting with interested neighbors for almost a year. They have put in over \$100,000 already in the development of this. There are some folks in our neighborhood who are not talking about an elephant. It's not that they want a rabbit. It's not that they want a size 5 shoe. But they still feel that we can get individual housing there if we delay the process long enough because time is running out on this. My 81-year-old mother has been living with me this summer, and she's been following what happens. And she says, I wish they would get on with this building because I hope that I am going to be able to live there. She lives on a teacher's retirement from arkansas. This william morris house that we have been looking at or whatever it's called cost \$84,000 for a move-in and over \$10600 a month. There's no way my mom would live there. Who are the people that are going to be there with the cost of what can be built there? I'm hoping that she will be living across the street from me. Thank you.

Moore: That's all.

Katz: Five minutes. What? Rebuttal? No. We have rebuttal.

Kathleen Stokes, Bureau of Planning: I was wondering if staff could address council for a moment to remind a couple of code issues that I think are relevant?

Katz: After the rebuttal.

Stokes: Thank you.

Katz: Five minutes.

Tim Brooks: Mayor Katz, commissioners, tim brooks for the record. I will take a moment and pass it to stark. There was a point about why the rest of the sunnyside board wasn't here. And I just like to point out on the sunnyside board. And the board delegated this project to the land use

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committee, paul, who is here with us earlier, he's on the land use committee. So that's the reason. We have kept them informed throughout the process. Ok. Quickly, seems like there's still confusion over numbers. And i'm surprised that we are at this point and we can't get the numbers straight. I heard phil of marquis earlier today say that, in their analysis, that they found that actually 60 units work. And so now i'm thinking, 62, 64, i'm really confused even more than I was before I got here. One point I would like to make, we heard at the second meeting with the applicants the architect say that the reason they're building this here is they own the land. And for me that said a lot. Believe me, the last thing I was expecting or wanted to do was to see this come back to council to tell you that basically the applicant has come up with something that's no better than addressing the main issue than what we saw last time but I think that's the reality. And here we are with a draft good neighbor agreement that addresses a broad range of operational and secondary issues, and it could potentially moved for tomorrow, but a plan that does not address the main issue of the appeal and I think the main concern that we heard from council members in september, the mass and scale of the building. And we certainly welcome the use but in the end, we are left with the conclusion that this isn't the right place for this project.

Katz: Thank you.

Stark Ackerman, Sunnyside Neighborhood Association: Stark ackerman for the sunnyside neighborhood association. I would like to first just clarify a point the commissioner Sten raised with me earlier where regard to building coverage. There's been some discussion about that among the, those testifying in support of this. When I said earlier that, yes, there may be some basis for saying that 14,000 square feet was allowed that that would be on the basis of treating this as a project where there were individual building lots involved. But that's really not what we have here. And the appropriate standard, the one that the staff used in the staff report was to treat this as a single project at a single site and a single lot. That's where the 6,000 square feet or that neighborhood comes from. It would be very different if there were individual lots because then you have the break-up of the structures. And I think that is very relevant to why you have that different standard when you have individual lots as opposed to aggregated lots. I would like to, in response to some of the comments, point out that what this project is not about. This project is not about economic feasibility. And there's been some testimony saying this is what we need to make it work. But that's not one of the approval criteria that you need to look at. They have made some choices that way. They're entitled to do that. But that's not something that you should be considering as you take a look at this. You should look at the mandatory approval criteria that are before you. I have talked about in my testimony and my written submissions. This is not a situation where the neighbors and the neighborhood association are irresponsibly saying, we don't want this, period. Make it go away. I think that my clients and other neighbors have very responsibly worked with the applicant on this, have as you can see by the testimony here today, gone out and done research, looked at other projects, tried to propose ways of making this work. And have not been successful because there has been very little movement on the part of the applicant other than window dressing, so to speak, and they even admitted we can't change the units. Barry smith said that was what I would told, do anything you can but don't change the number of units, which limits his ability to address this. And he doesn't have the ability to deal with what is the real issue. This finally is not about whether that is good or worthy use. Because my clients would not deny that. They are not saying we are against the use. They are saying we are against the use as it's proposed in this particular design. What this is about is what is the integrity of the code. And the adopted rules to implement that code? And as I said earlier, the conditional use reviews process is intended to approve those uses where there are minimal impacts

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to the existing zone and the uses in that zone. And concerns have been addressed. And this is not the way to change the zoning code.

Katz: Thank you. All right. Staff, did you want to give us some instructions or clarification before I open it up for council discussion?

Stokes: There are some points of clarification I would like to make just so that you have them fresh in your minds about how we treat group living uses in our code. One of them has to do with the issue of building coverage. Prior to July of 2002, with the adoption of the new land division code, all uses that were proposed under single dwelling development standards were allowed to have a building coverage of 45% of the site area. This accommodated living uses because they were generally on bigger sites, so they get bigger building coverage. The way that we calculate building coverage now, even group living uses, are subject to the size of a somewhat large single dwelling home rather than a larger group facility. We do have special development standards in section 33.239 that cover group living and allow increased density and talk about parking. But they do not give them an exception for building coverage. Now, we have other conditional uses that are for uses that we recognize that are nonhousehold uses that are needed in residential areas for this sake of the community, such as churches and schools. We subject those to institutional development standards, which are a subset of the single dwelling and multidwelling zone chapters. So we allow those conditional uses that are subject to institutional development standards to have building coverage of up to 50% of the site area. In this case that would still be a somewhat smaller footprint than is proposed. It would allow building coverage of 16,250 square feet as compared to the recent revised proposal of 17,790 square feet. That would allow that church to be up to 50 feet tall whereas we are holding the group living use to only being 30 feet tall. So there's some anomalies in the code that need to be understood when considering what is suitable building coverage for a group living use in a single dwelling zone.

Leonard: But you are speaking to the footprint, not the total size and height of the building.

Stokes: The height standard is met so it is the building coverage.

Leonard: What you are speaking to especially there was the footprint.

Stokes: Right. I was saying that the footprint could be up to 50 percent of the site area if it were subject to institutional development standards. However, it would also allow an extra 20 feet of height above what we are allowing. So there again you are --

Leonard: I don't want to leap ahead here but maybe I will.

Katz: Thank you.

Leonard: Don't leave yet. It is the height, not the footprint.

Stokes: Right. I will leave to you discuss that. But the one other point that I wanted to make was that we also look at group living uses differently as far as how we subject them to the requirement for conditional use review. And with the facility should the applicant decide to rehab that and if they were to restrict it to being a skilled nursing facility for people who meet the definition of handicapped under the federal fair housing act they would not require conditional use approval and they could add on to it and build with what they have there now. Thank you.

Katz: All right. Council discussion.

Leonard: Well, I do have a concern that we did have some specific issues that we raised last time and hoped could be resolved this time. And it would appear that that at least for me the -- what I saw here today was that within the constraint, whatever constraints that the applicant has they can't seem to address the concerns I had. So that specifically the size of the structure in the neighborhood. I think I have been, in looking at the various photos, listening to the testimony, I went out to the site myself, looked at it. I am persuaded that the proposed building is

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overwhelming to the surrounding homes and so I am left in somewhat of a quandary at this point. How to progress, hoping that what we would see here today was some compromise between the neighborhood and the proposed project.

Katz: Why don't we take that into two steps. One is just what you shared with us now. And then let me hear from the rest of the council. Then we can take to the next step as to what does the council want to do.

Francesconi: I don't think that the -- I don't think that the proposed designed a equally mitigates the differences in appearance or scale.

Katz: Ok. Commissioner Sten?

Sten: I agree. I will elaborate.

Katz: So the council is not pleased with the return of the design and the project right now. So the next question for the council is, what is it that you would like to do?

Leonard: Well, you know, just following in the order that we began, I am also persuaded that this is a great company that provides a great service. So as a person who is also had to use those kinds of facilities in my own family, I understand the need for them particularly in an urban setting. So i'm just describing a quandary that I feel as though I am in because they do provide an excellent service, a needed service. But I think we also at some point have to have some balance in what we allow within truly residential r-5 zones and die see this as distinct from some of the other projects that we have seen.

Katz: Does the council want to give the applicant another opportunity, one more opportunity to come back? Or is the council prepared to make a denial?

Francesconi: I would like to do the former.

Katz: All right.

Leonard: I would like to hear from them if that's useful. If not I am prepared I guess following the logical conclusion of my dilemma to make a decision here today. Unless they are not -- unless they are interested in commissioner Francesconi's idea.

Katz: Ok. Can we have the applicant here? You are hearing from the council that either you make some major changes or there's going to be a motion for a denial of the application. And --

Steve Fogg: When we started this process, whatever is confused over 60, 62, 64 is irrelevant. The number has got to be around 60 and when he we started the process we said that and I reiterated that in as nicest way possible so we wouldn't be confused and we would stick with that. So I would say just go ahead and vote because at this point we are having very honest about the financial feasibility of the project and we could not meet those unit requirements and serve that community and bring floor off of that development. And I think that that's what this is being asked of us.

Francesconi: Just so you are clear i'm not asking you to go 60 or take a floor off. I am just speaking for myself but I am asking you to attempt to redesign the building.

Fogg: What I would tell you is there are some challenges. You asked a question earlier and, yes, we did try to evolve and adjust the footprint and every time we did it, it would have a reaction or it would have another effect and what we came up with is that what we brought back to the neighborhood council had or the neighborhood group is that it have the least amount of negative impacts to the surrounding neighbors. And so we can't see another way of that happening and be able to keep the project working financially.

Leonard:

Barry Smith: We had a couple of really, we had a couple of design ideas today. And the fellow that said we should scour out underneath it. We did listen to him. We are finding we are not getting any effect on the overall, how big the building is. There's a conflict between the need and

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the size of the building. And what we have done is mitigate it to the greatest extent possible. At a certain point we start affecting the operation of the facility and it really, when we say we work hard, the interior stuff that goes on is really primitive. And so trying to break down the height, there isn't a silver bullet. And I agree with michael llewellyn, ink it is getting too cute. It is getting a little out of hand. I think phil is right. There is not really annual ability to service a facility without having some height and bulk issues, and, you know, the code is pretty clear about mitigating to the greatest extent possible. We don't know of anything else we can do. Without affecting the operations and the success of the facility. So it's a tough place to be.

Fogg: My friend marty treece asked me, if we were good go to four floors, yes, we probably could make coverage compromises, clearly. If you saw that as an option, to me, on a personal level I don't see that helping the neighbors. Personally think it might be more damaging. But if that was an acceptable standard, then, yes, we could do it.

Katz: Just a minute, sir. I was actually, I was thinking of the same issue. You know, we have had long debates here on height versus bulk. And arguments that if you go higher, most of you remember, we had issues here at the council, if you go higher, you create other opportunities that create better design. And smaller bulk area. So we understand. You didn't try that. I'm not -- I don't know if the neighborhood really believed that or not. But we have seen that to be, in fact, the truth.

Fogg: We would have certainly looked at it as an alternative. I think that you can imagine the challenges of trying to develop a consensus with a very large group of actively involved neighbors and I don't say that as negative but a positive but it's very difficult to problem solve with that many individuals involved in the process so while there are a group of people that would say yes, I would support that, there's another group of people that would say, no, how to build consensus would be my challenge back to you guys, how could we do that?

Leonard: I appreciate that perspective. I need for you to understand from me that I look at these things in advance. And I try to draw an impression before I testimony. And my initial impression before we had the hearing was this was too big. So not withstanding what you may think from the neighborhood is it just struck me as the character and size being out of proportion to the neighborhood as you may have noticed, I have at times been in disagreement with neighborhoods, because I felt this was the right thing to do. In this case, I just, I do believe that this is not the place for this kind of a project of the size. Not withstanding the good work you do, the good design. It just doesn't feel right to me and it hasn't from -- and I guess i'm agreeing with you. I don't know where you go from here if you have to have the number of units you have to have on that site. I wish I could think of a creative alternative. I am not thinking of anything right now other than this is not the right place for this kind of a project.

Katz: If the number of units are the issue, and if the bulk is the issue, if you are going to design it, it goes up and then he reduce the bulk considerably. That's just the way it is. And I don't know if that's acceptable to the neighborhood.

Leonard: What I was trying to say I have a bad reaction to that not withstanding what the neighborhood may say.

Katz: Ok.

Leonard: Just address the issue of it being right for that particular block.

Katz: I am trying to deal with the design issues.

Leonard: I'm just one here.

Fogg: Mayor Katz the answer is we would consider that. I would ask for some help from somebody to help make that process, if we are to go down that ron wyden for me to even say yes

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we were willing to go down that road I would need to get somebody involved in this process that would that could help us make sure it's productive.

Smith: It's still going to be percentage wise, whether it's the building coverage or the height, in terms of the numbers, it's going to be a lot. Because you would be adding 10 feet, so that's 25% in height.

Katz: It may not work. I am trying to deal with the bulk issue.

Smith: Right.

Katz: Ok.

Francesconi: Things like materials, things like stepping it back, things like better landscaping. Those wouldn't, can't do any of snows.

Smith: The landscaping is incredible. The landscaping and the landscape architect said it's too much. One of the things that we are doing is, you know, breaking the building down and trying to do all these things, it's actually getting too be too much. It's getting -- it's getting to be gestures instead of meaningful stuff.

Fogg: The other thing is the pictures you saw today were not actually all of our facilities. While there was a facility that was ours what we are really trying to highlight is we did actually try to upgrade the materials and try to could creative things compared to the other projects and probably trying to show that facilities that serve that same community most of them are actually 80-unit facilities for some of the same economic reasons.

Smith: And particularly unfriendly. By nature.

Katz: Tim. Do you want to take another two weeks and see? We can't redesign it here. And then come back and tell us, it isn't going to work and then we will do what we need to do. Or do you want us to act on it now?

Ramis: I would be happy to take two weeks in order to have some more communication with the neighborhood on this issue of whether we can deal with the bulk and trade it off for height. I don't know if that's acceptable to all the council. But I suppose it's a reasonable question to ask before we finally kill this project.

Fogg: I would say, if I could just interrupt, I would only ask that we have some third party involved in this process. And I know, and I would just say that I think it's, we are at a point where where we would be willing to do it we need a mediator.

Katz: The city as an urban designer. The first time we ever had one we have never actually called him on anything like this. But, you know, this council doesn't like to do the same things the same way all the time. And just because we have never done it doesn't mean we can't do it.

Francesconi: I would say that's a good idea.

Katz: I think he's back. He had a trip but I think he's back and he may even be able to work with you on the current height. But that's probably the only bright idea that I have today. It may take him a little more than two weeks but I don't want to keep dragging this out.

Francesconi: I like that idea.

Katz: What do you think about bringing him in?

Sten: I think it's a wishful thinking and a waste of time. In all honesty, I don't mean offense to anyone I think this couple hours was a waste of the council's time because two sides didn't come together and it was the same hearing all over. I'm not blaming one side or the other.

Leonard: Just when I am trying to practice processing you tell me it's a waste of time.

Sten: I'm not going to fight it. You can't get 60 units into a size that the neighborhood is going to agree on. And if the neighborhood's not going to agree on it and the developer isn't going to take the size down the council has to make a decision. Because I don't think you can design these 60

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units to meet the two sides' objective which I think are honorable objectives and I am very disappointed personally that this isn't working out. I think it's wishful thinking, no offense to anyone, that this 60 units and the size can come together. The issue is bulk and mass and 60 units they cannot be made compatible in my opinion.

Katz: I understand that. And I guess i'm trying to think if the council turns this project down, what's going to happen.

Leonard: To the site.

Katz: To the site. I am worried about that as well. So I would give two weeks to take a look at it and see if he thinks that there's another design. We have used him for charettes for a very difficult design that both sides were able to agree.

Smith: I will do whatever I can. Marquis has been very cooperative. If our changes look funny, it's a tough, it's a tough problem.

Fogg: If we were not able to do it could we notify and you not waste your time again? I don't want to do that again.

Katz: No, no. Fair enough. I am going to the, try to give some instructions and get some instructions. You would, we would have to come back to the council but we will not do --

Leonard: How about if we deny the application subject to the applicant asking for another hearing? Within two weeks?

Sten: Got to make the two sides.

Rees: Commissioner Leonard, one of the issues with that would be notification of a required, we would have to renotice.

Katz: What we are going to do, let me check with the city attorney. I know commissioner Sten was not terribly happy with me today. But that's ok. We disagree on that. But I don't want to have another hearing. This one I think we had to have. New information came to us and I would like to limit, once they come back and say -- if it doesn't work out, can we just make a motion and just close it down?

Rees: If it doesn't work, there would be no need to take new testimony because there wouldn't be no evidence.

Katz: If it does work can we limit the testimony?

Rees: We could limit the testimony to addressing the changes in design. I assuming that's what we will see is a change in design.

Katz: I know. But we now have, we have the other variable we just put in is our urban designer.

Leonard: I'm trying to process. I am trying very hard to process.

Sten: Mayor, people want to take two weeks I am not optimistic. Let me just clarify. I don't think any time people tried to negotiate was a waste of time. The good neighbor agreement was good. I think the hearing today was not so much a waste of time is that it was clear from me for the first 20 minutes of the hearing the fundamental disagreement had not been solved. That's where I think, that's what I don't want to have you spend your time on. There were two issues, the good neighbor agreement and the other was the size of the building. I think both sides did a terrific job and you opened up by saying we accept all the changes in the good neighbor agreement. Very unusual, great move. Second issue was the bulk of the building. That's the one I just don't see.

Katz: Does anyone know if arun is back? We don't know. And it's after 5:00. I think he's back. All right. Two weeks. Time. We will put it, we will put an end to this in two weeks.

Rees: Mayor? Ask karla, in two weeks we have the northwest plan parking regulations.

Katz: Let's make it three weeks.

Leonard: That will take a week.

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Moore: November 6 at 2:30.

Katz: November 6. He will be, once I get a hold of him, he will be a contact and who -- tim? Ok. All right. Thank you, everybody.

*******:** Thank you.

Katz: One second. We stand adjourned.

At 5:16 p.m. Council adjourned.