

**OPPOSE
APPEAL**

APPEAL OF NW DISTRICT ASSOC LU 14-220722 DZ AD

TESS O'BRIEN APTS 1953 NW OVERTON & 1950 NW PETTYGROVE

IF YOU WISH TO SPEAK TO CITY COUNCIL, PRINT YOUR NAME, ADDRESS, AND EMAIL.

NAME (print)

ADDRESS AND ZIP CODE

Email

NAME (print)	ADDRESS AND ZIP CODE	Email
✓ Jason Larson	2710 NW Sherlock Portland, 97210	jason.r.larson@gmail.com

**SUPPORT
APPEAL**

APPEAL OF NW DISTRICT ASSOC LU 14-220722 DZ AD

TESS O'BRIEN APTS 1953 NW OVERTON & 1950 NW PETTYGROVE

IF YOU WISH TO SPEAK TO CITY COUNCIL, PRINT YOUR NAME, ADDRESS, AND EMAIL.

NAME (print)

ADDRESS AND ZIP CODE

Email

✓ Ron Walters	2057 NW Overton St. 97209	ronaldjwalters@hotmail.com
^{spoke} ✓ Gustavo Cruz, MUDA	2224 NW Johnson St. 97210	on file
✓ STEVE SPENCER	1932 NW Overton 97209	STEVEN.SPENCER@rbc.com

March 4, 2015

To: City Council of Portland, Oregon

From: Gustavo J. Cruz, Jr., NWDA President

Re: Testimony Regarding LU 14-220722 DZ – Tess O'Brien Apartments

Good afternoon. My name is Gustavo Cruz and I live at 2224 NW Johnson Street. I am the President of the Northwest District Association, or the NWDA, and I am testifying today in that capacity along with other NWDA representatives.

We are here today because our neighborhood association voted to appeal the Design Commission's approval of the Tess O'Brien Apartments project. As you consider this appeal, I hope you will reflect on the unique qualities of our neighborhoods and the trends affecting them. An improved local economy has spurred rapid development, and as a city, we have become increasingly concerned about affordability and how new development will alter the fabric of our neighborhoods. The recent trend toward demolitions reflects a push for increased density, and at times this trend has conflicted with other values, like the desire to retain the historic character of our neighborhoods. Several active corridors in Portland are now virtually unrecognizable from their appearance just two or three years ago.

In this case, in addition to concerns over procedural issues that will be addressed separately, we feel that the proposed Tess O'Brien Apartments project is incompatible with the existing neighborhood because of its mass and scale. This project includes two six story apartment buildings to be built mid-block on NW Overton and NW Pettygrove Streets, between NW 19th and 20th Avenues. There will be 126 residential units with no parking, and the apartments will be built virtually to the edge of the property lines. The building on the Overton side towers over its neighbors and the residences across the street, while the building on the Pettygrove side occupies virtually the entire footprint, with only a 10 inch separation from the three story building to the east.

The applicant will argue that there is already a large apartment building at NW 20th and Pettygrove, so it would be unfair and inconsistent not to allow this development to go forward. However, we encourage you to consider what is referred to as the "fine grain pattern of development" in the neighborhood. In other words, just because a six story building may be acceptable at one corner of a block, that does not mean that a similar structure would be appropriate on the other side of the block, or even a few blocks away. Each development should be considered in its immediate context, and judged on its ability to blend into the neighborhood. We feel that this project does not satisfy that criteria.

Thank you for your time and consideration.

Gustavo J. Cruz, Jr., President, Northwest District Association

Parsons, Susan

From: Ron <ronaldjwalters@hotmail.com>
Sent: Monday, March 02, 2015 10:03 AM
To: Council Clerk – Testimony
Subject: LU 14-220722 DZ AD Testimony - Support Appeal
Attachments: LU 14-220722 - Tess_Testimony - Walters.pdf

Dear Council Clerk,

Please find attached my testimony in support of the appeal of the Tess O'Brien Apartments.

Sincerely,
Ron Walters

2057 NW Overton Street Portland, OR 97209 mobile: 503-593-3102 h/fax: 503-224-0397

**LU 14-220722 DZ AD – Tess O'Brien Apartments
For March 4, 2015 Appeal to City Council**

Dear Commissioners:

My name is Ron Walters. I live at 2057 NW Overton Street, less than a block from the proposed project. During the course of the Tess O'Brien design review process, I have testified on behalf of NWDA as well as personally when NWDA received insufficient meeting notice to develop a position and testimony that abide by public meeting rules for neighborhood associations. In one case, NWDA received a BDS staff report just 29 hours prior to a DC hearing.

These written comments once again reflect personal testimony so I can share my personal experience regarding troubling procedural issues that denied neighbors the opportunity to fully address concerns on this project.

First, I wholeheartedly agree with NWDA's concerns about the scale, massing, and general lack of compatibility of the Tess O'Brien Apartments in our existing and desired neighborhood. However, my greater concern is that the design review process itself was horribly flawed with procedural irregularities, which, if not corrected, will continue to plague the design review process and yield undesirable outcomes.

While this appeal is, in part, about what I believe are troubling procedural errors, the reality is there is a greater underlying problem with the design review process. Community Design Standards simply don't serve Portland communities and developers well. Developers that choose this alternative to traditional design review frequently use it as a means to circumvent neighborhood input. This is the case with the Tess O'Brien design review process.

As required, the applicant met with NWDA once and only once. He "checked the box." NWDA provided critical feedback, which the applicant completely ignored. None of NWDA's comments were incorporated into the application that was submitted to BDS and Design Commission.

Honestly, I struggle to understand how BDS staff could have recommended approval of the original project to Design Commission. As we all know by now, Design Commission voted unanimously to deny the application because the project was, in layperson terms, really awful. I would have thought that BDS would learn from the Design Commission's feedback. Design Commission, by its vote, told the applicant and BDS that this project does not meet our standards.

I would have thought BDS would take the Design Commission denial as an opportunity for course correction. That is, "next time, you should have higher standards." However, that's not what happened. In fact, BDS, which is supposed to be advisory to Design Commission, essentially vacated Design Commission's decision. Allow me to explain.

I was the sole NWDA representative that attended the first Design Commission hearing for the Tess O'Brien Apartments on November 6, 2014. I testified that the applicant had

met with NWDA once and received highly negative feedback, which the applicant disregarded. I relayed testimony from NWDA in opposition to the project. At the hearing, despite BDS's recommendation for approval, Design Commission was deeply concerned about many aspects of the proposed design, including those previously raised by NWDA with the applicant.

As the November 6 hearing proceeded, it became increasingly clear that Design Commission was not going to approve the application. Chairperson Millius encouraged the applicant to consider seeking a continuance on three separate occasions. On all three occasions, the applicant declined, ultimately insisting on a vote. **Design Commission voted unanimously to deny the application.**

Personally, I was shocked that the applicant didn't seek a continuance, which would have provided all parties additional time to find common ground. I believe everyone was caught off guard. Design Commission and BDS were thrust into an awkward situation. I performed an online search, asked developers, and surveyed many NWDA old-timers but could not find any cases in which Design Commission "tentatively voted" to deny an application that was later approved. As far as I've been able to determine, the situation is unprecedented. I've asked BDS to provide examples of any precedents but they have not done so.

In any case, Mr. Heron, representing BDS at the November 6 hearing, said the record would be kept open so the BDS staff report could be updated to reflect the vote of denial. **To be clear, Design Commission did not offer a continuance. Design Commission voted to deny the application.**

However, according to BDS, on November 13, a full week after the Design Commission decision, BDS issued a continuance because the applicant filed a request for an extension to the 120-day timeline requirement. I fail to understand the logic or applicable procedure as to why an extension request after a Design Commission decision would trigger a continuance and vacate Design Commission's decision. That aside, it is my understanding that it is a violation of procedural rules for BDS to issue a continuance on behalf of Design Commission outside of a Design Commission hearing.

It is my understanding that BDS cannot simply grant a continuance after a Design Commission decision and outside of a hearing. Any continuance would need to be granted at the hearing.

According to the Procedural Information section in the BDS Staff report, the correct procedure is as follows: *"The Design Commission will make a decision about this proposal at the hearing or will grant a continuance."* Moreover, the applicable Land Use Hearings procedures reflected, in part, in administrative Rule 9.02, section 3.7, requires that any request for continuance have been made before the close of the Design Commission's hearing: "At the request of a party **before the close of the hearing**, or upon the motion of the Hearings Officer, the Hearings Officer will hold the record open or continue the hearing to a later date for the submission of additional evidence or testimony."

As far as I can tell, BDS' position, outlined below, is without precedent and is not supported by BDS policy, procedures, or administrative rules:

“As the tentative vote was non-binding, and the record was held open to allow Staff to revise the original report of approval to denial, the applicant exercised the right to extend the 120-day Land Use timeline for this case (continuing their November 20, 2014 hearing to December 4, 2014).”

BDS's decision to issue a continuance on November 13, between hearings, had further negative implications for the design review process. For the two subsequent Tess O'Brien Apartment hearings, BDS did not meet the customary 10-day minimum meeting notification requirement. Rather than slowing the timeline to allow neighborhood participation, BDS responded that they were not required to meet the notification requirement because the hearings subsequent to November 6 were a continuance. I found that position particularly troubling, as BDS was the party that issued a continuance in error.

I'm not a lawyer and I'm not looking to win a legal argument. I'm a layperson and neighborhood volunteer that has a strong sense that this is NOT how the design review process is supposed to work. If Design Commission denies an application, BDS should not intervene to effectively overrule a Design Commission decision. In fact, BDS is supposed to be advisory to Design Commission. In this case, BDS should have simply supported Design Commission's decision, as it always does when BDS votes to approve an application.

So, Commissioners, please tell me that you are not comfortable with the design review process for the Tess O'Brien Apartments. please tell me we need to fix this. Please tell me that if the same series of events were to occur again, you would want BDS to handle this awkward and unprecedented situation differently.

Consider what would happen if you deny this appeal. BDS and others will rightfully conclude that this is how the design review process should work. This process would become acceptable. This case would set precedent. In the future, every applicant would know that there is no threat of ever having an application denied. They could safely demand a vote even on the worst designs because they will know they can submit a 120-day timeline extension after DC votes to deny their application. Applicants will always get another bite at the apple. It would be the equivalent of F students repeatedly submitting poor quality work until they finally achieve a D- and allows them to move on. Please tell me this is not how you want the design review process to work.

BDS does a lot of excellent work. However, like everyone else, they aren't perfect. Please tell me that if this situation were to occur again, you would want BDS to act differently. Please confirm that they should have just supported Design Commission's decision to deny the application.

At that point, If the applicant felt that their application had been incorrectly denied on its merits or due to procedural errors, THEY could exercise their right to appeal. I have to imagine if this appeal had been brought by the applicant, City Council would deny the appeal with little angst because the initial proposed design was denied by Design Commission and the applicant already declined numerous opportunities for a continuance.

To that end, I respectfully request that you vote to support the NWDA appeal. To remedy the procedural errors and improve the project design, the TOB application should be

denied. The BDS staff report should be updated to reflect Design Commission's decision on November 6. Then Design Commission can then vote to affirm their vote at the next possible hearing, at which time the record can be closed.

I would welcome the opportunity to work with the applicant more collaboratively on a new application.

Thank you in advance for your attention to this important matter.

Respectfully,

Ron Walters

2057 NW Overton Street
Portland, Oregon 97209
503-593-3102

Moore-Love, Karla

From: Steve Pinger <steve@sspdev.com>
Sent: Friday, February 27, 2015 10:02 AM
To: Moore-Love, Karla
Subject: FW: LU 14-220722 DZM AD - Tess O'Brien Apartments appeal
Attachments: 2015.02.27 GJC LT Mayor Hales re Tess O'Brien .pdf; DRC 2015 01 15 - Tess O'Brien Apartments .pdf; DRC 2014 11 06 - Tess O'Brien Apartments .pdf; DRC 2014 12 18 - Tess O'Brien Apartments .pdf

-----Original Message-----

From: Steve Pinger [mailto:steve@sspdev.com]
Sent: Friday, February 27, 2015 10:00 AM
To: 'mayorcharliehales@portlandoregon.gov'; 'novick@portlandoregon.gov'; 'Amanda@portlandoregon.gov'; 'dan@portlandoregon.gov'; 'nick@portlandoregon.gov'
Cc: 'jackie.dingfelder@portlandoregon.gov'; 'erika.nebel@portlandoregon.gov'; 'tom.bizeciu@portlandoregon.gov'; 'Grumm, Matt'; 'liam.frost@portlandoregon.gov'; 'Karla.Moore-Love@portlandoregon.gov.'; 'Wendy.Chung@CenturyLink.com'; 'Gustavo J. Cruz, Jr.'; 'karen@klk-consulting.com'; 'Ron Walters'
Subject: LU 14-220722 DZM AD - Tess O'Brien Apartments appeal

Mayor Hales, Commissioner Fish, Commissioner Fritz, Commissioner Novick, Commissioner Saltzman;

We are forwarding the attached documents regarding the appeal of LU 14-220722 DZM AD - Tess O'Brien Apartments.

We appreciate your consideration of this issue that is facing our neighborhood, and many neighborhoods in the city, as they endeavor to transition compatibly from their existing patterns of development to succeeding patterns development patterns involving much greater density.

best regards

for the Northwest District Association;
Tavo Cruz
Wendy Chung
Karen Karlsson
Steve Pinger



Northwest District Association

February 27, 2015

Board of Directors
2014-2015

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Gustavo J. Cruz

1st Vice President

Juliet Hyams

2nd Vice President

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Karen Karlsson

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Don Genasci

Rebecca Hamilton

Brad Houle

Philip Selinger

Kathy Sharp

Page Stockwell

Bill Welch

Mayor Charlie Hales and City Commissioners

City of Portland, City Hall

1221 SW 4th Avenue

Portland, Oregon 97204

**RE: Appeal of Design Commission Approval of Tess O'Brien Apartments (LU 14-220722 DZ AD)
1953 NW Overton and 1950 NW Pettygrove Streets**

Dear Mayor Hales and City Commissioners:

As previously indicated to BDS and to the Design Commission, the NWDA appeals approval of the above-referenced project because it fails to meet the applicable approval criteria, which in this case are the Community Design Guidelines, as the proposed site falls within a Design Overlay Zone and within the Northwest Plan District. As you know, application of the CDG requires discretionary review that considers, among many factors, **compatibility with the existing neighborhood and its desired characteristics**. As described more fully below, procedural issues in this case placed additional challenges on neighbors and Staff in employing discretionary review to ensure a quality project at this site.

Background

The proposal approved by the Design Commission contemplates two, six-story apartment buildings with 126 residential units and no parking, to be located mid-block on NW Overton and NW Pettygrove streets, between NW 19th and 20th. Such a large-scale project built to the edges of these lots triggers two issues highlighted in Commissioner Fritz's February 5, 2015 memo to BDS concerning discretionary reviews: 1) neighborhood compatibility and 2) carrying capacity of the lot/size, and infrastructure and context.

Guidelines D7 and P1 are Not Met by the Proposal

The NWDA believes that the proposal fails to meet the following applicable guidelines: *(D7) Blending into the Neighborhood* and *(P1) Plan Area Character*, because the mass and scale of the two buildings fail to blend into the neighborhood and do not respond to the Northwest District's desired characteristics and traditions, as articulated in the Northwest District Plan. More plainly, the proposal is grossly incompatible with the neighborhood and its desired character, given its location within the district.

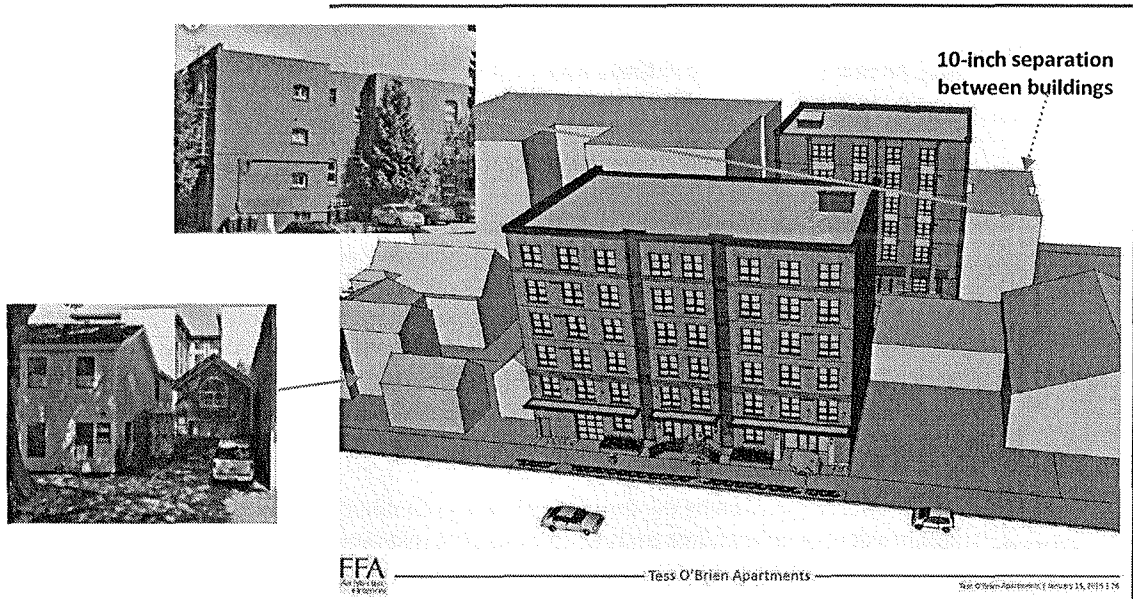
A. The Proposal's Mass and Proportion is Incompatible with the Existing Neighborhood.

Guideline D7 prescribes: "*Reduce the impact of new development on established neighborhoods by incorporating elements of nearby, quality buildings such as building details, massing, proportions, and materials.*" (Emphasis added). While Staff found that the proposal "incorporates elements that contribute to the desired characteristics of the Transition Area, which are also features found in the nearby historic district and surrounding area," it did not address the issue of mass or proportions in its analysis. Nor did Staff address how these two large buildings, built to the edge of the property lines, would impact adjacent properties or the neighborhood as a whole.

Staff notes in its January 15, 2015 report that both NW Overton and NW Pettygrove are "local service streets" rather than main traffic corridors onto which larger buildings in the neighborhood normally face. In the Northwest District, it is difficult to find an example of a six-story building not located on a corner or on a main traffic corridor. In contrast, the two buildings proposed would be located mid-block, facing local service streets.

Indeed, as shown below in the applicant's own rendering, most of the buildings on and around the block in question are much smaller in scale than the proposed project, and many are 1 - 2 story houses or 3-

story townhouses. The proposed Overton building towers over the rental building immediately to its west, which is occupied by small businesses. Perhaps even more disturbing, as shown below in the applicant's drawing, the proposed Pettygrove building dwarfs the 3-story, 12-unit brick apartment building to its east, covering all 11 of its west-facing windows and butting up against its tenant power meters. It is hard to imagine how the proposed 10-inch separation between buildings on Pettygrove would provide needed light and air to the apartments in the smaller brick building.



B. The Proposal's Mass and Proportion is Incompatible with the Northwest District Plan.

Guideline P1 prescribes: "Enhance the sense of place and identity by incorporating site and building design features that respond to the area's desired characteristics and traditions." The Northwest District Plan provides that, "The 'Desired Characteristics and Traditions' statements will be used by design review staff and review bodies when determining whether or not a proposal meets the intent of Guideline P1." (See page C-13.) Further, the District Plan specifies, "The district-wide considerations, which precede the individual Urban Character Area statements, include general desired characteristics that should be consulted for proposals on all sites in the Northwest District." (See page C-15.) Among such district-wide considerations, the Plan states: "development throughout the Northwest District should contribute to maintaining the district's architectural scale and its fine-grain pattern of development. **New buildings and additions that are taller than the two-to-four-story building height that is predominant in the district should have upper stories stepped-back in order to contribute to a more consistent streetscape and to maintain neighborhood scale.**" (*Id.* Emphasis added.)

An example of a mid-block five-story building with its top floor significantly stepped-back is Thurman Street Lofts, a few blocks away from the proposed site of the Tess O'Brien Apartments:

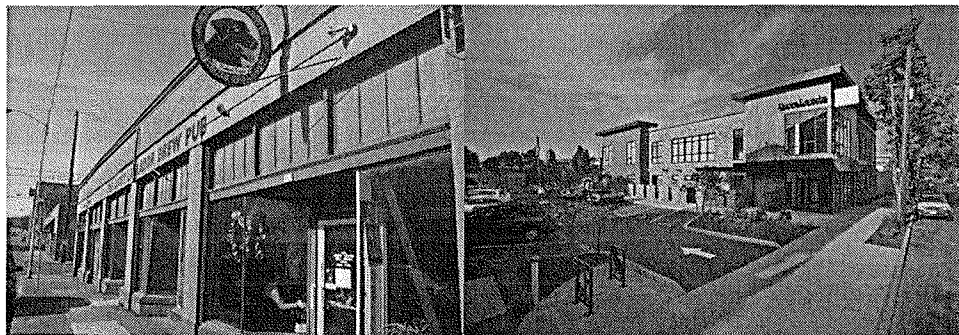


Moreover, the placement of a 6-story apartment building immediately adjacent to another large apartment building occupying the corner of 20th and Pettygrove would conflict with the desired characteristics of the district's Transition Subarea: *"Larger structures that provide a sense of urban enclosure should be concentrated along main streets and the streetcar corridor, with a finer grain of façade articulation and roofline variation along east-west side streets."* (See page C-22.) As you can see in the applicant's rendering below, the placement of the proposed new building would create a wall of 6-story apartments along a good portion of Pettygrove, which directly conflicts with the neighborhood's desire for for roofline variation along east-west side streets and the fine-grain partial-block development described throughout the Northwest District Plan. (See page 3 of Applicant's January 15, 2015 presentation).



As Staff notes, the EX zoning of the site allows mixed use and is intended to allow industrial and commercial uses needing a central location. *"Residential uses are allowed, but are not intended to predominate or set development standards for other uses in the area."* (See page 2 of Staff's December 4, 2014 report.) Approving the proposed projects creates a development scheme in which residential uses clearly predominate the half-block on Pettygrove.

The area in which the proposed site is located is immediately southeast of the Conway Master Plan area and just three blocks north of the Historic Alphabet District, as Staff notes. Thus retaining its scale and character is critical to creating a transition between these two very different sections of the Northwest District. The area in question is predominantly occupied by small businesses and residents in low-rise buildings. Other smaller-scale commercial buildings on blocks adjacent to the proposed project, such as the Lucky Lab Brew Pub (1945 NW Quimby) and Dove Lewis Emergency Animal Hospital (1945 NW Pettygrove, across the street) would be overwhelmed by the proposed buildings:



Several neighbors oppose this project and several testified and submitted written testimony to the Design Commission. Respecting the voice of neighbors opposing this project supports the Comprehensive Plan's

neighborhood-involvement policies expressed in Goals 3.5 and 3.10, which, in adopting the Northwest District Plan, promotes "*the livability, historic character, and economic vitality of a diverse, mixed-use, urban neighborhood.*"

The burden is on the applicant to show that its proposal meets all the applicable approval criteria, which in this case, are embodied in the Community Design Guidelines. The NWDA does not believe this burden has been met here because Guidelines D7 and P1 are not adequately addressed by the proposal. We therefore urge Council to **approve** this appeal of the Design Commission's approval of this project.

Procedures for Discretionary Reviews by Reviewing Bodies Need Clarification to Ensure Predictability and Meaningful Neighborhood Input

As Commissioner Fritz noted in her February 5th memo to BDS, "A no, especially upfront in the process, can also be good for customer service. Customer service is about delivering the message in a timely, clear, courteous manner, being knowledgeable and articulate in conveying accurate information, and being helpful with customers to identify solutions or options that may exist, collaboratively." (See page 2 of Fritz memo). In this case, after a tortured 6-month process involving 2 applications under 2 different designations, 5 design review proceedings (including the pre-application conference), and 5 different staff reports, the Design Commission finally approved the applicant's proposal after initially denying it. **Instead of a dramatically improved design, however, the result was a project that fails to meet key approval criteria requiring compatibility with the existing and desired neighborhood character, as articulated in the Northwest District Plan.**

This project was first submitted as a Type II review on August 28, 2014 and in mid-September a pre-application conference was scheduled. Apparently in response to the NWDA's inquiry about the appropriateness of the designation, a Type III application on the same project on was submitted on October 2, 2014, but the October 3rd pre-application conference proceeded as originally scheduled.

On October 16, 2014, the applicant met with the NWDA to discuss drawings submitted with its Type III application (which were identical to those submitted with its Type II application). The applicant indicated to NWDA at this meeting that the design was not final. NWDA expressed concerns about the scale and mass of the project to the applicant at this meeting. On the same day, NWDA was notified of a Type III hearing before the Design Commission to be held on November 6, 2014.

At the November 6, 2014 hearing, an NWDA representative and several neighbors testified in opposition to the project. The Design Commission voted to deny the application, after repeatedly asking the applicant if it desired a continuance, which the applicant refused. The evidentiary hearing thus ended without a request for a continuance. The record was held open until November 20th "to allow Staff to revise its original report of approval to denial." (See Page 3 of Staff's January 15th Report.)

Prior to November 20th, however, the applicant submitted a request for a waiver of the mandatory 120-day Land Use decision deadline. Staff interpreted such request as a request for a continuance, and thus continued the November 20, 2014 hearing to December 4, 2014, to allow the applicant to provide revised drawings. NWDA is unable to identify any authority in state or local law for granting a continuance after the conclusion of an evidentiary hearing, nor has BDS responded to NWDA's request for citation to such authority. ORS 197.763(6)(a) provides that a participant may request, "**prior to the conclusion of an evidentiary hearing,**" an opportunity to present additional evidence or testimony, and that the local reviewing body can either leave the record open for additional written evidence, argument or testimony, OR grant a continuance. Nor did NWDA receive notice of the post-hearing continuance, causing it to believe that the application had been denied and that any further review would require new drawings.

During meetings with the NWDA in December, the applicant expressed frustration with the process, but also indicated that it was too late to make fundamental changes to the design after so many meetings. Continuances were requested by the NWDA and granted at both the December 4, 2014 and December 18, 2014 hearings. BDS issued several more updated staff reports, which were often received by the NWDA just hours before the hearings (even though ORS 197.763(4)(b) provides that "Any staff report used at the hearing shall be available at least seven days prior to the [local quasi-judicial land-use] hearing"). The project was approved by the Design Commission on January 18, 2015.

As you know, under PC 33.720.020, Type III quasi-judicial land use reviews are assigned to the Design Commission, Historic Landmarks Commission or the Hearings Officer. PC 33.730.100 requires that "all public hearings conform to the rules of procedure adopted by the review body" and that such rules "comply with the Oregon Public Meetings law, statutory land use hearing requirements, and this Title."

While the Hearings' Officer has adopted Land Use Hearings Procedures set out in ADM 9.02, NWDA was unable to locate analogous rules for the other two reviewing bodies. It would seem that since all three bodies review Type III applications, however, similar procedural rules should apply. For instance, Section 3.7 of ADM 9.02 provides that "At the request of a party before the close of the hearing, or upon the motion of the Hearings Officer, the Hearings Officer will hold the record open or continue the hearing to a later date for the submission of additional evidence or testimony. The time and date the record will be closed will be specified at the hearing. If the time, date and place of the continued hearing is specified before the initial hearing is closed, no further written notice will be mailed." This rule is consistent with State law and seems intended to ensure that neighbors have ample notice of a date certain for a continued hearing, so that they have the opportunity to provide meaningful input. Such opportunity was not available in this case due to the awkward procedural events leading up to this application's approval. **In the absence of similar procedural rules for the Design Commission and the Historic Landmarks Commission, the NWDA respectfully requests that City Council direct BPS to draft consistent rules that apply to all Type III projects, regardless of the reviewing body, so as to promote predictability and meaningful neighborhood input on these projects.**

In summary, for the foregoing reasons, the NWDA requests that City Council deny this project because the applicant has failed to meet its burden of satisfying Guidelines D7 and P1 as the project's scale and massing is incompatible with the adjacent properties and fails to respect the neighborhood's desired characteristics. The NWDA also requests clarification or promulgation of procedural rules applicable to all Type III reviews so that it can provide meaningful neighborhood input earlier in the process.

Best Regards,
Northwest District Association



Gustavo J. Cruz, Jr., Board President



Northwest District Association

January 15, 2014

Portland Design Commission
1900 SW 4th Avenue
Portland, Oregon 97201

RE: LU 14-220722 DZ – Tess O'Brien Apartments

Dear Commissioners:

The NWDA Planning Committee has now had the opportunity to meet with the applicant and the architect, and we offer the following comments for the Commission's consideration:

In our testimony on November 6th, we expressed the view that several guidelines were not met by the proposal at that time:

- Guideline D7 regarding the need for a more compatible scale of the buildings in relationship to the neighboring buildings;
- Guideline D8 regarding the need for clearer composition of the building facades and the their continuity from upper floors to the street level;
- Guidelines E3 regarding the need for a less awkward relationship between the residential units on the ground floor and the directly adjacent public sidewalk;

We commend the project team for their response to these issues and the improvements to the building designs, and feel that the buildings now meet the standards for guidelines D8 and E3.

We do not feel, however, that the buildings, as proposed, meet Guideline D7.

D7 Blending into the Neighborhood

The current submittal does not provide any basis for evaluation of its compliance with this guideline. There is no representation of the adjacent buildings to the west or any eye level views of how these buildings would be experienced in their context from the sidewalk.

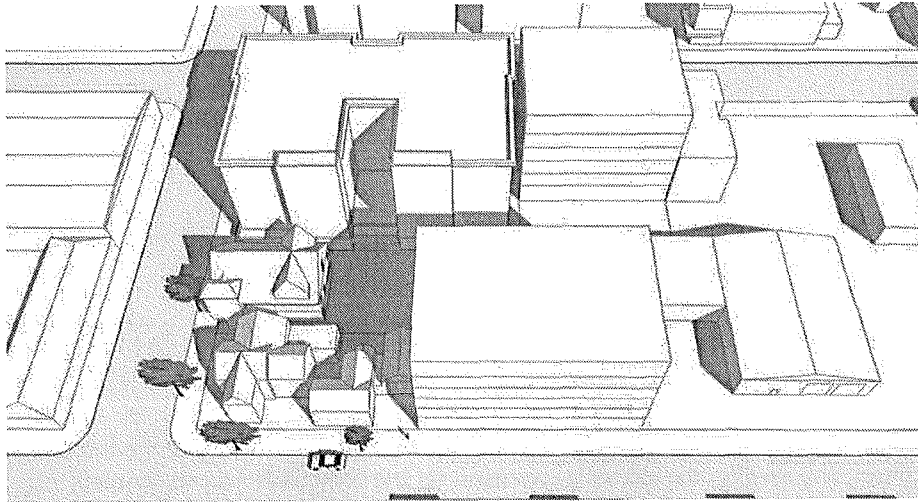
The compatible massing provision of this guideline is *the relevant design guideline in this situation*, in which significant increases in the density of development are being proposed, and where there are additional considerations and values to be weighed other than simply what massing is allowed. In this instance, the combination of the height of the buildings and that they are built up to the side property lines with no setbacks suggest that little has been done to "reduce the impact of the new development."

For these buildings to meet this guideline they would need to provide a minimum of 6' sideyard setbacks, and height of the Overton building would need to be reduced, consistent with the applicant's findings as noted in the Staff Report.

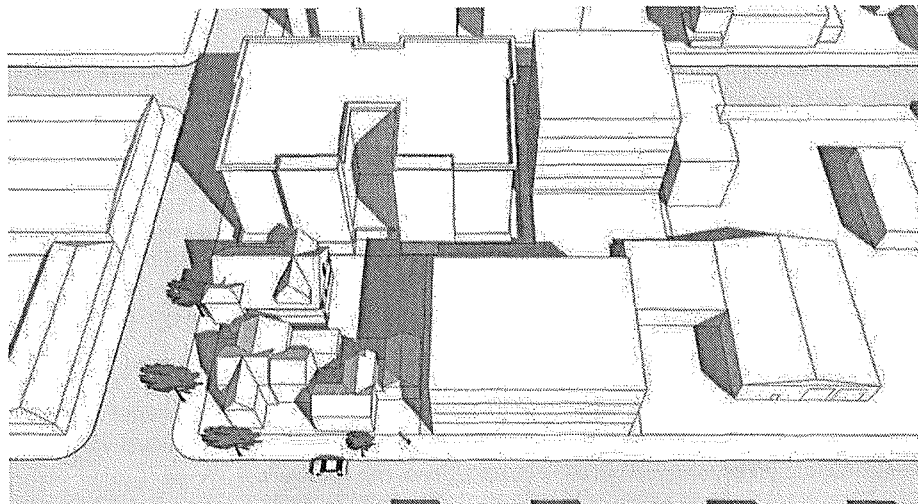
The images on the following page indicate the scale and context of the buildings on Overton, the massing of the current proposal, and a massing that would meet Guideline D7:

the NorthWest District Association is a 501(3)c tax-exempt organization

2257 NW Raleigh St. Portland Oregon 97210 503 823 4288 northwestdistrictassociation.org



the massing of the current proposal



a massing that would meet Guideline D7

We request that the Commission deny approval of this proposal until this essential guideline is met.

Best Regards,
Northwest District Association Planning Committee

A handwritten signature in black ink, appearing to read "Steve Pinger".

Steve Pinger
member, for the Committee



Northwest District Association

November 6, 2014

Portland Design Commission
1900 SW 4th Avenue
Portland, Oregon 97201

RE: LU 14-220722 DZ – Tess O'Brien Apartments

Dear Commissioners:

The NWDA Planning Committee has reviewed the above referenced project, and offers the following comments on the Staff Report for the Commission's consideration:

D7 Blending into the Neighborhood

It is unclear how this guideline is met. The applicant has provided no information regarding the existing adjacent site context, although the South Elevation of the Overton Building on C2 begins to indicate the presence of the suite of existing one hundred year old, one and two story frame buildings to the west. There appears to be no effort in the proposed 6 story buildings to reduce the impact of the new development per D7.

D8 Interest, Quality, and Composition

The NWDA commends the use of brick on the facades of the two buildings and the general composition of the elements. We make two requests of the applicant:

1. The Pettygrove Building's façade be composed of four brick bays instead of the three that are shown, reducing the amount of fiber board siding used at the street façade, where its use is less appropriate;
2. The organization of the street level openings be reviewed to lessen their awkward relationship to the pattern of windows, walls and recesses from above. (The vertical location of the canopies on the elevations does not appear to be consistent with their location shown on the wall sections, which changes the composition of street level of the buildings.)

E3 The Sidewalk Level of Buildings

D5 Crime Prevention

There are several apartments shown at the street level, directly off of the sidewalk. It is our experience that this arrangement results in units that have their blinds drawn always, and is extremely awkward for both residents and pedestrians. We do not believe that the 2' building setback and shrubbery that are shown are sufficient to resolve this conflict. We recommend that the applicant use the additional height of the ground level to elevate the residential units 3' to create a far safer and more customary relationship between the public and private realms.

Adjustment Request for Required Loading Spaces

We oppose this adjustment. Given the density of this project, and the fact that Pettygrove St. is designated a *Greenway* and Overton St. as a *Bikeway*, it should be required to meet the code requirement so loading and unloading is done off-street, rather than blocking traffic on these specially designated streets.

Off-Street Parking Requirements

Although the NWDA recognizes that there are no off-street parking requirements currently in effect for the Northwest Plan District, it wishes to record its objection to the applicant not providing any private

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2257 NW Raleigh St. Portland Oregon 97210 503 823 4288 northwestdistrictassociation.org

parking for the residents of these 126 units. Our objection is to the externalization of the costs of parking to the public. The suggestion that this offset allows the resulting apartments to be more affordable is not consistent with our experience, as the units are priced at whatever the market will bear, and the savings from not providing parking are privatized.

In May 2013, the City of Portland implemented minimum parking requirements for new apartment buildings in most areas of the city. The Northwest Plan District was excluded from these minimum requirements due to its status as a plan district, and the presumption that the plan district ordinances would provide for these requirements. They do not. The Northwest Parking Plan was adopted in July of 2013, ten years after the Northwest District Plan was adopted. The plan is only now starting to be implemented, and it has no provisions for off-street parking requirements, which all parties recognize must be part of the resolution of the parking plan. In the meantime, the Northwest District is getting increased development activity *because* there are no parking requirements.

The NWDA requests that the same minimum parking requirements that were adopted elsewhere in the city be applicable in the Northwest District until the Northwest Parking Plan and the Northwest Plan District ordinances can address them more fully.

Best Regards,
Northwest District Association Planning Committee

Ron Walter
member

Steve Pinger
2669 NW Savier St.
Portland Oregon 97210

December 18, 2014

Portland Design Commission
1900 SW 4th Avenue
Portland, Oregon 97201

RE: LU 14-220722 DZ – Tess O’Brien Apartments

Dear Commissioners:

I am the owner of the adjacent property at 1318-20 NW 20th Ave., and am a member of the NWDA Planning Committee. In that the committee received the updated staff report and drawing submittal for this project yesterday morning, and therefore has had inadequate time to review the proposal as a whole, I am forwarding the following comments for your consideration from my abbreviated review of the current submittal.

It should be noted that the committee felt that it was forced to provide an abbreviated review of the proposal at the Nov 6th commission hearing as well, and was anticipating a more thorough review of the project for today’s hearing, but felt that it could not adequately respond to a submittal that it received so late and close to today’s hearing date.

Procedural Overview

There has been significant contention regarding the way in which this design review process has been handled, especially following the commission’s rejection of the staff’s recommendation of approval at the Nov 6th hearing. I will not speak to those objections other than to say that they are at minimum confusing to my understanding of the process, and moreover, quite troubling in terms of their implications on how the design review process is viewed by both applicants and by the lay neighborhood land use committees endeavoring to provide useful and meaningful input into the process. I am unaware of any precedent for the positions and actions taken by BDS in this project’s process. I am further troubled by the fact that these procedural issues are being questioned against the background of this proposal having been originally submitted, *and accepted*, as a Type II Procedure, when the project’s prior Early Assistance application stated that the project’s estimated value was \$6,000,000, *three times* the Type III threshold. This causes me to have questions about both the applicant’s forthrightness and BDS staff’s thoroughness. Further, staff needs to provide a more incisive review of this proposal’s, and any other proposal’s, compliance with the relevant design guidelines and their intent. The disparity between the Nov 6th Staff Report’s view of this project and that expressed by the Design Commission at the Nov 6th hearing is far too big, and the reasons for that need to be looked at seriously.

D7 Blending into the Neighborhood

The current submittal does not provide any basis for evaluation of its compliance with this guideline. There is no representation of the adjacent buildings to the west or any eye level views of how these buildings would be experienced in their context from the sidewalk.

The compatible massing provision of this guideline is *the* relevant design guideline in this situation, in which significant increases in the density of development are being proposed, and where there are additional considerations and values to be weighed than simply what massing is allowed. In this instance, the combination of the height of the buildings and that they are built up to the side property lines suggest that little has been done to “reduce the impact of the new development.”

E3 The Sidewalk Level of Buildings

D5 Crime Prevention

None of the three options that have been proposed for the "porches" at the sidewalk level residential units on the Overton St. building work. The units need to have a vertical separation of ~3' to make those units viable. I am unaware of any example of horizontal separation alone creating a comfortable and safe relationship between the resident and the pedestrian in this sort of arrangement.

D1 Outdoor Areas

The provision of the exterior courtyard between the two buildings has the potential of being a significant asset to the project. As proposed, however, the courtyard appears to be in service to the provision of the required bicycle parking. The impact of this is the perimeter areas of the courtyard, where people naturally tend to want to sit and congregate, are given over to the storage function. Additionally, the area needed to maneuver a bicycle onto and down from a vertical storage format is probably greater than is allowed for on the layout. Bike parking and storage is a lot messier than shown, and I suspect in reality would detract significantly from the attractiveness of the courtyard.

Respectfully,

A handwritten signature in black ink, appearing to read "Steve Pinger". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Steve Pinger

SSP/

Moore-Love, Karla

From: Brian Hall <bhallbrw@gmail.com>
Sent: Tuesday, February 24, 2015 6:15 PM
To: Moore-Love, Karla
Subject: LU 14-220722 DZ AD (Tess O'Brien Apartments)

How could this project be allowed to progress without including parking? This many units will most likely ad upwards of 70 cars competing for already limited parking spaces.