



City of Portland, Oregon - Bureau of Development Services

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Type III Decision Appeal Form

LU Number: 14-230014 D2M AD

FOR INTAKE, STAFF USE ONLY

Date/Time Received 2/17/15 @ 8:13AM

Received By Mary

Appeal Deadline Date 2/17/15 @ 4:30 pm

Entered in Appeal Log

Notice to Auditor

Notice to Dev. Review

Action Attached copy shown - but he didn't want to take it

Fee Amount \$5,000

[Y] [N] Fee Waived

Bill # 3728051

[Y] [N] Unincorporated MC

APPELLANT: Complete all sections below. Please print legibly.

PROPOSAL SITE ADDRESS 1241 NW Johnson ST DEADLINE OF APPEAL Feb 17, 2015

Name Preserve The Pearl LLC

Address 3430 SE Belmont St, Ste 209 City Portland, OR State/Zip Code 97214

Day Phone 503-858-4005 Email preservethepearl@riseup.net Fax _____

Interest in proposal (applicant, neighbor, etc.) neighbors/advocacy group

Identify the specific approval criteria at the source of the appeal:

Zoning Code Section 33. 510 . 210B4

Zoning Code Section 33. 510 . 210E4e

Zoning Code Section 33. 510 . 210D

Zoning Code Section 33. 510 . 210E4f

Describe how the proposal does or does not meet the specific approval criteria identified above or how the City erred procedurally:

1. Public Process was flawed. 2. FAR height exception is really for housing. 3. The project violates specific provisions of 33.510.210D and 33.510.210E4 e and f so bonus height should NOT be allowed. Detailed brief attached.

Appellant's Signature Preserve The Pearl LLC, by: Shivani Sengupta Pres.

[Handwritten signatures]
Sec.
Officer/Agent

FILE THE APPEAL - Submit the following:

- This completed appeal form
- A copy of the Type III Decision being appealed
- An appeal fee as follows:
 - Appeal fee as stated in the Decision, payable to City of Portland
 - Fee waiver for ONI Recognized Organizations approved (see instructions under Appeals Fees A on back)
 - Fee waiver for low income individual approved (attach letter from Director)
 - Fee waiver for Unincorporated Multnomah County recognized organizations is signed and attached

The appeal must be filed by 4:30 pm on the deadline listed in the Decision. To ensure the appeal is received within this deadline, the appeal should be filed in the Development Services Center at 1900 SW 4th Ave, 1st Floor, Suite 1500, Portland, Oregon, between 8:00 am and 3:00 pm on Monday through Wednesday and Friday, and between 8:00 am and 2:00 pm on Thursday. After 3:00 pm on Monday through Wednesday and Friday, and after 2:00 pm on Thursday, the form(s) must be submitted at the Reception Desk on the 5th Floor.

CASE NO. 14-230014
EXHIBIT _____

The Portland City Council will hold a hearing on this appeal. The land use review applicant, those who testified and everyone who received notice of the initial hearing will receive notice of the appeal hearing date.

Information about the appeal hearing procedure and fee waivers is on the back of this form.

PORTLAND CITY COUNCIL

ON APPEAL FROM THE DESIGN COMMISSION

Design Commission Decision, January 22, 2015

Case File Numbers: LU 14-230014 DZM AD

PC# 14-13411

Pearl Block 136 – Mixed Use

MEMORANDUM IN SUPPORT OF APPEAL
PRESERVE THE PEARL LLC

CASE NO. 14-230014
EXHIBIT 1a

Table of Contents

Introduction	1
Overview	2
I The public process did not meet procedural due process standards.	3
A. Pearl Residents were not consulted at a crucial phase of the process.	3
1. Inadequate notice to residents of meetings between the neighborhood association and the developers.	
2. Failure of the neighborhood association to gauge resident opinions regarding the development by any means.	
B. Design Commission solicited improper information from those testifying.	5
C. Design Commission improperly considered future design guideline.	6
II The allowance of two separate residential/housing exceptions to the height limits is improper.	6
III The project does not meet all of the design guidelines required in the two bonus height exceptions found in 33.510.210 D and E	7
A. 33.510.210.D Factors – the 45’ exception	7
1. Preservation of historical districts	
2. The protection of public spaces from shadow	
3. The preservation of the City’s visual focus on important buildings (such as the Union Station Clock Tower) [example in the original].	
B. 33.510.210.E Factors – the 75’/30’ exception	9
1. The application of 33.510.210.E.4.e design criteria.	10
A: Portland Personality	10
A 1 Integrate the River	
A1-1 Link the River To The Community	
A2 Emphasize Portland Themes	

A3	Respect the Portland Block Structure	
A3-1	Provide Convenient Pedestrian Linkages	
A5	Enhance, Embellish and Identify Areas	
A5-1	Reinforce Special Areas	
A5-1-1	Reinforce The Identity of the Pearl District Neighborhood	
A5-1-4	Reinforce The Identity of the Union Station Area	
A6	Re-use/Rehabilitate/Restore Buildings	
A7	Establish and Maintain A Sense Of Urban Enclosure	
A8	Contribute to a Vibrant Streetscape	
B	Pedestrian Emphasis	16
B1	Reinforce and Enhance the Pedestrian System	
B5	Make Plazas, Parks and Open Space Successful	
B5-1	Recognize The Roles of the Tanner Creek Parks	
C	Project Design	17
C 1	Enhance View Opportunities	
C1-1	Increase River View Opportunities	
C4	Compliment the Context of Existing Buildings	
2.	The application of 33.510.210.E.4.f, the 33.510.205.A design criteria.	18
A	Protecting Views	
B	Creating a step-down of building heights to the Willamette River	
C	Limiting Shadows on public opens spaces	
D	Ensuring building height compatibility and step downs to historical districts	
E	Limiting shadows from new development on residential neighborhoods	
	Conclusion	20
	Exhibits	

Introduction

Preserve The Pearl LLC, having previously testified at both the DARs and the Type III hearings through both oral and written submissions by its representatives, comes now before the City Council and submits this memorandum in support of its appeal of the City of Portland Design Commission's decision to approve the Pearl Block 136 development, case numbers LU 14-230014 DZM AD and PC # 14-13411.

Page 6 of the opinion approving the project states as follows:

Upon submission of their application, the applicant for this land use review chose to waive the 120-day time frame in which the City must render a decision. This additional time allows for any appeal of this proposal to be held as an evidentiary hearing, one in which new evidence can be submitted to City Council.

This brief is submitted in support of issues that have been raised consistently throughout the review process, from the DAR hearings through the Type III review. Although some of the information contained herein may be new, any new material is offered in support of issues regarding adequate notice and fair hearing, and the application of particular zoning codes that have already been raised by Preserve The Pearl LLC and other members of the public who participated in the process. In any event, any new material is allowed in light of the waiver by the applicant of the 120-day time limit and by the express terms of the opinion.

The burden of proof to show that the zoning criteria have been met is on the developer. As stated in the Central City Fundamental Design Guidelines (CCFDG)¹, the method to be used in the review process for applying the relevant design guidelines is as follows:

Design guidelines are mandatory approval criteria that must be met as part of design review and historic review ... During the design review process, the review body must find that the proposal meets each of the applicable design guidelines. Proposals that meet **all** applicable guidelines will be approved; proposals that do not meet **all** of the applicable guidelines will not be approved.

[CCFDG, p. 10, emphasis in the original]

Regarding a waiver of any applicable criteria, the CCFDG states at page 11 as follows:

An applicable guideline may be waived as part of the design review process

¹ All citations to the CCFDG are to the 2001 edition.

when the proposed design better meets the goals of design review than would a project that had complied with the guideline. If a waiver is requested, the applicants must explain, in their application, how the goals of design review are better met in the proposed design than would be possible if each guideline being considered for waiver was followed.

As explained below, the developer's initial plan called for two parallel buildings, each about 100' in height (see Exhibit 3a). Presumably, these buildings would have been of a design similar to the currently proposed mid-rise that would face 13th Avenue.

At no point during the review process was the developer called upon to inventory each and every applicable design guideline and justify how the 150' tower better fits into the existing neighborhood or creates a better 'step-down' to the river (just two of the applicable criteria) than would either their initial design or the currently proposed, 13th Avenue building.

This appeal before the City Council will be the first time the developer will be required to meet these standards in a comparative way as called for by the CCFDG (see and compare Exhibits 3a/b versus 4). In this sense, it is requested that the City Council approach this appeal as a *de novo* review and, as such, not place any undue reliance on explicit or implicit findings made by the Design Commission.

Overview

The Pearl district is recognized by zoning map 510-3 (Exhibit 1) as consisting of three areas: north of Lovejoy (NOLO); the middle area bounded by Lovejoy south to Hoyt and the river west to the 405; and the lower Pearl from Hoyt to Burnside.

Block 136 is positioned almost exactly in the middle of the middle Pearl, and is catty-corner to the northernmost end of the 13th Avenue Historic District (see dotted portion of map, Exhibit 5b).

From the northern boundary of the project on Kearney south to Hoyt, there currently exists a range of 2 story and up to 6 and 7 story mid-rises that are all consistent in height and complimentary in design with the repurposed warehouses of the 13th Avenue Historic District (See generally Exhibits 2 a-d; and 5b). While taller buildings exist on the Lovejoy corridor on both the north and south sides of the street, the middle Pearl is a lower valley characterized by the warehouses along the 13th Avenue Historic District, and so is reminiscent of an area like SoHo in Manhattan or SOMA in San Francisco (See generally Exhibits 2 a-g; and 5).

I The public process did not meet procedural due process standards.

Procedural due process is a bedrock principle of our democracy whose hallmarks are adequate notice and fair hearing. The City of Portland's Office of Neighborhood Involvement (ONI) fosters procedural due process by "[p]romoting a culture of civic engagement by connecting and supporting all Portlanders working together and with government to build inclusive, safe, and livable neighborhoods and communities." See mission statement at <https://www.portlandoregon.gov/oni/>.

ONI provides 'direct support' to neighborhood associations who are 'officially designated' and who form an important component in Portland's nationally recognized 'neighborhood network' system. See ONI information at <https://www.portlandoregon.gov/oni/28380>.

The neighborhood association involved in this project is The Pearl District Neighborhood Association (PDNA), whose bylaws state, inter alia, that the object of the PDNA is as follows:

Section 2.2 To provide a facility for education, research and an exchange of information for citizens within the general area of the Pearl District so that they may relate to their total environment.

Section 2.3 To broaden channels of communication between residents and businesses within the Pearl District and the City Officials in matters affecting neighborhood livability.

[See page 1 of the PDNA Bylaws, attached hereto and incorporated by reference herein as Exhibit 6d; a full copy should be on file with ONI]

The adequacy of ONI's efforts to promote procedural due process for all Portlanders through the 'neighborhood network' is only as effective as the underlying democratic values as practiced by the neighborhood associations.

A. Pearl Residents were not consulted at a crucial phase of the process.

In this case, the PDNA failed to 'provide a facility' for 'an exchange of information for citizens' and thus failed to 'broaden channels of communication' between the residents of the Pearl and the City. These failures are specifically detailed as follows:

1. Inadequate notice to residents of meetings between the neighborhood association and the developers.

The plans for neighborhood projects are reviewed by the Planning and Transportation subcommittee of the PDNA, which, like the organization as a whole, is run by the president of the PDNA. Although the date, time and location of

meetings are generally set and posted on the PDNA website, the agenda for those meetings is not. Instead, it is rumored that the agendas appear on a Facebook page of unknown denomination. If this piece of critical information appears anywhere on the PDNA website, it certainly wasn't obvious during the time period in question.

After the sale of the PNCA building was announced on or about October 1st, 2013, (see e.g. <http://www.bizjournals.com/portland/blog/real-estate-daily/2013/10/pnca-sells-its-pearl-district-building.html>), many residents of the Pearl anxiously awaited word from any source on what might be done with the property. Nothing was conveyed to the general residents of the Pearl, either by the developer or by the PDNA.

Finally, a member of the yet to be formed Preserve The Pearl LLC attended a PDNA Planning and Transportation committee meeting in December of 2013 and was told that the developer had already met with the committee in November, but, given the time frame of these things, the developer was not expected back until perhaps the summer. A request to be contacted by email regarding the development was refused by the PDNA committee member with a 'we don't do that' response.

Preserve The Pearl LLC asserts on information and belief that the November 2013 meeting between the PDNA and the developer that was not specifically announced in advance to the residents of the Pearl was a critical phase of this project. It was at that meeting that the developer's initial proposal of two 10 story, side-by-side structures (see Exhibit 3a) was objected to by the PDNA. Instead, the PDNA apparently suggested lowering the development on the 13th Avenue side and maxing out the development on the 12th Avenue side. The developer was reportedly told something like, 'whatever you do, don't mess up the 13th Avenue Historical District'. (See developer's testimony during the DAR hearings).

This misdirection by the PDNA Planning and Transportation Committee, while no doubt reflective of the opinions of the PDNA committee members, was communicated to the developer at an inadequately noticed meeting and without any attempt to gauge the opinions of the Pearl residents themselves, in violation of 2.2 and 2.3 of the PDNA bylaws.

2. Failure of the neighborhood association to gauge resident opinions regarding the development by any means.

Both the City and the developers were relying on the PDNA to be the 'voice of the residents' on the PNCA development. However, the PDNA never once took a survey or conducted any poll to ascertain the opinion of the residents of the Pearl on any aspect of the project.

Preserve The Pearl wrote to the PDNA president in June of 2014 specifically asking for a procedure by which the proposal could be fairly considered by the PDNA (see letter, attached and incorporated by reference herein as Exhibit 6 a-c). The PDNA's

written response was essentially that the PDNA would do nothing out of the ordinary regarding this project (even though, given the participation of Preserve The Pearl and other Pearl residents, even the City's planning bureau acknowledged during the DARs during June and July of 2014 that the project had generated intense public interest).

In fact, a 'course of inaction' was undertaken by the PDNA such that the matter was not even taken up by the Planning and Transportation subcommittee of the PDNA until well after the procedure between the developer and the Planning Bureau was almost complete and by which time 'the die was cast'. In a meeting in about December of 2014, the PDNA subcommittee listened to a presentation on the final form of the project from the developers and, only after argument, allowed Preserve The Pearl (not yet an LLC at that time) to make a presentation in opposition. The Planning and Transportation subcommittee then voted instantly to endorse the project without any outreach to the residents of the neighborhood.

It is an abject failure of the democratic process when a quasi-public body like the PDNA presumes to represent the residents of the Pearl without making any affirmative effort whatsoever to gauge the opinions of its constituency. This procedural due process failure must be addressed by ONI and, ultimately, by the City of Portland.

B. Design Commission solicited improper information from those testifying.

During the course of the first DAR on this project, one commissioner asked each public commenter to state not only their residence building or location, but also asked each member of the public to designate the particular side of the building their unit is on. This inquiry was calculated to elicit information regarding what view, if any, may be affected by the proposal. Private views, however, are not part of the design guidelines applicable except for one brief mention in the River District Design Guidelines (RDDG) at page 46, as a passing suggestion that developers consider.

Rather, this line of questioning by the commissioner reveals the extent to which the commission accepts the idea that those objecting to the development are 'really' just NIMBYS complaining about their loss of view. This is not to minimize the fact that loss of property values because of lost views is certainly a real concern for owners (and a motivation for some residents who, given this project, are choosing to sell and move away). However, tainting the testimony of those testifying before the commission by appending an irrelevant factor to their points is clearly a violation of the 'fair hearing' aspect of procedural due process.

C. Design Commission improperly considered future design guidelines.

As is stated in the opinion on page 5, the project in question must be evaluated by the zoning code applicable at the time the project comes under consideration. However, one commissioner noted in response to the 'out of character' aspects of the project that 'this will be a transitional building' in the neighborhood. The context was the fact that the proposed development will dwarf any adjacent properties. No doubt at play was the looming prospect of the West Quadrant plan changing the applicable height limits in the neighborhood from a 75' base to 250' (presumably, including bonuses, but that is unclear).

This 'forward thinking' appears to be a factor in how easily the commission disregarded the explicitly required criteria (see all points, below) enumerated by the zoning code. Although an intangible, it is brought up for consideration simply because the sheer number of factors disregarded by the commission in the approval of the project begs the question.

II The allowance of two separate residential/housing exceptions to the height limits is improper.

Zoning code 33.510.210.A states that generally, the "... bonus options are offered to encourage facilities and amenities that implement the Central City Plan." The Central City Fundamental Design Guidelines and the design overlay River District Design Guidelines specify a number of factors that were disregarded in the design review process (see points below.)

It is a standard rule of statutory construction that the 'General regulations' of a statute control the implementation of that statute as articulated later in that statute. Such a general standard is set forth in 33.510.210B4 which states in part that the bonus for FAR must not exceed the maximum height limit on Map 510-3 (in this case, 75') "... unless eligible for bonus height." Note that the language in 33.510.210B4 is singular, not plural.

By the terms of 33.510.210.B.4 , the height limit shown on Map 510-3 controls the use of any FAR exception for height. The subsequent implementation of this general regulation describes only two generally applicable height categories: a 'general' exception (referred to by the commission during the hearings as applicable to office buildings) described in 33.510.210.D, and a separate category of exception for residential housing as described in 33.510.210.E.

As stated, in the discussions that occurred during the DARs, the design commission generally seemed to regard the bonus height exception under D to be for 'office' space and E to be for residential housing. The distinction had meaning at the time since the developer was unsure at that point whether the development would contain both office space and residential units or simply be entirely residential.

An examination of the general 'office' exception found in 33.510.210.D.1, however, shows that the source for the extra 45' that comes from the FAR exception (33.510.210D2c) is sourced in the floor area bonus option of Subsection 33.510.210.C1.a.(1) (see 33.510.210D1a), which, in fact, turns out to be based on residential housing.

Thus, if generally approved parameters described in the Central City plan and the introductory language of statutes and codes are to be 'implemented' by language found further down in that code or statute, then there appears to be a drafting error in the code which has resulted in a misapplication of the administrative intent.

Simply and as apparently understood by the commission, the intent was to create an 'office' exception and a separate 'housing/residential' exception to height limits. What resulted, however, was a 'double dipping' where, by tracing back the exception used in 33.510.210.D, one discovers that this project has benefited from not one, but two 'residential/housing' exceptions: that found in 33.510.210.C and the one found in 33.510.210.E.

In point of fact, the 'Tower' portion of the project (which is the aspect of the project seeking the height exceptions) is solely residential except for ground floor, street-engagement, commercial. Thus, the criteria appropriate to the 'residential/housing' found in 33.510.210E should apply to the entire 75' bonus sought by the developers.

III The project does not meet all of the design guidelines required in the two bonus height exceptions found in 33.510.210 D and E

Even if the language of the code does not exceed any administrative mandate and thus allows for multiple exceptions to specified residential/housing height, the application of those bonus height exceptions is not 'automatic'.

A. 33.510.210D Factors – the 45' exception

The opinion of the Design Commission fails to include 33.510.210.D as part of the specifically enumerated 'Approval Criteria' (see Design Commission opinion, p. 3). The D section would have to be included, however, if a separate exception allowing only a 45' height exception were applicable. Perhaps this was just an oversight in the opinion and Preserve The Pearl LLC has no objection to its inclusion as if in the original.

Practically, however, throughout the many hearings, the design commission expressed the view that 'there is nothing we can do about the 45' FAR exception because they qualify for the extra FAR, so all we're really talking about is the 30' residential housing exception under E.'

An examination of 33.510.210.D, however, reveals that even when the increase in FAR allows for extra, residential based height, there are still design criteria that must be applied before that extra height is allowed. The design criteria, taken directly from the code, provide that increased height is allowed under the general 'office' exception if the following relevant objectives are satisfied:

1. the preservation of historical districts;
2. the protection of public spaces from shadow;
3. the preservation of the City's visual focus on important buildings (such as the Union Station Clock Tower) [example in the original].

1. Preservation of historical districts

Catty-corner to the project site is the tail end of the 13th Avenue Historic District (see dotted outline portion on Exhibit 5b). The repurposed warehouses that form the core of what is intriguing and attracting about the Pearl are about 88.5' tall (see exhibits Exhibit 2d and 5b; e.g., Chown Pella built in 1912, 7 floors and reconstructed in 1996; e.g. Irving Street Lofts built in 1292, 7 floors).

While the 'guidance' offered to the developer by the PDNA to downsize the 13th Avenue side of the project may have been a good faith gesture towards preserving the character of the Historic District, the idea that a 150' wall positioned on another part of the very same parcel would *not* impact the Historic District is hardly credible. The development of any block immediately adjoining the Historic District will have an impact on the character and quality of that Historic District.

This factor was apparently discarded in the commission's approval of the 45' general 'office' bonus (as well as the approval of the housing bonus of an additional 30', see below).

The developer is to be commended for the design of the mid-rise, 13th Avenue side building in that the size and materials utilized on that half of the project are consistent with the rhythm of the Historic District as that term is used in the Central City Fundamental Design Guidelines and the River District Design Guidelines. The contrast with the 12th Avenue, 150' Tower, however, could not be greater and thus more inconsistent and inappropriate.

2. The protection of public spaces from shadow

During the DARs, the commission appropriately called for design studies to be done to assess the impact this project would have on Jamison Park (a diagram from the study commissioned by Preserve The Pearl LLC is attached as Exhibit 7). It was widely acknowledged that Jamison is a precious resource to all residents of the city, particularly to families (see Exhibit 2c). Those studies purport to show that the

shadow cast by the project at particular times of the day would be no more than that currently cast by the Riverstone. This conclusion defies common sense and in any event does not consider the *density* of the shadow. At some point in the afternoon, the shadow from the development, which is approximated 3 times the height of the Riverstone condominiums, *must* impact the park.

Also not considered is the perpetual shadow cast on 12th Avenue and the impact this would have on the viability of any street trees and other living creatures that might find themselves on that darkened area of the city streets on some afternoon. The protection of public space in Portland should call for maximizing the warmth of light, not diminishing it.

3. The preservation of the City's visual focus on important buildings (such as the Union Station Clock Tower) [example in the original].

One of the outstanding and uniquely Portland qualities of the middle-Pearl is the visual focus of the Union Station Clock Tower. This proposition is apparently so obvious that it warranted specific mention in the zoning code (likely via the specific discussion found in the River District Design Guidelines at A5-1-4, "Reinforce the identity of the Union Station Area"; see Exhibit 11). However, the project in question will create a 150' high wall across the 'visual focus' of the Tower in relation to at least half the neighborhood (consider Exhibits 2a, 4, 8, 9b).

It also should be noted that the iconic Tower is even susceptible of being seen (in passing) while traveling north on the 405. The impact of positioning this development on a north/south axis right in the middle of the neighborhood cannot be overstated.

The project will completely overwhelm visuals from west to east: from Northwest and the 405 into the Pearl. Walling off the Union Tower by the project's 150' tall tower does not 'preserve the visual focus' on this uniquely Portland landmark as called for by the applicable zoning code and the River District Design Guidelines. The Tower and the Union Station area deserve much more consideration than what this project offers and what the design commission gives them.

B. 33.510.210E Factors – the 75'/30' exception

33.510.210.E.4 sets out the specific approval criteria for bonus height provided all of the criteria are met. These are, inter alia:

- e. The increased height will result in a project that better meets the applicable design criteria; and
- f. Approval of the increased height is consistent with the purpose stated in Subsection 33.510.205.A.

The applicable design criteria as suggested in subsection 'e' is acknowledged in the Design Commission opinion at page 3 to include the design guidelines found in the Central City Fundamental Design Guidelines (CCFDG) and the River District Design Guidelines (RDDG). Subsection f requires the application of the criteria specifically enumerated in 33.510.2015.A.

1. The application of 33.510.210.E.4.e design criteria.

The design that 'better meets the applicable design criteria' was the design the developers first brought to the PDNA in November of 2013 as discussed in section I A 1, above and as shown in Exhibit 3a. A 'better design' is also embodied in the currently proposed mid-rise on the 13th Avenue side of the project.

What follows, below, is an analysis of each of the CCFDG and RDDG design criteria that are relevant to Block 136 and how each of those criteria is not met by the proposal. The burden of proof, however, is on the developer to show how their currently proposed 150' tower better meets the design criteria than the original, parallel 10 story structures or the currently proposed mid-rise on 13th Avenue.

The numbering system in the following analysis mirrors the numbering system set out in the CCFDG and RDDG standards.

A Portland Personality

A 1 Integrate the River

A1-1 Link The River To The Community

The CCFDG declares that, "The Willamette River is the Central City's most significant geographical feature." CCFDG, p. 20. The guideline of 'Integrating the River' may be accomplished by, "Connecting the urban fabric to the water's edge." CCFDG, p. 22.

The RDDG states, "... as the river is not easily visible, linking the river to the community visually and physically will lean heavily on the expression and orientation of streets and pedestrian ways, buildings and open spaces in order to celebrate the river's importance to the community." RDDG p. 10.

The proposed project fails to connect the urban fabric of the Pearl District to the water's edge, but rather creates a massive wall that cuts off half of the residential area's connection to the river.

Block 136 is very close to the Willamette River (see Exhibits 2a; 4; 5a and b). From the Tower side of the development site there are three streets to the Post Office, Union Station, and then the river. From the same 12th Avenue mark, there are similarly three streets to the 405. Therefore, the proposed development is located

exactly in the middle of the residential area south of Lovejoy to Hoyt. By its placement along the edge of 12th Avenue and on a north/south axis, the developer seeks to create a 150 foot tall wall that cuts off the Willamette from the rest of the Pearl from 12th Avenue west to the 405.

The RDDG at page 10 states as follows:

Orienting buildings and towers perpendicular to the river signals a shift in the landscape that will foster an awareness of the river's presence for residents, commuters, workers, and visitors.

The proposed development, however, is oriented parallel to the river on a north/south axis (see Exhibits 4 and 5a). Because of its massive size and incorrect geographical orientation, the proposal generally, and the Tower wall in particular, cuts off the river; it does not integrate it.

Simply by reorienting the 150 foot Tower wall to an east/west axis along the northern edge on Kearney Street, the project would better meet the design guidelines and have the following beneficial effects:

- Maintaining the middle Pearl's connectedness to the river, Union Station, the Steel Bridge and Mt Hood by repositioning the Tower wall to the north of the site, along an east/west axis, thus reducing the 'walling off' of the residential portion of the middle Pearl from these uniquely Portland landmarks;
- Relating the massive Tower wall to the Lovejoy corridor (an east/west axis) and, by extension, to NOLO, where buildings of this size and mass are becoming more common, and in so doing respecting the character and rhythm of both neighborhoods, NOLO to the north and the middle Pearl to the south;
- Be at least somewhat less impacting on the 13th Avenue Historic District by positioning the Tower wall to a point furthest from both the northern and eastern edges of the district;
- Enhance the vibrant streetscape of 13th Avenue by orienting the public space between the two buildings on an east/west axis that would feed into 13th Avenue and thereby increase vibrancy rather than creating a hidden and competitive, parallel path;
- Enhance the existing pedestrian walkways by orienting the public space between the two buildings to an east/west passage that is actually useful to the residents (east towards the river/post office; west towards 13th Ave and 21st/23rd Avenues), rather than leading to middle-of-the-block dead ends on Kearney (north) and Johnson (south);

- Reduce the size and density of the shadow cast on the public spaces of Jamison Park and 12th Avenue from a long wall to a profile of the Tower;
- Reduce the size and impact of the shadow by causing the greater part of the Tower shadow to fall on the 2 story, industrial/commercial building boarding to the north on Kearney;
- Reduce the afternoon shadows cast on existing residential by, again, changing the shape of the shadow from a long wall to a profile of the Tower as experienced by the Riverstone and by the residential housing on the eastern edge of Jamison Park;
- Reduce morning shadow and otherwise preserve the morning sunlight to a greater degree for the residential neighborhood to the west of the project by changing the shape of the shadow from a long wall to a profile.

A2 Emphasize Portland Themes

“Examples of elements that identify Portland include ... water features, bridges ... mountain views ... and the natural environment.” CCFDG, p. 24.

The 150 foot tall proposal overwhelms all immediately adjacent properties and the neighborhood generally (see Exhibit 4 and 5b). Rather than celebrating the unique character of this Portland area by emphasizing the river and enhancing public views of the tower at Union Station, the Steel Bridge, and Mt. Hood, the proposal seeks to *Seattle-ize* this unique little valley in the Pearl and obliterate the Pearl’s connection to these uniquely Portland elements.

The project plan was initially introduced to the Design Commission by a misleading photograph on its cover: a shot down 13th Avenue that in its central perspective shows a ‘great wall’ of a building (see Exhibit 2e). In reality, the building shown in the developer’s photograph in Exhibit 2e actually exists across Burnside at 430 SW 13th Avenue --- *outside the Pearl District*.

In contrast to the chaotic urban landscape depicted in the photo (Exhibit 2e), the middle Pearl is actually a very ‘human scaled’ part of the city (see Exhibits 2b-c) with many opportunities to view bridges (the Fremont, Broadway and Steel) and Mt. Hood, especially from the area under consideration (see generally Exhibit 2a).

As noted above, a uniquely Portland feature of our neighborhood is the Romanesque tower at Union Station (see Exhibits 5a and 11). This building is so iconic that it is featured on T-shirts sold at the station. Public views of all of these Portland features will be significantly diminished or destroyed by the proposal.

The current proposal, by its huge size, placement in the middle of a valley of low-slung buildings, and orientation on a north/south axis that destroys rather than enhances any neighborhood connection to the Willamette River and Mt. Hood, and fails to meet the CCFDG and RDDG considerations that should serve to preserve these uniquely Portland characteristics in our neighborhood (see Exhibits 2a-g).

A3 Respect the Portland Block Structure

A3-1 Provide Convenient Pedestrian Linkages

“Portland’s pattern of small blocks with frequent intersections results in a high ratio of open space to built space and emphasizes the city’s human-scale and visual structure.” CCFDG, p. 28. “This design criteria can be implemented by developing pedestrian access ways ‘between housing complexes’ as used in the River District.” *Id.* at p. 31.

The pedestrian access examples in the CCFDG taken from the River District actually cut through low to mid-rise developments from east to west (see as an example Exhibit 10), not north to south as in the current proposal.

If the proposed design were to break up the massive, 150 foot wall proposed for the 12th Avenue side with two mid-rises oriented to include an east/west pedestrian passage, then the project would be more conducive to creating the human scale atmosphere that currently exists in the area and would meet this design guideline.

A5 Enhance, Embellish and Identify Areas

A5-1 Reinforce Special Areas

A5-1-1 Reinforce The Identity of the Pearl District Neighborhood

A5-1-4 Reinforce The Identity of the Union Station Area

“Areas of the Central City are enhanced, embellished, and/or identified through the integration of distinct landmarks or special features with the new development. Visual focal points inspire the observer and enrich the design context that gives identity to an area.” CCFDG, p. 36.

“The River District is composed of many distinct special areas ... Each of these areas is characterized by unique features, opportunities, or a special history. New development should enhance the qualities that make each area distinctive.” RDDG, p. 16.

The neighborhood in question is a unique subpart of the Pearl (see zoning map 510-3, Exhibit 1) featuring a distinctive ‘valley’ created by the 405 corridor buildings on one side, and by the low-slung buildings extending from 14th Avenue all the way to Union Station (see Exhibits 5b (height study) and 8 (step-down drawing)). As noted above, the development site sits right in the middle of this neighborhood. The developer’s ‘great wall’ would destroy this unique valley with a 150 foot tall ‘ridge’ running right down the middle of our neighborhood.

It only stands to reason that if the particular and unique character of neighborhoods is to be nurtured, then building designs more suited for one area should be proposed for the appropriate area. The Block 136 proposal is actually more suited for the area now known as NOLO.

It is well known that height and FAR restrictions have been lifted in NOLO. The only two other structures within a few blocks of Block 136 that are close in height to the proposal are both north of Jamison Park. Each, the Metropolitan and Park Place, sit on the Lovejoy corridor and thus serve as connectors to the NOLO high-rise sub district of the River District area. Given their connection with NOLO, those buildings are not relevant references for the area under consideration.

In fairness it should be noted that a massive 'wall-like' structure does exist in the Pearl south of Lovejoy, but it is much further south, situated across the street from Powell's, and is almost a 'gateway' structure connecting the Pearl to Downtown. 1025 NW Couch exists in what could be described as the Lower Pearl, a zone that allows for greater base height limits as shown on map 510-3 (see Exhibit 1). It also runs the block from east to west, not north to south as in the proposal for Block 136. By running from east to west, the building accentuates the Burnside corridor and channels views and energy from the city towards the river (See the axis/orientation discussion at the end of section III B 1 A 1, above). The current proposal does the opposite.

It is important to point out that the height study prepared by the developer (Exhibit 5b) shows that there are currently no housing bonus height projects in the middle Pearl neighborhood. In the middle Pearl, the only buildings above 100' are immediately adjacent the 405 and one on the south side of Lovejoy, essentially in the Lovejoy corridor. The buildings adjacent the 405 actually protect the neighborhood from the air and noise pollution of the freeway while the building on the Lovejoy corridor now serves as a gateway to the NOLO high rises.

A6 Re-use/Rehabilitate/Restore Buildings

"Even though an existing building is not a designated historic landmark, or located within a historic district, it may still be a good candidate for upgrading and/or adaptive reuse." CCFDG, p. 42. "This guideline may be accomplished by ... respecting the original building while adapting it for a new use." *Id.* at p. 43. "The NW 13th Avenue Historic District maintains its unique character because many developers have reused existing buildings for new office, retail, and housing opportunities." CCFDG, p. 44.

The current PNCA building fits the surrounding area in that it is low-slung and is 'industrial' in appearance. It also enhances the reputation of the Pearl District as a center for creative artists. The current proposal would destroy all of those positives

and replace them with a divisive Tower that brings nothing creative or unique to the area.

The RRDG states the following goal: "Celebrating and encouraging the concentration of art and art galleries and studios with design features that contribute to the Pearl District's "arts ambiance." RRDG p. 19

The implementation of this guideline might consist of repurposing the current building into artist's lofts using the current structure and building up to a height no greater than the neighboring buildings, perhaps 6 or 7 stories. These creative living/work spaces would preserve the positive qualities that the PNCA contributed to the area to a vastly greater degree than the staid, uninspired 'great wall' design of the current Tower proposal.

A7 Establish and Maintain A Sense Of Urban Enclosure

"Successful enclosure creates an urban space for residents, shoppers, and workers alike to bask in the sun, window shop, promenade, picnic, and celebrate." CCFDG, p. 46. "This guideline may be accomplished by ... responding to the scale of the surrounding context [by recognizing] a common scale and proportion, creating a balanced street volume." *Id.* at p. 47.

As discussed above, the proposed 150' Tower is completely out of scale to the immediately adjacent buildings. The 'valley' in this unique area of the Pearl just south of Lovejoy is of a charming, human scale. The proposed wall destroys this common scale and proportion. Rather than creating a balanced street volume, the proposed development knifes through and divides the area, the current buildings, and ultimately, the residents traversing from east to west.

A8 Contribute to a Vibrant Streetscape

"The integration of residential and commercial uses in the Central City's core is a fundamental component of the ideal 24-hour city." CCDFG, p. 50. "This guideline may be accomplished by ... capitalizing on sidewalk opportunities." *Id.* at p. 52.

The RDDG declare at page 13, "NW 13th Avenue features hundred-year-old loft warehouses and also serves as an active, mixed-use pedestrian corridor, stretching beyond its historic district boundaries." The proposed development site is so close to the "historic boundary" that its southwest corner actually touches it.

Just south of Block 136, the Irving Street Kitchen, Paragon, the Filson Store, Barista and the new River Pig Saloon all contribute to a vibrant, human-scaled area surrounded by industrial warehouses and low-slung buildings. Just north of the proposed site, Bridgeport, with its 13th Avenue deck, and Sisters Coffee create another hot spot for pedestrian interactions, again, all housed in human scaled, industrial warehouse type buildings.

The proposed development creates a pedestrian north/south axis away from 13th Avenue. Instead, its pedestrian emphasis should connect with 13th Avenue in order to connect the vibrancy found north and south of the site location. By connecting on an east/west axis directly onto the 13th Avenue side, this development would enhance the current commercial and social dynamics of the neighborhood, as, for example, creating pedestrian synergy with the Nossa Familia Coffee company and shop just across the street at 13th and Johnson, a Brazilian family coffee connection in this area of the Pearl that is truly a hidden jewel.

The current proposal, with its emphasis on a pedestrian walkway in the middle of the block oriented on the wrong geographic axis, fails to integrate and enhance the vibrancy of the street scene both north and south of the location. Allowing this development on its current axis would constitute a hugely missed opportunity.

B Pedestrian Emphasis

B1 Reinforce and Enhance the Pedestrian System

“It is largely the continuity of the system, as well as the visual connections from one area to another, that binds different areas together and encourages pedestrian movement.” CCFDG, p. 62. “This guideline may be accomplished by ... designing buildings to encourage the use of the sidewalk.” *Id.* at p. 65.

As noted above in III B 1 A 8, the proposed development, through its use of a pedestrian walk on a north/south axis, does nothing to enhance the existing pedestrian system in the area and misses the opportunity to connect and enhance that pedestrian system.

B5 Make Plazas, Parks and Open Space Successful

B5-1 Recognize The Roles of the Tanner Creek Parks

“Plazas, parks, and open spaces are crucial amenities of the Central City... When new development proposals are located adjacent to dedicated public spaces, height, bulk, and shadow regulations protect public spaces from excessive shadow during anticipated high use periods. These mechanisms are intended to ensure that new construction ... will not negatively impact access to sunlight for public open spaces.” CCFDG p. 78. “This guideline may be accomplished by ... orienting incorporated open spaces to receive sunlight.” *Id.* at p. 79.

“The Tanner Creek Parks function as both a neighborhood park system and as one of Portland’s primary promenades, extending the North Park Blocks northward to the Willamette River. Adjacent private development to the parks should support and enhance these roles.” RDDG p. 40.

Directly one block east of the proposed 150 foot tower wall is Jamison Square Park, part of the Tanner Creek Parks (see map, RDDG p. 40). As noted above, the park is a delightful urban green space alive with the sound of children playing in the water and on the installed sculptures (see Exhibit 2c).

As noted above, the proposed 150 foot tower wall would loom over the much lower block between the development and the park, casting a long, dark shadow over the Riverstone condominiums and creating a more dense shadow on the park itself. Both these circumstances violate the goal of "... limiting shadows on public open spaces ... and limiting shadows from new development on residential neighborhoods ..." (See PCC 33.510.205(A), as more fully discussed below).

C Project Design

C 1 Enhance View Opportunities

C1-1 Increase River View Opportunities

"Significant existing public views of both the natural and built environments are preserved in the Central City through building height limitations and other mechanisms adopted as a part of the city's Scenic Resources Plan. The protection and enhancement of these views, as well as the creation of new views from public open spaces and/or buildings, helps to orient pedestrians moving through the Central City...Taking advantage of the surrounding view opportunities increases the desirability of living, visiting, and working in the Central City." CCFDG, p. 92.

"Guideline ... Size and place new buildings to protect existing views and view corridors." *Id.* at p. 93. "This guideline may be accomplished by ... enhancing views of significant features." *Id.* at p. 95.

As discussed in detail throughout this memo, the proposed 150 foot Tower wall, by its sheer size and placement on a north/south axis, creates a 'great wall' that curtains off the Union Station Tower, the Steel Bridge, and Mt. Hood from any public vantage point west and northwest of the building site.

The views from the On Deck, certainly at least a quasi-public space, would be significantly decreased by the proposed height of this development. And casual views of the top of the Steel and Fremont Bridges would be compromised depending on the vantage point taken from a number of public spaces, like walking along Kearney Street west of the building, for instance, or standing near the entrance of REI looking northeast and east.

Perhaps there is no more iconic Portland image than that of Mt. Hood, serving as a distant focal point that reminds us all of the majestic beauty of nature and the

opportunities for escape and recreation to be found in the great outdoors. The proposed project is so massive in size, however, even public views of Mt. Hood would be obliterated from many vantage points in the neighborhood.

C4 Compliment the Context of Existing Buildings

“A consideration in the design of a new building is to complement the local context of existing buildings... Within the Central City, there are localized groups of buildings that share similar design characteristics... These areas often exhibit a common expression of design ... details that distinguish the local architecture from that found in other parts of the Central City. This common expression of design ... details can be referred to as a design vocabulary... an area’s design vocabulary include[s] building proportion, scale [and] rhythm ...” (CCFDG, p. 104).

As discussed above, the existing buildings immediately adjacent to the project are all consistent with the ‘valley’ of low-slung buildings south of Lovejoy. Placing a 150 foot Tower wall would not complement the existing buildings, but rather would loom over them, denying them light, air, and the sense of space that comes from views that project further than across an urban street.

The common building scale in the area, as discussed above, is ‘low-slung’ and creates a ‘valley’ from Lovejoy south to include Hoyt (Exhibit 2f), and from 14th Avenue east to the river (Exhibit 2g). Glorious morning light floods through this valley in the Pearl. To build a 150 foot tall wall that extends the entire length of a city block from north to south would destroy the continuity of this light coming in from the east. Such a tall structure would be an anomaly, entirely inconsistent with the scale, proportion, and ‘rhythm’ of the neighborhood.

Also as noted, the proposed development block is directly catty-corner to the northern tip of the Historic 13th Avenue sub district. The proposed development pays only slight heed to this fact in moderating the more “modern” design of the Tower with a more “warehouse” looking mid-rise. The design problem this presents, of course, is that when the two buildings are taken in conjunction, there is no rhythm or consistency even within the development itself.

2. The application of 33.510.210.E.4.f, the 33.510.205.A design criteria.

To qualify for any housing bonus height, the project must also meet each of the design criteria enumerated in 33.510.205.A as required by 33.510.210.E.4.f. Zoning code 33.510.205A states as follows:

33.510.205 Height

A. Purpose. The maximum building heights are intended to accomplish several purposes of the Central City Plan. These include protecting views,

creating a step- down of building heights to the Willamette River, limiting shadows on public open spaces, ensuring building height compatibility and step downs to historical districts, and limiting shadows from new development on residential neighborhoods in and at the edges of the Central City.

Each of these factors is addressed seriatim, below.

A Protecting Views

It is interesting to note that the prevailing view of the design commission and any planner one speaks with in the downstairs assistance office is that 'protecting views' means only 'public' and not 'private' views and view corridors. However, the RDDG does contain language to the contrary:

Designs should be thorough and creative, and maximize the opportunities to view the Willamette River. Projects should also consider means to enhance their neighbor's views of the river.

[RDDG, p. 46]

Also in contrast to the conventional wisdom, the express language of 33.510.205.A is "...protecting views ..." and thus fails to limit this language to only 'public' views to the exclusion of 'private' views.

Clearly the proposed tower does not enhance views of or toward the river, neither public views nor the private views of its neighbors. In a comparative analysis as called for by the code, the original design and certainly the currently proposed mid-rise on 13th Avenue accomplishes the goal of this factor in an obviously superior manner.

B Creating a step-down of building heights to the Willamette River

Complimentary to the factor immediately preceding, 33.510.205.A also expressly requires building heights to step-down to the Willamette River. At some point in the review process, one of the commissioners wryly noted that this provision seems to be violated rather routinely (words to that effect; not a direct quote).

As may be seen by the study attached hereto and incorporated by reference herein as exhibit 8, the 150' Tower actually creates a giant ridge directly in the center of the middle Pearl. The tower is a step-up, not a step-down, for half the neighborhood. There is simply no way this applicable factor is met by the currently proposed tower.

C Limiting Shadows on public opens spaces

As discussed above in section III A 2 and also III B 1 B5-1, above, the public resource of Jamison park, so much beloved by all of the residents of Portland but particularly by those who live in the neighborhood, is negatively impacted by height of the Tower portion of the project.

D Ensuring building height compatibility and step downs to historical districts

As more fully discussed above in sections III A 1 and III B 1 C4, it is obvious that the proposed 150' Tower is incompatible with the buildings immediately adjacent and also those buildings south of Kearney to Hoyt. It is simply not credible to suggest that the currently proposed project, as a whole, does not overwhelm the 13th Avenue Historic District when only the 13th Avenue side respects the character of the area.

E Limiting shadows from new development on residential neighborhoods

The shadowing of residential neighborhoods has only been alluded to in passing above and certainly deserves the central focus suggested by this specifically enumerated factor. It is a tragedy that the west side of the 6 story Riverstone condominiums will be permanently cast in afternoon shadow by the 150' Tower. Although a 6 story building on the scale of the 13th Avenue mid-rise would still rob the Riverstone of its sunsets, at least there would still be some direct or filtered sunlight until an hour or two before the sun sets behind the ridge of the west hills.

As seen by the shadow study (see Exhibit 7), it is not just the Riverstone that is impacted. The shadow cast by the Tower extends all the way across Jamison Park and over to the residential property boarding the park's east side.

The shadows cast on the existing residential neighborhood by this new development are profound. A building similar to the original proposal or the currently proposed 13th Avenue mid-rise would have far less impact and thus would be a superior design that better meets this design guideline.

Conclusion

Repeatedly the applicable zoning code provisions purport to be serving the "purposes of the Central City Plan" (33.510.200.A; 33.510.205.A) or written "to encourage facilities and amenities that implement the Central City Plan" (33.510.210.A).

The approval of the project by the design commission, however, actually disregarded the applicable design guidelines as well as the evaluation standards for

those guidelines specifically found in the Central City Fundamental Design Guidelines (CCFDG) and the River District Design Guidelines (RDDG), both of which are acknowledged to be part of the 'Approval Criteria' for the project (see Design Commission opinion, p.3).

"The Central City Plan encourages vigorous, balanced growth, building on the city's strengths, and *maintaining Portland's cherished livability and human scale.*" CCFDG, p. ix, emphasis added.

As stated above, the method to be used in the review process for applying the relevant design guidelines is specifically described in the Central City plan as follows:

Design guidelines are mandatory approval criteria that must be met as part of design review and historic review ... During the design review process, the review body must find that the proposal meets each of the applicable design guidelines. Proposals that meet **all** applicable guidelines will be approved; proposals that do not meet **all** of the applicable guidelines will not be approved.

[Central City Fundamental Design Guidelines, p. 10, emphasis in the original]

Where in this entire review process did this evaluative standard get discarded?

In summary, the Tower portion of the Block 136 proposal fails to meet **any** of the following applicable design guidelines:

- The 150 foot Tower does not fit the size, scale, dimension, and overall rhythm of this unique area of the Pearl (33.510.210E4g; CCFDG C4; RDDG A-5);
- The 150 foot Tower does not preserve the character of the 13th Avenue Historic District (33.510.210D; 33.510.205.A) either in size or composition, all design elements successfully addressed by the size, design, and materials proposed for the mid-rise part of the project facing 13th Avenue and which should be applied to the Tower by at the very least simply enforcing the 75' base height designated as the 'maximum height' allowed in the area by map 510-3;
- The 150 foot Tower does not enhance the area's connectedness to 'the most significant geographical feature of our city' (CCFDG, p. 20), the Willamette River (33.510.210.E.4.g; CCFDG A-1 and RDDG A1-1), which would be addressed, at least in part, by positioning the Tower wall to the northern edge along Kearney, running on an east/west axis, perpendicular to the river and consistent with the neighborhood's orientation to the river via the

existing street grid and the Broadway Bridge, and as specifically called for by RDDG, p. 10. Simply making this correction would have the following salutary effects:

- Maintain the middle Pearl's connectedness to the river, Union Station, the Steel Bridge and Mt Hood by repositioning the Tower wall to the north of the site, along an east/west axis, thus reducing the 'walling off' of the residential portion of the middle Pearl from these uniquely Portland landmarks;
 - Relating the massive Tower wall to the Lovejoy corridor (an east/west axis) and, by extension, to NOLO, where buildings of this size and mass are becoming more common, and in so doing respecting the character and rhythm of both neighborhoods, NOLO to the north and the middle Pearl to the south;
 - Be at least somewhat less impacting on the 13th Avenue Historic District by positioning the Tower wall to a point furthest from both the northern and eastern edges of the district;
 - Enhance the vibrant streetscape of 13th Avenue by orienting the public space between the two buildings on an east/west axis that would feed into 13th Avenue and thereby increase vibrancy rather than creating a hidden and competitive, parallel path;
 - Enhance the existing pedestrian walkways by orienting the public space between the two buildings to an east/west passage that is actually useful to the residents (east towards the river/post office; west towards 13th Ave and 21st/23rd Avenues), rather than leading to middle-of-the-block dead ends on Kearney (north) and Johnson (south);
 - Reduce the size and density of the shadow cast on the public spaces of Jamison Park and 12th Avenue from a long wall to a profile of the Tower;
 - Reduce the size and impact of the shadow by causing the greater part of the Tower shadow to fall on the 2 story, industrial/commercial building boarding to the north on Kearney;
 - Reduce the afternoon shadows cast on existing residential by, again, changing the shape of the shadow from a long wall to a profile of the Tower as experienced by the Riverstone and by the residential housing on the eastern edge of Jamison Park;
 - Reduce morning shadow and otherwise preserve the morning sunlight to a greater degree for the residential neighborhood to the west of the project by changing the shape of the shadow from a long wall to a profile.
- The 150 foot Tower does not adhere to the "step-down" in building heights to the river as specifically mandated by 33.510.205.A via 33.510.210.E.4.f;

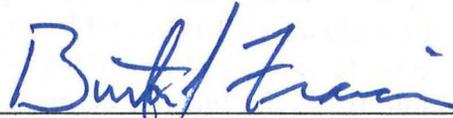
- The 150 foot Tower does not preserve the focal point and centrality of the Union Station Tower as a precious feature of the neighborhood (RDDG A5-1-4; and the specific language of 33.510.210.D)
- The 150 foot Tower does not conserve the public resources of sunlight, air, and view to ensure that shadows from this new development do not fall on the public open space of Jamison Park (CCFDG B5; 33.510.210D) or the residential neighborhoods in the area, both on the eastside of Jamison Park and in particular the Riverstone Condominiums directly across from the project on 12th Avenue to the east (33.510.205A as directly applicable via 33.510.210E4f)

Preserve The Pearl LLC is seeking simply to encourage balanced growth that preserves 'the cherished livability and human scale' of our neighborhood. Accordingly, Preserve The Pearl LLC requests that the City Council remand this case back to the Design Commission and require the commission to carefully consider **all** of the applicable guidelines in this case and approve the project only when **all** of the applicable guidelines have been met.

Respectfully submitted,

PRESERVE THE PEARL LLC

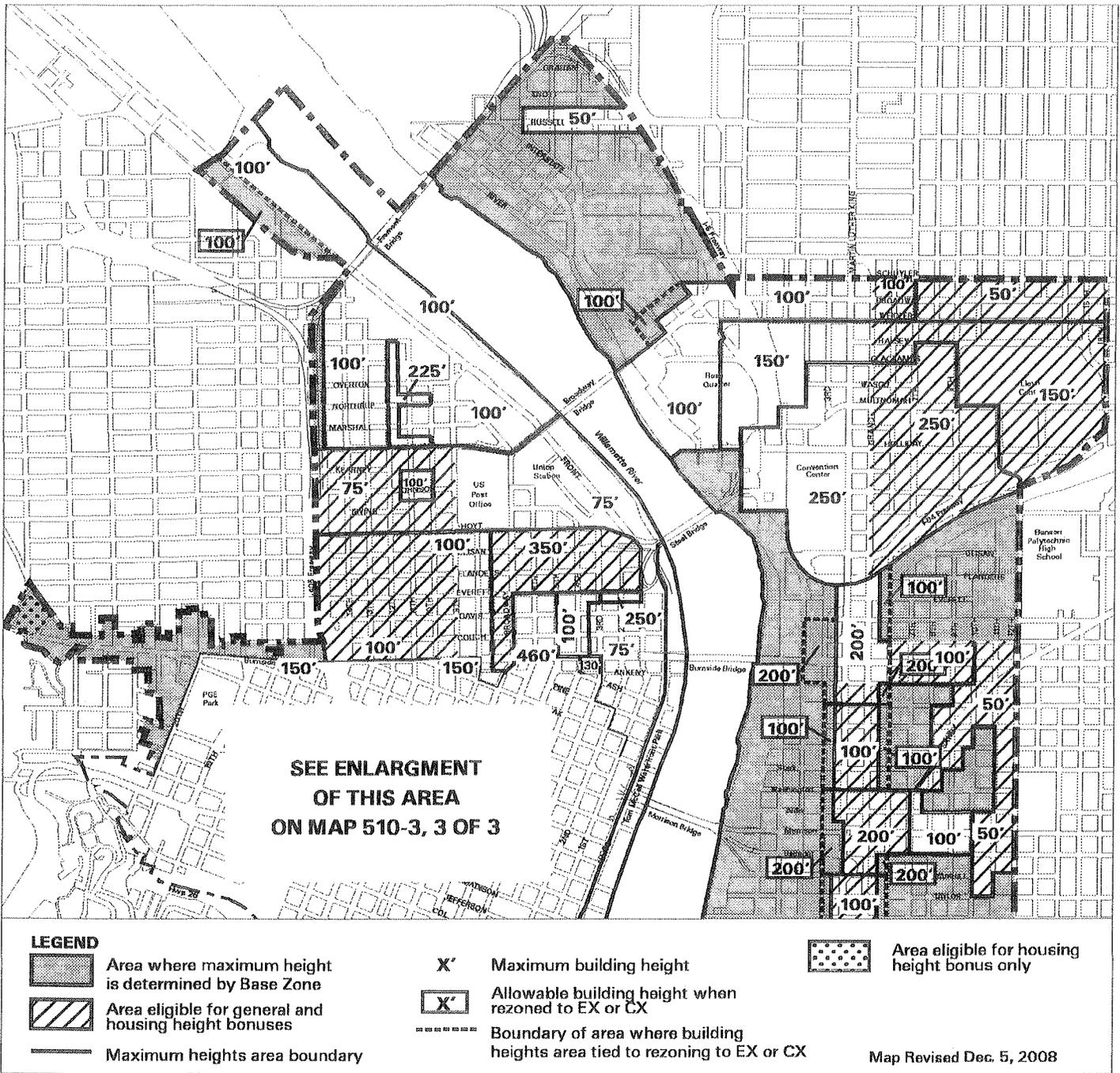
By:



Burton J. Francis, Officer and Agent
Oregon Bar No. 133643

EXHIBITS IN SUPPORT OF APPEAL

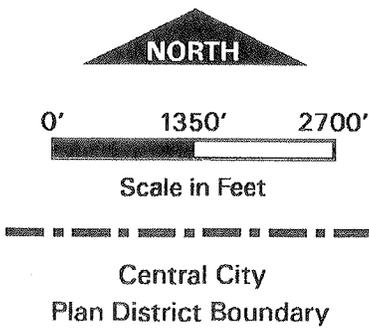
Case File Numbers: LU 14-230014 DZM AD
PC# 14-13411
Pearl Block 136 – Mixed Use



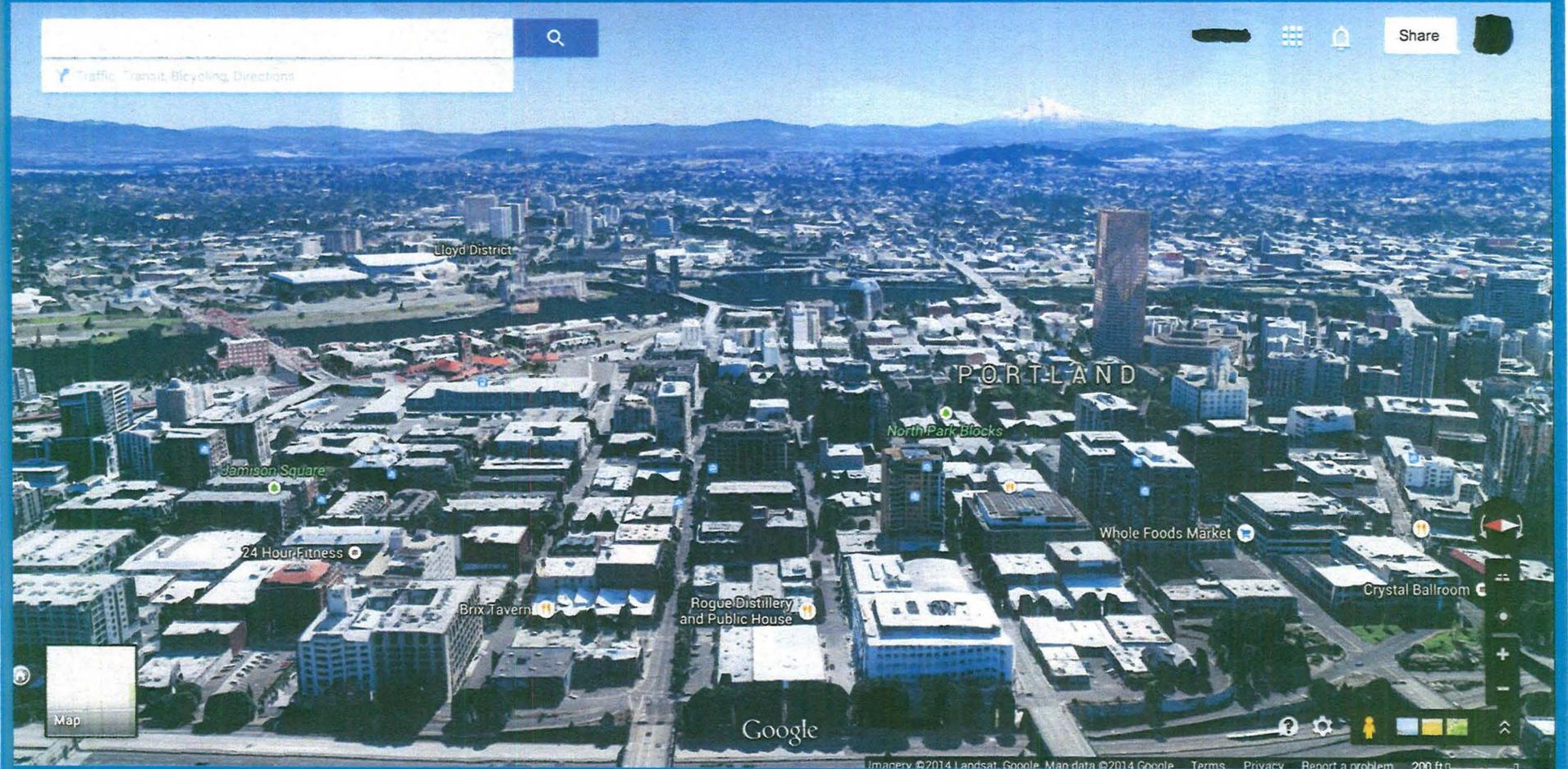
Map 510-3

Maximum Heights

Map 1 of 3



Ex 1

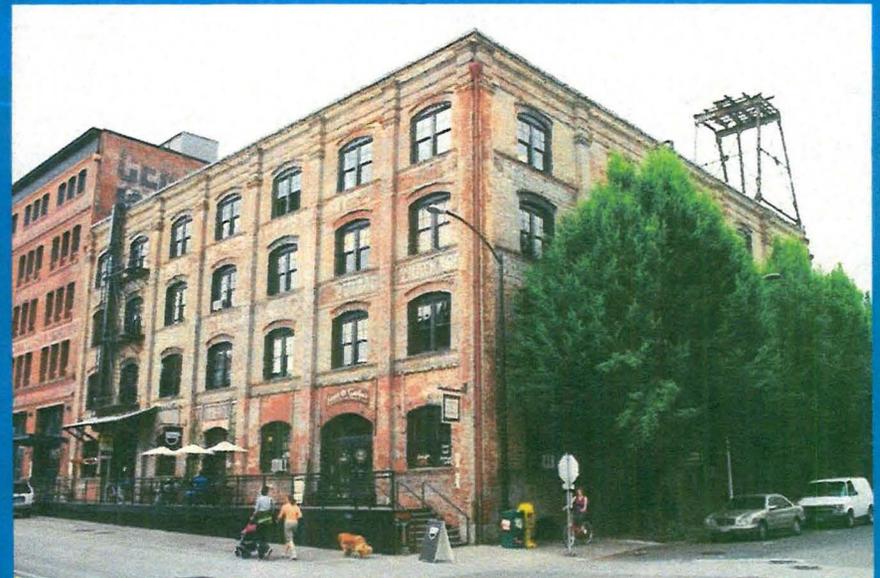


Fx 2a



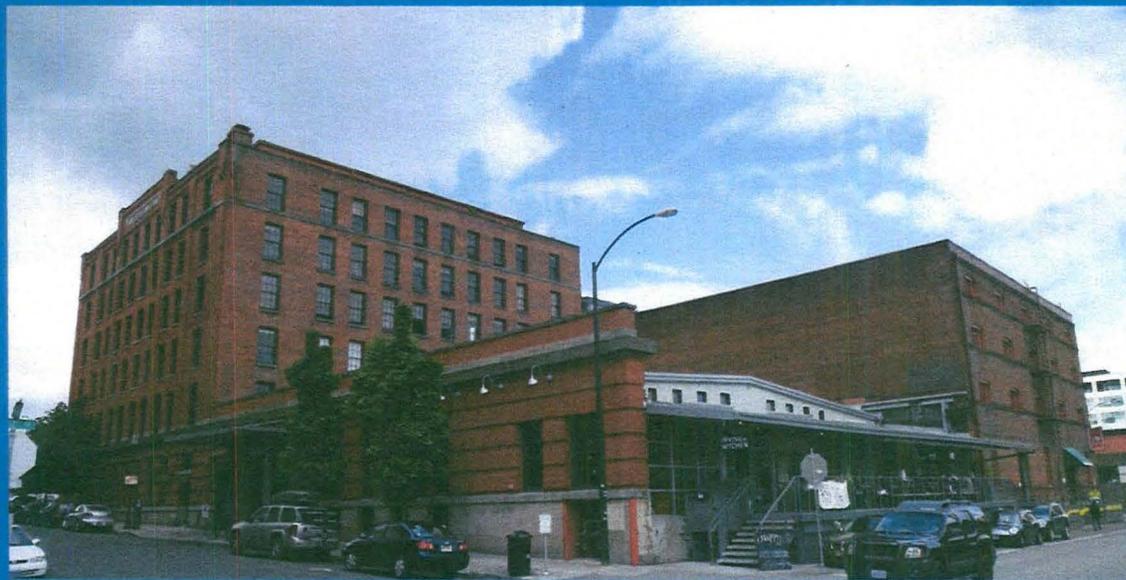
The Avenue Lofts (1923, 2004)
The Crane Lofts (1909, 2007)

Looking east down NW Irving, at NW 15th



The Gadsby Building (1906)
The Keen Building (1907, 2012)

Corner of NW Hoyt and NW 13th, looking SW



Corner of NW Irving and NW 13th

Ex 226



McKenzie Lofts, NW 12th and NW Glisan
Completed 1998



Riverstone Condos (1998)
NW 11th and NW Johnson, looking NW



Tanner Place / Jamison Park
Completed 2000

F~200



Chown Pella (1912, 1996)
88 ½ feet tall (historic district)

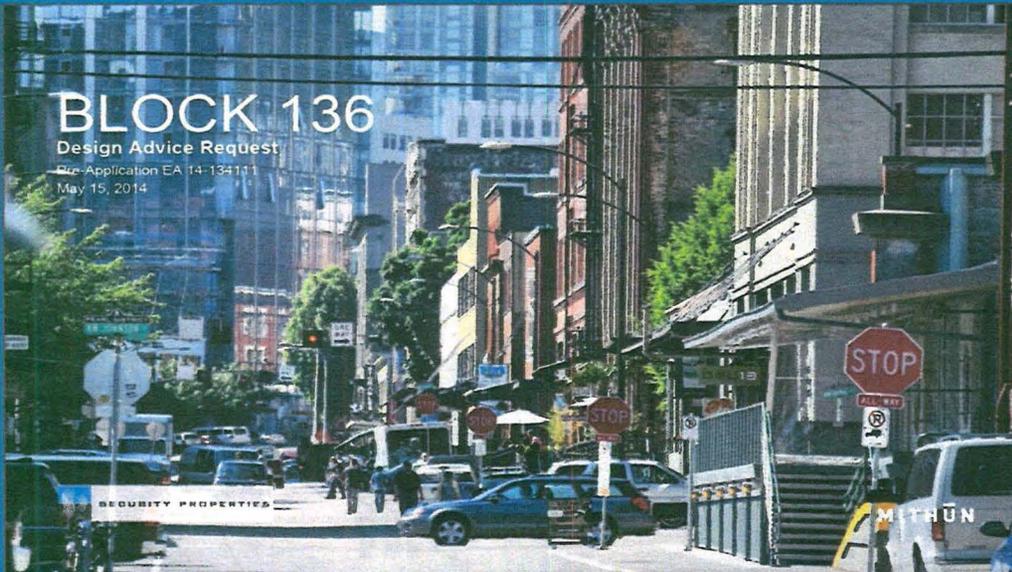


Irving Lofts (1925)
88 ½ feet tall (historic district)



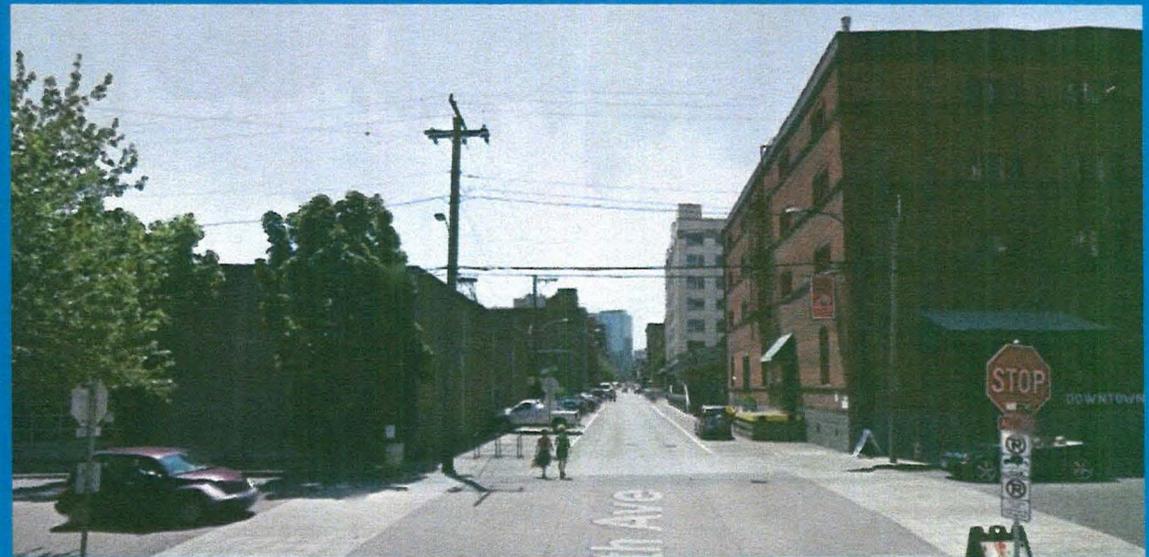
The developer was advised to avoid height on 13th to protect the character of the avenue. If that results in a 150' tower on 12th, we will have failed to protect the unique personality and character of the greater Pearl neighborhood.

Ex 2A

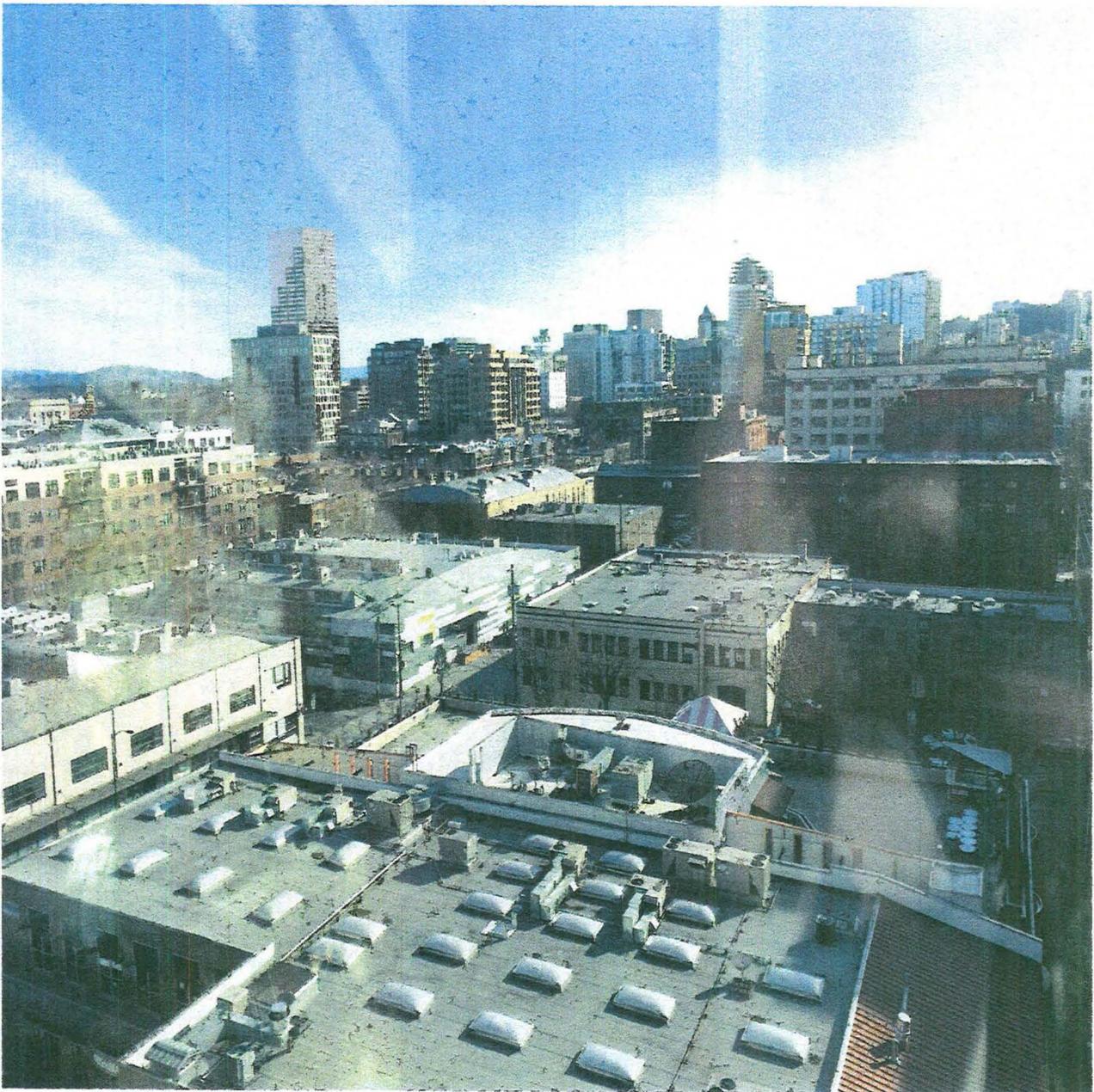


↔ False perspective looking south
down 13th avenue
(cover image of DAR submission
from Security Properties)

Actual view looking ↔
south down 13th avenue

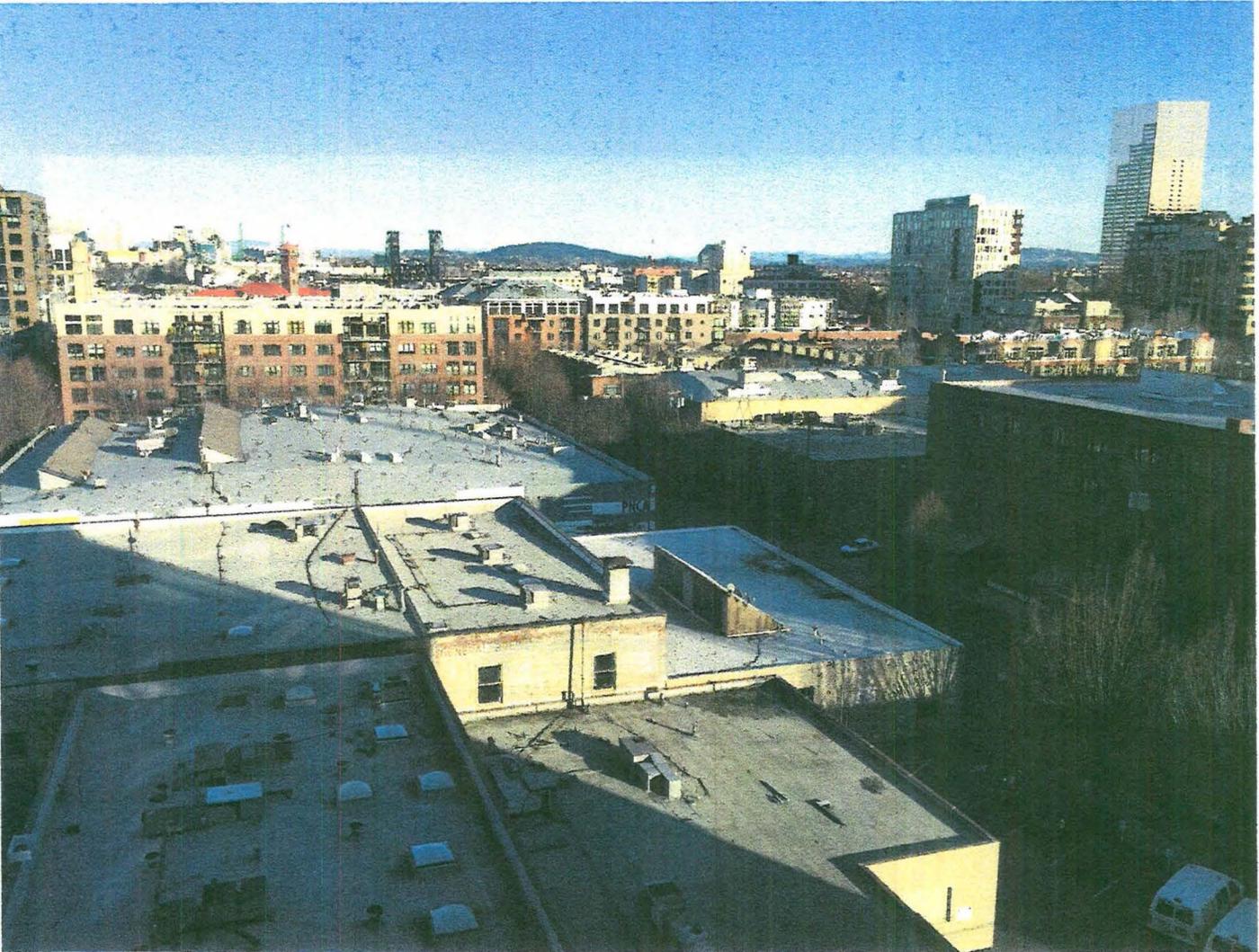


Ex 2e



Middle Pearl Valley 1

Ex 2 f

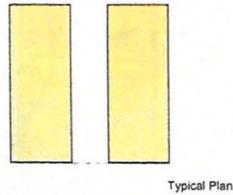
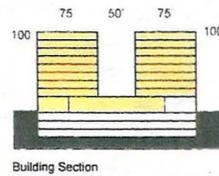
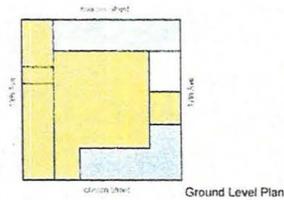


Middle Pearl Valley 2

EX 29

Early Design Exploration

Equal Residential Towers over Retail / Office Podium



Raised Retail/Office Podium:

+/- 35,000 sf

Housing:

+/- 242,000 sf

100' tall

Wood framing over concrete

+/- 285 units

Parking Structure:

Below-grade

Access off 12th Avenue

Abandoned scheme because of tall height on 13th Avenue, lack of public courtyard, large retail floorplate

FAR = 7.0

Legend

- Residential
- Retail
- Office / Housing / Retail
- Parking

Early Design Exploration – two 100' Buildings
(prior to receiving feedback from the PDNA)

Ex 3a

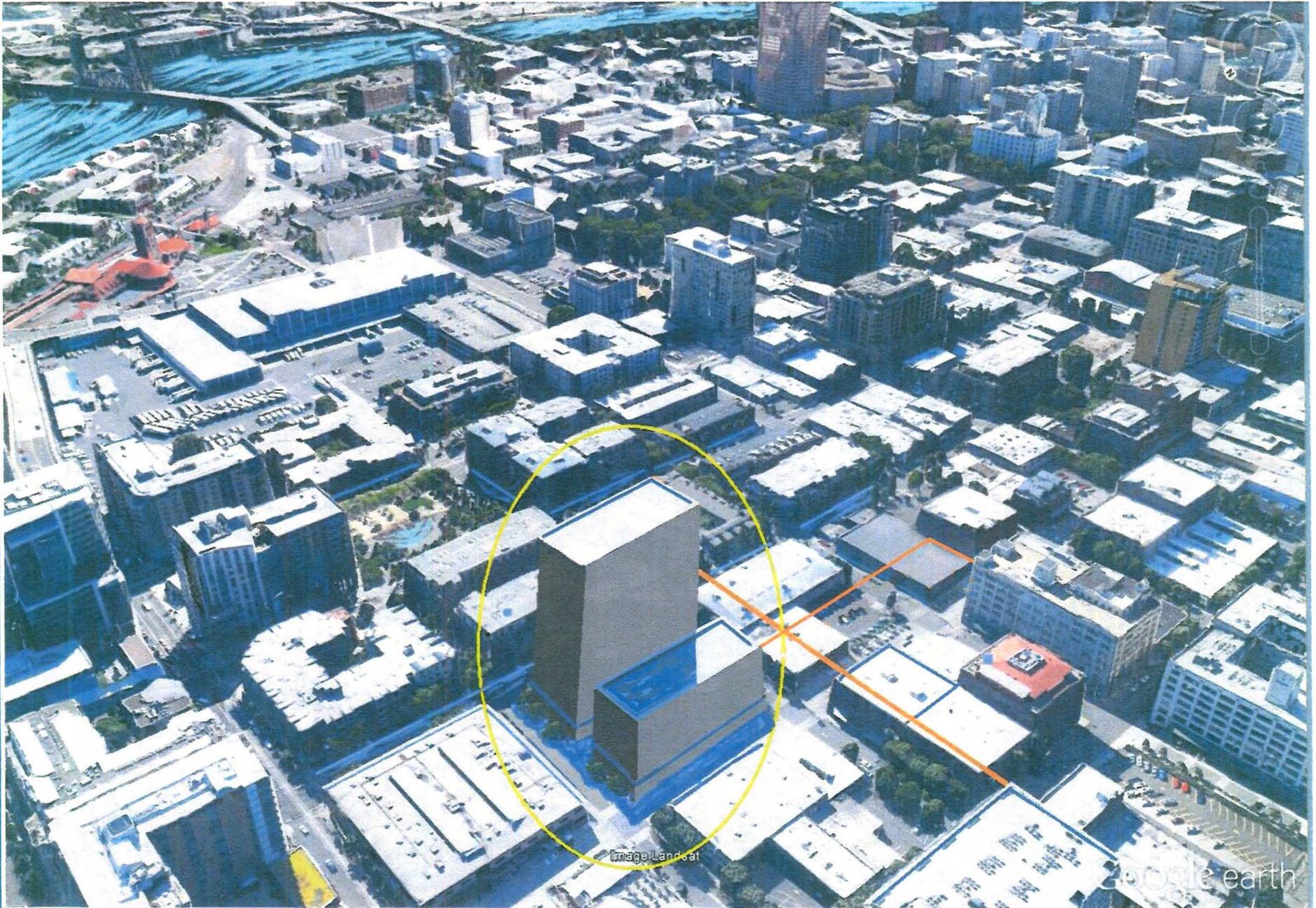
BLOCK 136 Aerial view from Northwest

PRESERVE THE PEARL LLC



Ex 36

NEWTRADITIONAL ARCHITECTURE, 209 SW Starb No. 505, Portland OR 97204, TEL: 503 222-3522, info@newtradarch.com



Ex 4



Ex Sa

30' Height Request

Existing Nearby Building Heights



Legend

- 0' to 25'
- 25' to 50'
- 50' to 75'
- 75' to 100'
- 100' to 125'
- 125' to 150'
- 150' to 175'
- 175' to 200'
- 200' to 225'

* Housing Bonus Projects

- The Casey, 175' tall - 311 NW 12th Ave
- Park Place, 150' tall - 922 NW 11th
- The Henry, 175' tall - 1025 NW Couch
- The Louisa, 175' tall - 123 NW 12th

Ex 5b

Preserve The Pearl

c/o Francis&Bonnell, LLP
3430 SE Belmont Street, Ste 209
Portland, OR 97214
Email: PreserveThePearl@riseup.net
Phone: 503.858.4005

To: The Pearl District Neighborhood Association
Attn: Patricia Gardner, President
c/o Neighbors West/Northwest
2257 NW Raleigh Street
Portland, OR 97210

Re: PNCA Development, Pearl Block 136

June 6th, 2014

Dear Ms Gardner:

As the President of the Pearl District Neighborhood Association and the Chair of the Planning and Transportation Committee, we are writing to ask that the Planning and Transportation Committee formally consider the development of Pearl Block 136, the PNCA building. Time is of the essence since, as you are aware, this proposed development has already gone through two Design Application Review hearings and the next step will very likely be a formal submission for Type III approval.

While you voiced your personal opinions at the recent DAR, it is important for the integrity of the PDNA that a fair hearing be conducted by the Planning and Transportation Committee where affected residents are provided notice of the agenda item and where those residents may be heard.

Frankly, we expect the Planning Commission to ultimately disregard our request to preserve the unique quality of our little part of the Pearl. However, given the clear design guidelines that are being ignored, the misinterpretation of the applicable statute by the Commission, and certain procedural failings that have already occurred, we believe there exist solid grounds for an appeal of this anticipated decision. Any appeal would go first to the Portland City Council and then to the State of Oregon Land Use Board of Appeals (LUBA). After exhausting administrative remedies, a suit challenging the entire process could then be filed in state court.

Since the PDNA is our designated representative by the Office of Neighborhood Involvement (ONI), clearly the PDNA needs to be involved in this process. We trust your 'Letter of Recognition' by ONI is current and that you are meeting the 'minimum standards' of PCC Chapter 3.96 in the operation of the PDNA.

Given the time limitations involved, we request a three-part procedure. First, there must be a meeting of the Planning and Transportation Committee where affected residents may be heard and the members of the Committee can begin to assess the current proposal.

Ex 6a

This should occur as soon as possible since it would appear that the developer intends to move quickly on their application.

Upon the developer's filing of their Type III proposal but prior to the Planning Commission hearing, a second meeting of the Committee must take place where a vote is taken to either support or oppose the application, or make no comment. If the vote is to oppose, we would request the Committee designate a representative to appear at the Planning Commission hearing and address the specific design criteria at issue.

Finally, in the event that the PDNA opposes the development **and** the Planning Commission approves the Type III application of the developer, a third meeting would need to be noticed immediately upon receiving the Commission's decision. The purpose of this third meeting would be to consider the filing of an appeal of the Commission's decision. The time from when a decision is issued to when an appeal must be filed can be as short as 14 days. This is all the more reason to get this entire process going as soon as possible.

Since the PDNA is an organization recognized by the ONI, it is entitled to a waiver of the appellate fee under Portland City Code 33.750.050. The application for the fee waiver sets forth certain conditions:

1. The PDNA testified at the Type III hearing and addressed the specific approval criterion;
2. The appeal is made on behalf of the PDNA;
3. The vote to appeal was done in accordance with the PDNA bylaws.

Because the PDNA is subject to the public meetings act, we request the third meeting be noticed to the public at large via a posting on the PDNA website, to all affected residents (basically, all members of the PDNA via email and the residents of the buildings within a four block radius of the development via a posting at each building), and finally to the developer, as an interested party, via email and a notification via the USPS.

After consideration of the development and the decision of the Commission at the third meeting, a vote should be taken on whether or not to appeal the Commission's approval. If the Committee votes to appeal, the appeal form and the request for fee waiver may be filed at the same time.

So that we may better engage with the PDNA (of which many of us are members), we request that you provide us with the following as soon as possible:

1. A copy of the PDNA articles of incorporation, bylaws and any other rules the PDNA operates by;
2. The names and contact information of all members of the Planning and Transportation Committee;
3. A summary of what notice, if any, you provided under the public meetings and records act to the affected persons (e.g., residents of the Riverstone, Johnson

Street Townhomes, The Marshall Wells, and the Edge Lofts) when you met with the developer regarding Block 136 at your November 2014 and April 2014 meetings.

We have no idea whether you have gone through this process before; it is a lot to digest. Inconvenient as it may be, it is the obligation of the PDNA as an ONI designated organization to represent the interests of the Pearl district residents. As such, your prompt attention to this matter is most appreciated. A response to our email address is acceptable: PreserveThePearl@riseup.net

Sincerely,

Preserve The Pearl

By: 
Burton J. Francis

BYLAWS OF THE PEARL DISTRICT NEIGHBORHOOD ASSOCIATION

ARTICLE I: NAME

The name of this organization shall be the Pearl District Neighborhood Association.

ARTICLE II: PURPOSE

Section 2.1. The Pearl District Neighborhood Association is hereby organized as a non-profit organization in accordance with its articles of incorporation heretofore adopted and filed. The object of this organization shall be to:

Section 2.2. To provide a facility for education, research and an exchange of information for citizens within the general area of the Pearl District so they may relate to their total environment.

Section 2.3. To broaden channels of communication between the residents and businesses within the Pearl District and the City Officials in matters affecting neighborhood livability.

Section 2.4. To assist in furthering activities and developments which will raise the level of the residential, commercial and industrial activity consistent with the interests of the Portland citizenry and sound economic practices.

Section 2.5. This corporation is organized as a public benefit corporation.

ARTICLE III: BOUNDARIES

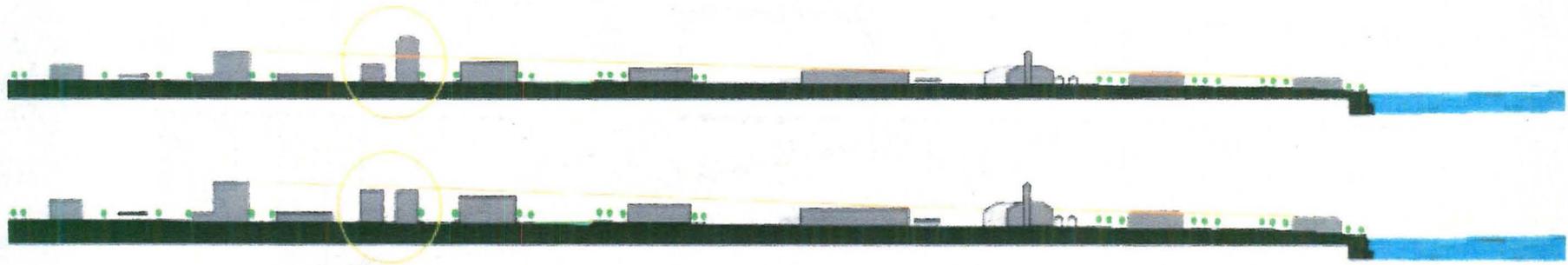
Section 3.1. The boundaries of the Pearl District Neighborhood Association shall be West Burnside on the South, the I-405 Freeway on the West, the Willamette River on the North and the western half of NW Broadway Street to the East. **Amended 6/10/93.**

ARTICLE IV: MEMBERSHIP

Section 4.1. *Eligibility.* Any individual who resides, owns property, owns a business, is the designated employee representative of a business or the designated representative of a nonprofit organization within the areas described in Article 3 shall be eligible for membership in the Association. **Amended 9/13/01.**

Section 4.2. *Application.* Any eligible individual may become a member by submitting to the secretary of the Association a written application setting forth the individual's name, address, and the basis of eligibility for membership. **Section number only amended 9/13/01.**

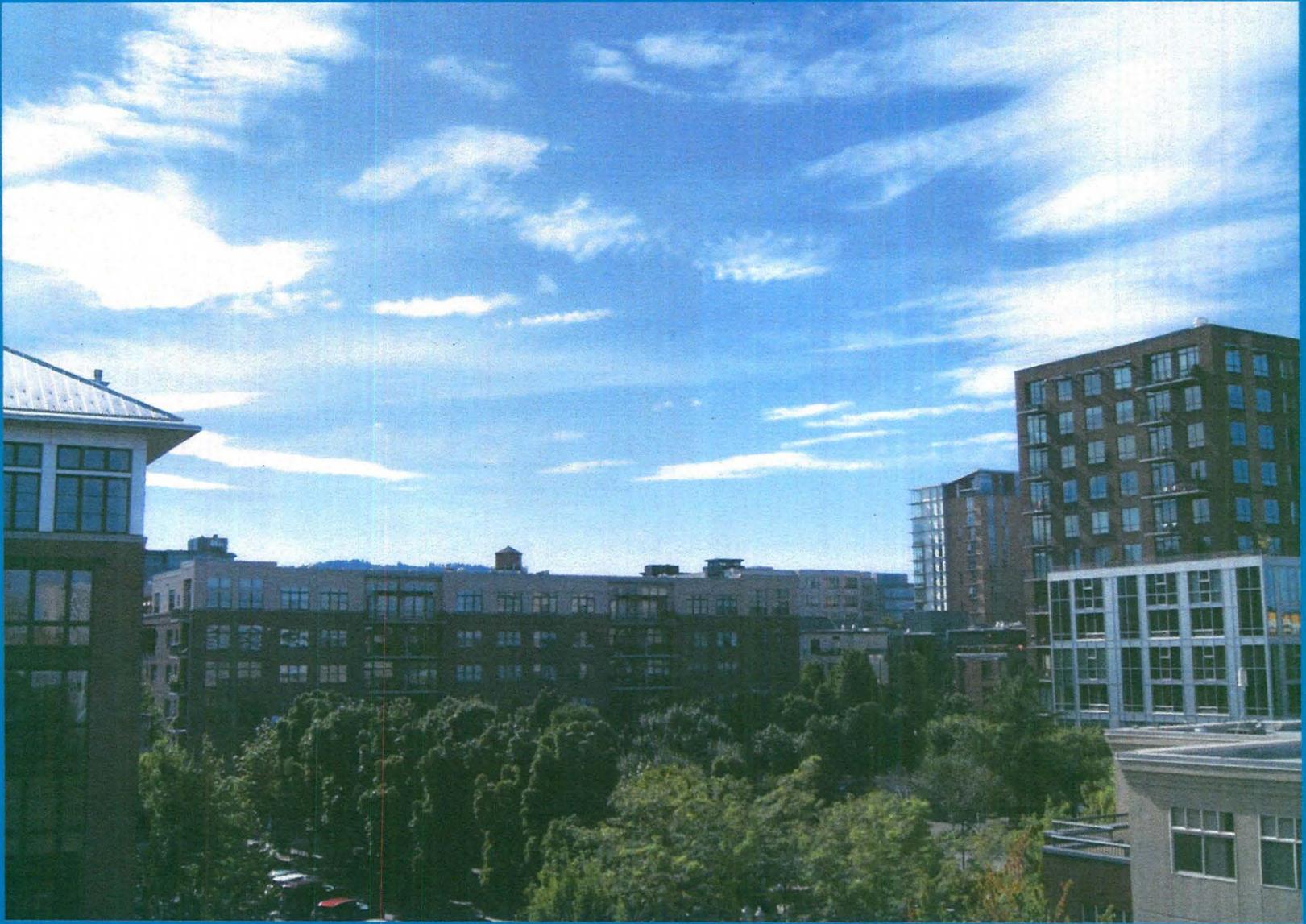
Ex 6 d



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NEWTRADITIONAL ARCHITECTURE, 208 SW Stark No. 505, Portland OR 97204, TEL: 503 222-3522, info@newtradarch.com

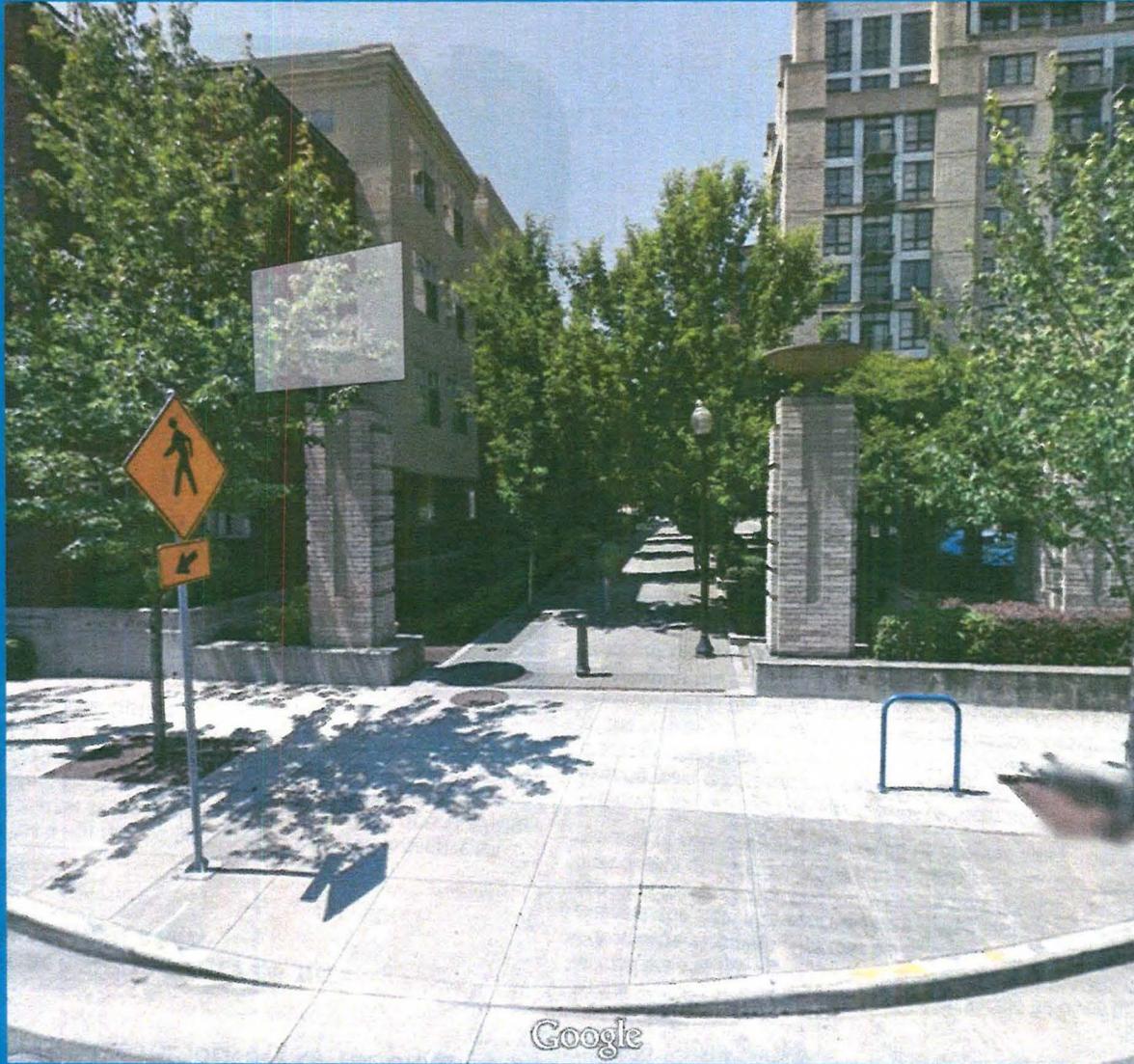
Ex 8



Ex 9a



Ex 9b



'Kearney Street' pedestrian pathway between NW 12th and NW 11th

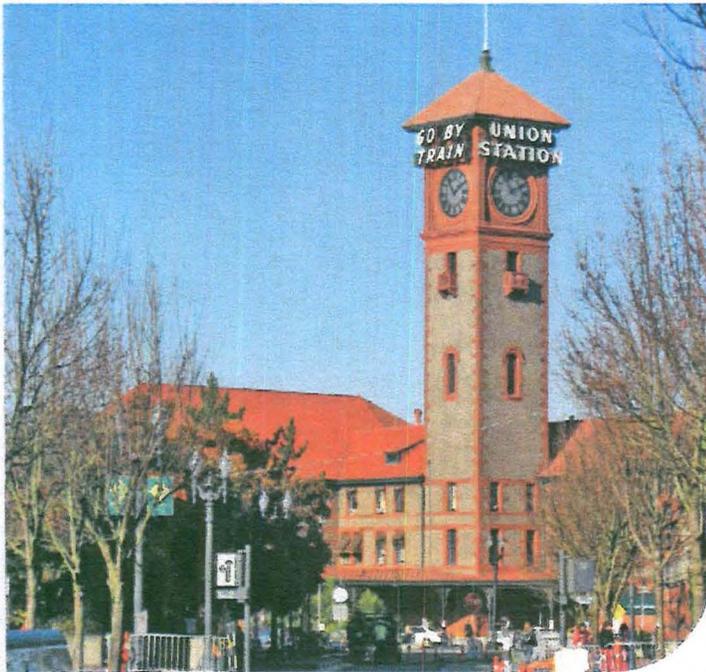
Ex 10

A5-1-4 REINFORCE THE IDENTITY OF THE UNION STATION AREA

A5-1-4 REINFORCE THE IDENTITY OF THE UNION STATION AREA

Background

The River District has a rich railroad history. It once housed expansive rail yards, with Union Station as the centerpiece. Union Station's distinguishing element is the 50-foot tall Romanesque clock tower, which, since the postwar era, has featured the signature "Go by Train" neon sign. Poised to be served by light rail, the Union Station Area is a symbolic link between the past and future of the River District.



As the River District transforms, recognition should be given to the railroad era and the significance it has had in Portland's transportation and industrial development. This may be accomplished in a variety of ways. For example, the station tower could be outlined and articulated at night with appropriately scaled lighting. In addition, new development should reflect a high quality of materials, architectural detail, and texture. Primary building massing of new development should be oriented away from the station.

Although the railroad heritage provides a focus and theme for the area, the existing main rail creates a linear barrier. In addition to the need for track crossings, the visual connection between the areas located on each side of the railway is important to the area's realization. Design solutions for development in the Union Station neighborhood should allow for future crossings of the tracks and should protect important views across the tracks of key district elements such as Union Station and other features. Appropriate buffering of the tracks should employ solutions that relate to the surrounding structures and maintain visual access across the tracks, such as wrought iron fencing, low masonry walls with open railings, and deciduous trees. In addition, setting buildings back from the rail corridor will also provide a degree of separation as well as create an area for other uses such as landscaping, open space, parking, and circulation.

Buildings located adjacent to the railroad corridor will be visible from Union Station and other neighboring properties. Architectural attention should be paid to these facades as well as the other building facades to avoid the sense that these buildings are turning their back on the railway.

Guideline

Reinforce the identity of the Union Station Area.

Ex 11