

Moore-Love, Karla

From: Reynolds, Allison J. (Perkins Coie) <AReynolds@perkinscoie.com>
Sent: Wednesday, February 28, 2018 4:07 PM
To: Moore-Love, Karla
Cc: Patrick Gilligan; Tim Wybenga; Bonnie Chiu; Pfeiffer, Steven L. (Perkins Coie)
Subject: Applicant's First Open Record Submission (Appeal of LU 16-278621 DZM GW)
Attachments: Exhibit A to Applicant's First Open Record Period Submission_2_28_2018.pdf; Exhibit B to Applicant's First Open Record Period Submission_2_28_2018.pdf; Exhibit C to Applicant's First Open Record Period Submission_2_28_2018.pdf; Exhibit D to Applicant's First Open Record Period Submission_2_28_2018.pdf; Exhibit E to Applicant's First Open Record Period Submission_2_28_2018.pdf; Applicant's First Open Record Submission (Appeal of LU 16-278621 DZM GW).pdf

Hi Karla,

Please find attached our first open record submission for the Appeal of LU 16-278621 DZM GW, a letter with 5 Exhibits. This is submitted for the evidentiary record period ending today, February 28, 2018 at 5pm. If you for some reason are unable to open the attached materials, please let me know as soon as possible and I will provide them in another manner.

Thank you,

Allison Reynolds

Allison Reynolds | Perkins Coie LLP

ASSOCIATE

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E. AReynolds@perkinscoie.com

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

February 28, 2018

Allison J. Reynolds
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VIA EMAIL TO
Karla.Moore-Love@portlandoregon.gov

Steven L. Pfeiffer
SPfeiffer@perkinscoie.com
D. +1.503.727.2261

Portland City Council
1221 SW 4th Avenue, Room 130
Portland, OR 97204
Attention: Council Clerk

**Re: Opposition to Appeal of Design Review Approval LU 16-278621 DZM GW,
Fremont Place Apartments**

Applicant's First Open Record Period Submittal

Dear Mayor Wheeler and Members of the City Council:

This office represents Lincoln Property Company ("Lincoln"), owner of the property at 1650 NW Naito Parkway (the "Property" or "site") and proponent of the project approved as LU 16-278621 DZM-GW (the "Decision"), commonly known as the Fremont Place Apartments (the "Project"). The Decision was appealed to the City Council by the Pearl District Neighborhood Association ("PDNA"). At the City Council's February 21, 2018 public hearing on this matter, the Council left the record open for evidentiary submittals until February 28, 2018 at 5:00 PM and left the record open for responses to such submittals until March 7, 2018 at 10:15 AM. This letter and its attachments comprise our first open record submittal for this matter.

This letter makes following points, which are discussed below in greater detail:

1) The Design Review, Modification, and Greenway Review processes require the City to evaluate this Project's compliance with the applicable Design Guidelines (and relevant design modification criteria) which comprise the only approval criteria for the Project. Compliance with other City Code standards, such as floor area ratio, is determined through the building permit process, not the DZM-GW process. As such, the City lacks authority to grant PDNA's appeal based on arguments about the underlying development standards that are not part of the Guidelines or applicable purpose statements, including arguments about the floor area ratio standards.

2) To the extent that the City Council wishes to understand, *as background information*, how the Project can be constructed with the designed amount of floor area, we provide evidence to show that:

- a) The Property, which comprises the “site” under the Code, extends to the Ordinary Low Water line of the Willamette River. This correct site size was applied by the Design Commission for all relevant calculations, for the reasons described below. These calculations were included in the Design Review decision as background information. The Project as approved utilizes less than the allowed FAR for a site of this size.
- b) Even if the City accepts PDNA’s argument that the site size should be calculated from the Ordinary High Water line, resulting in a smaller site, the Project as approved still has enough FAR to be constructed, with extra bonus floor area left over.
- 3) The Project includes numerous energy efficient and green features, even though Lincoln has not sought formal LEED or other certification.
- 4) Transcripts of the Design Review hearing provide an accurate accounting of the Design Commission members’ statements, which do not include many of the statements attributed to the Commission Chair by Project opponents. We are providing these transcripts to the City so that the Council may more easily access the Commissioners’ statements.
- 5) The interactions between Project staff and PDNA have been professional, contrary to claims made by PDNA supporters at the February 21, 2018 public hearing.

1. Floor Area Ratio Standards are Not an Approval Criterion for Design Review, Modification Review or Greenway Review.

Design Review with Modifications and Greenway Review (DZM-GW) is a discretionary process in which the decision maker (here, the Design Commission) evaluates a proposed project for compliance with the applicable Design Guidelines and modification purpose standards.¹ As made clear by Portland City Code (“PCC” or “Code”) in Sections 33.825.075, 33.825.040 and 33.440.350, the DZM-GW process does not evaluate or imply compliance with other requirements of the zoning Code, and is a review based only on compliance with the applicable Design Guidelines (or modification criteria including the purpose statements of regulations to be modified). The applicable Design Guidelines and modification criteria do not regulate the

¹ The applicable regulations are as follows:

- PCC 33.825 (Design Review): Central City Fundamental Design Guidelines, River District Design Guidelines
- PCC 33.825.040 (Modifications): Purpose Statements of Standards to be Modified in Sections: 33.140.210.B.2, 33.266.320.C.3.b, 33.510.205.H.2, 33.510.1251.C.3, 33.510.251.D.3.b & c, 33.140.240.B.4, and 33.266.130.G.2.c.
- PCC 33.440.350 (Greenway Review): Greenway Design Guidelines

amount of floor area ratio allowed for a building, but do allow the Design Commission to evaluate the building's massing when determining if it complies with the Guidelines, as the Commission did here.

As clearly stated on page 50 of the Design Commission's Decision "Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit." None of the Design Guidelines or modification criteria, which are the only approval criteria for the DZM-GW process, require Lincoln to demonstrate that the Project's proposed floor area complies with the zoning Code's floor area regulations. For these reasons, the City lacks legal authority to grant PDNA's appeal based on the erroneous allegations that the Project does not meet the floor area standards.

2. The Project Can Be Constructed with the Approved Amount of Floor Area Under Either Site Size Scenario

To safeguard the use of City resources, City staff and the Design Commission often perform a cursory check of the proposed building to ensure that the proposal is capable of meeting the zoning Code standards. We agree that would be inefficient for the Commission to spend significant staff and Commission time evaluating the design of a building which could not be constructed under the zoning Code because it could not meet other required Code standards. Applicants, too, are interested in ensuring that a building they receive design approval for is capable of meeting the development standards as required for eventual construction.

To the extent that the City Council is interested in this information as a further assurance that the Project can meet zoning Code regulations, we are happy to provide this assurance and have included a table following this discussion that shows these calculations.

a. The Site Size is Correctly Listed in the Design Review Decision

The site, (which is an ownership, as discussed in our February 20, 2018 letter), extends riverward to the Ordinary Low Water line of the Willamette, contrary to the arguments made by PDNA. We base this conclusion on the attached memorandum from real estate attorney Brendan Crowley and DEA Surveyors (Exhibit A). This site size was used by the Design Commission in its background calculations and the Commission concluded that the site provides enough floor area for the Project to be constructed. In fact, the Project earns enough bonus floor area to have 34,416 square feet left over that it will not use. Under a true maximization of the floor area, the Project could include up to 360,400 square feet. The Project did not propose to include massing up to this maximum, nor does the final design approved by the Commission. PDNA and other

opponents' frequent arguments that the Project "maximizes" the site's FAR are simply untrue. The maximum FAR for the site would allow another 55,000 square feet based on this correct site size.

b. Even if the City Accepts PDNA's Argument that the Site Size is Smaller, the Site has Ample FAR for the Project to be Constructed.

PDNA argues, based on a general tenet of state law, that the site (Lincoln's ownership) extends only to the Ordinary High Water line.² TVA Architects indicates that, under a conservative calculation that uses the sea wall as the OHW line, the site would be 64,000 square feet (roughly 8,000 square feet smaller than the correct calculation), as show on Exhibit B.

Even if we accept PDNA's calculation of the smaller site size (64,000 square feet), the site provides enough floor area for the Project to be constructed. The Project includes amenities that earn bonus floor area above and beyond the amount needed to construct the Project. Even with the smaller site size, the Project will have earned 2,096 square feet more bonus floor area than it needs for construction. As noted above, the maximum FAR for the site is actually 5:1 (320,000 square feet including all bonus/transfer potential). With the smaller site size calculation, this would allow 14,462 additional square feet to be constructed. Even under the smaller site size, the Project does not maximize the FAR potential for the site.

Under either scenario, the Project can be constructed as designed under the Code's floor area standards. PDNA's other arguments about site size, which have no basis in the Code that applies to this Project, are fully addressed in our February 20, 2018 letter and have no legal merit.

² ORS 274.025(1) states that "The title to the submersible and submerged lands of all navigable streams and lakes in this state now existing or which may have been in existence in 1859 when the state was admitted to the Union, or at any time since admission, and which has not become vested in any person, is vested in the State of Oregon." (Emphasis added). ORS 274.005 defines "submerged lands" as those waterward of the Ordinary High Water ("OHW") line. In this case, the title to the submerged lands in question (the strip of land that lies between OHW and OLW on this Property) was vested in the owner of the Property, as discussed in the letter from DEA surveyors.

Floor Area Calculations Under Each Site Scenario:

Site Measured to Ordinary Low Water Line (Design Commission Calculation)	
Site Size	72,080 SF
Total Base FAR	144,160 SF
Residential Bonus Earned*	144,160 SF
Locker Room Bonus Earned	15,200 SF
Eco Roof Bonus Earned	36,434 SF
Total Available FAR	339,954 SF
Total FAR Used in Building	305,538 SF
Total FAR Earned and Left Over	34,416 SF

*(Capped at 2:1 Additional FAR)

Site Measured to Ordinary High Water Line (PDNA Calculation)	
Site Size	64,000 SF
Total Base FAR	128,000 SF
Residential Bonus Earned*	128,000 SF
Locker Room Bonus Earned	15,200 SF
Eco Roof Bonus Earned	36,434 SF
Total Available FAR	307,634 SF
Total FAR Used in Building	305,538 SF
Total FAR Earned and Left Over	2,096 SF

*(Capped at 2:1 Additional FAR)

3. The Project Includes Energy Efficient and Environmentally Beneficial Building Features

Mayor Wheeler posed a question to the design team during the February 21, 2018 hearing regarding LEED certification of the Project. As we explained during the hearing, Lincoln does not plan to seek LEED certification for the Project, but has included numerous “green” features. The Design Guidelines, Greenway Review standards and modification standards do not require a building to seek or obtain formal certification from a third party such as LEED. However, we agree that inclusion of energy efficient and environmentally sound design features in Portland projects is important. Attached as Exhibit C is a letter from TVA Architects that details some of the building’s “green” features.

4. Transcripts of Design Review Hearings

Many commenters at the February 21, 2018 public hearing referenced statements that they claimed were made by Design Commission members during the Project’s four Design Review hearings. While the audio recordings of the Commission’s hearings are part of the record for this proceeding, we generally find transcriptions of these audio recordings useful, especially for determining if certain statements were in fact made by Commissioners. We are including our

office's transcriptions of the four hearings as Exhibit D, a searchable PDF document, so that the Council and the public may have the benefit of this information.

5. Interactions Between the Applicant Team and PDNA Have Been Professional

A comment was made during the February 21, 2018 hearing on this matter that a member of the Project architecture team (TVA Architects) made "threatening" statements in writing to PDNA members. It appears that PDNA has provided to the City Council some email correspondence between TVA and PDNA members, but it is unclear if this correspondence contains the statements referenced by comment. Lincoln and the Project team, including Perkins Coie LLP and TVA Architects, have interacted with PDNA members in a professional manner throughout this review process. At no point did Project team members intend that our interactions with PDNA be interpreted as "threatening;" and we in fact desired the opposite. The Project team engaged with PDNA throughout the Design Review process in an attempt to resolve concerns about the Project, and in many cases included changes to the Project that directly addressed these concerns. We regret that despite the lengthy Design Review process during which all of PDNA's current design-related concerns were raised and addressed, we were unable to come to an amicable resolution with Project neighbors.

Attached as Exhibit E is a letter from Tim Wybenga of TVA Architects that addresses the email correspondence submitted by PDNA and TVA's work with PDNA during this process.

Conclusion

We appreciate the City Council's consideration of these materials. For the reasons stated above, as well as during our hearing presentation and in early submissions, we request that the Council deny PDNA's appeal.

Portland City Council
February 28, 2018
Page 7

Very truly yours,



Allison J. Reynolds



Stephen L. Pfeiffer

Exhibits A-E

cc: Patrick Gilligan, Lincoln Property Company

EXHIBIT A

February 28, 2018

Brendan S. Crowley
BCrowley@perkinscoie.com
D. +1.503.727.2067
F. +1.503.346.2067

Lincoln Property Company
1211 SW Fifth Avenue, Ste. 700
Portland, OR 97204
Attention: Patrick Gilligan

Re: Ownership of Fremont Place Property

Dear Patrick:

You have requested a legal analysis of Lincoln Property Company's property at 1650-1750 NW Naito Parkway. Specifically, you have asked us to address how Lincoln's deed, which appears to exclude areas riverward of the Ordinary High Water (OHW) line of the Willamette River, actually passes title of the portion of the Property between OHW and Ordinary Low Water (OLW) lines to Lincoln. After July 26, 1979 in the City of Portland, a formal process would have been required to sever this portion of the Property and sell it separately. Since this did not occur, a transfer of the upland Property to Lincoln also transferred the attached OHW-OLW area.

The attached information from Davis Evans and Associates, Inc. (DEA), surveyors for the Property (Attachment 1) establishes that the Property's title to the area between the OHW and OLW lines was perfected in the then-owner of the upland property through changes in state law from 1872-1878. According to DEA's survey records and stamped survey, the Property continues to include the OHW-OLW area.

The earliest deed transferring the Property after 1979 is from Emery J. Zidell to A.J.E. Realty Inc., (Attachment 2). This deed includes Lots 1-10 of River Block of Watson's Addition to the City of Portland and does not except the area riverward of the OHW line. This deed does except from the property "The rights of fishing navigation and commerce in the State of Oregon, the Federal Government and the public in and to that point thereof lying below the ordinary high water mark of the Willamette River." This is consistent with state law which does not allow the State of Oregon to grant these *jus publicum* rights to private landowners, even when those landowners own fee title to property underlying a waterway. (*State Land Bd. v. Heuker*, 25 Or. App. 137, 139 (1976), citing *Corvallis & E.R. Co. v. Benson*, 61 Or. 359 (1912)). This exception does not alter the ownership of the OHW-OLW area determined by DEA.

Until 1979 in the City of Portland, lots could be created and divided without going through a formal subdivision or partition process. After 1979, a formal partition was required to split a parcel of land into lots that could be sold separately. This is codified in the definition of lots and lots of record in the Portland City Code, Chapter 33.910. Lots that have not been created

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Page 2

through a legal process cannot legally be sold and the recorder's office would reject a deed that attempted to allow an illegal lot to change hands. ORS 92.017.

City Staff has confirmed that the only City land division procedure recorded on the Property's deed since 1979 is a partition in 1987 which divided the Property vertically (the line created by this action runs between the two existing office buildings). This partition does not sever the OHW-OLW portion of the Property into a separate legal lot. Because the OHW-OLW area was not severed after 1979, the riverward portion of the Property could not legally be sold separately from the Property without further partitioning the site.

The deed transferring the Property to Lincoln Property Company (Attachment 3) sets forth the Property description and excepts therefrom "the ownership of the State of Oregon in that portion lying below the line of mean high water." Although this may appear to assign the OHW-OLW area to state ownership, it in fact only excludes any area that is actually owned by the state riverward of the OHW line. As established by DEA surveyors, for this property, the state's ownership extends only riverward of the OLW line. As discussed above, the OHW-OLW area was not partitioned from the upland area and therefore could not be sold separately or assigned to the State through Lincoln's deed, even if the parties had intended that to occur. Therefore, this portion of the deed only excludes State ownership riverward of the OLW for this Property.

Very truly yours,



Brendan S. Crowley

Attachments 1-3

Attachment 1



**DAVID EVANS
AND ASSOCIATES INC.**

February 28, 2018

Lincoln Property Company
1211 SW Fifth Avenue, Ste. 700
Portland, OR 97204
Attention: Patrick Gilligan

RE: WATERWARD LINE OF 1650-1750 NW NAITO PARKWAY

Dear Patrick,

As part of our role as surveyors for the Fremont Place property located at 1650-1750 NW Naito Parkway (referred to herein as the Property), Lincoln Property Company asked us to provide a determination of the Property's waterward boundary. For the reasons contained in this letter, it is our opinion as professional surveyors that the Property Lincoln purchased extends to the Ordinary Low Water (OLW) line of the Willamette River. We have stamped our survey of the Property (attached) to extend to this line.

Oregon became a State on February 14, 1859. Under the Equal Footing Doctrine the State acquired the ownership of the submerged (defined as the river below the OLW line) and submersible lands (area between the OLW and Ordinary High Water (OHW) line) underlying all tidal waters and navigable rivers, including the Willamette River. As the owner of these lands, the State was able to dispose of the lands by sale as it so chose. In 1872 (as amended in 1874) the State Tidelands Act transferred the submersible lands (that lying between the OHW and OLW lines) to the adjacent upland owners along the Willamette River.

The area that contains the Property was all in private ownership at the time of the Tidelands Act and therefore this transfer of ownership from the State to the private parties would have occurred. The Tidelands Act was repealed in 1878. On the date of repeal, any transfer to a private owner during the previous four years perfected that owner's deed to the submersible lands.

Attached is a copy of the original 1852 plat that shows the DLC's in that area, the assessors map, and a copy of the master index. The property abuts and is part of two original donation land claims. The William Blackstone DLC No. 53 and the John H Couch DLC No. 52 (see attached original plat). The John H Couch was accepted and patented in November 13, 1871 and The William Blackstone DLC No. 53 was accepted and patented in January 23, 1873 (see master index sheets).

I have significant experience working with lands along the Willamette River from this period of time, and it is our professional opinion that the Property's waterward boundary is the OLW of the Willamette River.

DAVID EVANS AND ASSOCIATES, INC.

Jeff Whitson, PLS
Vice President

ATTACHMENT TO DEA SUBMISSION

NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO REPLAT A PORTION OF RIVER LOT 1 AND RIVER LOTS 2 THROUGH 10 OF WATSON'S ADDITION (BOOK 2, PAGE 60 MULTNOMAH COUNTY PLAT RECORDS) AS DESCRIBED IN DOCUMENT NUMBER 2016-094370 RECORDED ON AUGUST 1, 2016 OF MULTNOMAH COUNTY DEED RECORDS. THE BASIS OF BEARINGS FOR THIS SURVEY IS THE OREGON STATE PLANE COORDINATE SYSTEM, NORTH ZONE, NORTH AMERICAN DATUM OF 1983 (NAD 83, (2011) EPOCH 2010). THE CENTERLINE MONUMENTS AND EASTERLY RIGHT-OF-WAY MONUMENTS ALONG NAITO PARKWAY AS SHOWN ON THE PLAT OF RIVERNORTH AND SURVEY NUMBER 49682 WERE DESTROYED BY RECENT ROADWAY AND SIDEWALK CONSTRUCTION. TO REESTABLISH THE EASTERLY RIGHT-OF-WAY LINE OF NAITO PARKWAY I HELD THE MONUMENTS FOUND AS SHOWN ON THE NORTH AND SOUTH LINES AND RECORD DATA PER SAID SURVEYS ALONG THE SOUTH AND NORTH LINES. THIS SOLUTION MATCHED WELL WITH THE FOUND 5/8" IRON ROD WITH NO CAP SET ON THE WESTERLY RIGHT-OF-WAY LINE OF NAITO PARKWAY PER SURVEY NUMBER 56594 AS SHOWN.

THE NORTHERLY BOUNDARY LINE WAS REESTABLISHED BY HOLDING THE FOUND MONUMENTS ESTABLISHED IN THE PLAT OF RIVERNORTH AND SURVEY NUMBER 57290 AS SHOWN.

THE EASTERLY BOUNDARY LINE IS THE ORDINARY LOW WATER LINE (OLW) OF THE WILLAMETTE RIVER. THE OREGON DIVISION OF STATE LANDS HAS DETERMINED THE OLW AT THIS RIVER MILE TO BE AT ELEVATION 4.50 FEET, NATIONAL GEODETIC VERTICAL DATUM OF 1929 (NGVD29). DEA SURVEYED THE OLW LINE IN MARCH, 2010 AND THIS SURVEY SHOWS THAT POSITION.

THE SOUTHERLY BOUNDARY LINE WAS REESTABLISHED BY HOLDING A BRASS SCREW SET IN SURVEY NUMBER 48618 ON THE SOUTH LINE AND RECORD DISTANCE SOUTH OF THE NORTHWEST CORNER ALONG THE EASTERLY RIGHT-OF-WAY LINE OF NAITO PARKWAY PER SURVEY 49682. THIS SOLUTION MATCHES RECORD ANGULAR AND DISTANCE DATA PER SURVEY 49682.

BASIS OF BEARINGS

BEARINGS ARE BASED ON OREGON STATE PLANE COORDINATES, NORTH ZONE (NAD83, 2011)

LEGEND

- SET 1 1/8" BRASS DISK IN CONCRETE STAMPED "DEA INC." SET APRIL 14, 2017
- FOUND MONUMENT AS NOTED
- FOUND BRASS SCREW (BS)
- FOUND BRASS CAP (BC)
- W/ WITH
- SN SURVEY NUMBER, MULTNOMAH COUNTY SURVEY RECORDS
- PPN PARTITION PLAT NO.
- () RECORD DATA
- R/W RIGHT-OF-WAY
- FND FOUND

REFERENCES

- SURVEYS:**
 SN 58466
 SN 57290
 SN 56594
 SN 49682
 SN 48618
 SN 48622
 SN 5062
- PLATS:**
 WATSON'S EDITION; BOOK 2, PAGE 60
 RIVERNORTH, BOOK 1263, PAGE 53
- DEED:**
 DOCUMENT NO. 2016-094370
 RECORDED ON 8/1/2016.

PARTITION PLAT NO.

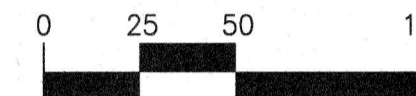
BEING A REPLAT OF A PORTION OF RIVER LOT 1 AND RIVER LOTS 2 THROUGH 10 OF WATSON'S ADDITION TO CITY OF PORTLAND SITUATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 28, TOWNSHIP 1 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON TVAX0000-0013



DAVID EVANS AND ASSOCIATES INC.

2100 SW River Parkway
 Portland Oregon 97201
 Phone: 503.223.6663

DATE:
 MAY 16, 2017



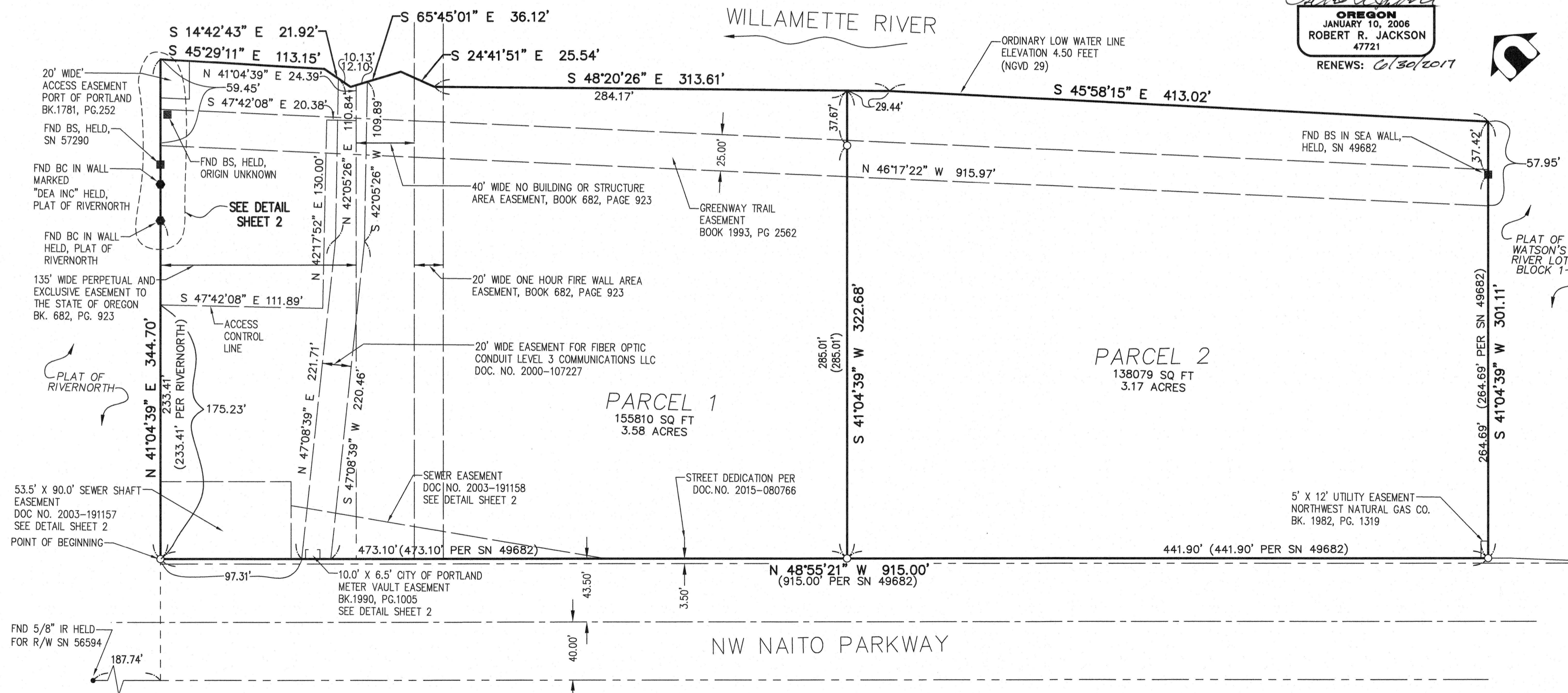
SCALE: 1" = 50'

REGISTERED PROFESSIONAL LAND SURVEYOR

Robert R. Jackson

OREGON
 JANUARY 10, 2006
 ROBERT R. JACKSON
 47721

RENEWS: 6/30/2017



DECLARATION:

KNOW ALL MEN BY THESE PRESENTS THAT FREMONT PLACE, LP, A TEXAS LIMITED PARTNERSHIP, IS THE OWNER OF THE LAND REPRESENTED ON THE ANNEXED MAP AND MORE PARTICULARLY DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE, HAVE CAUSED THE PARTITION PLAT TO BE PREPARED AND THE PROPERTY PARTITIONED IN ACCORDANCE WITH THE PROVISIONS OF O.R.S. CHAPTER 92.

FREMONT PLACE, LP, A TEXAS LIMITED PARTNERSHIP.

BY: PATRICK GILLIGAN, EXECUTIVE VICE PRESIDENT

ACKNOWLEDGEMENT:

STATE OF OREGON }
COUNTY OF MULTNOMAH }SS

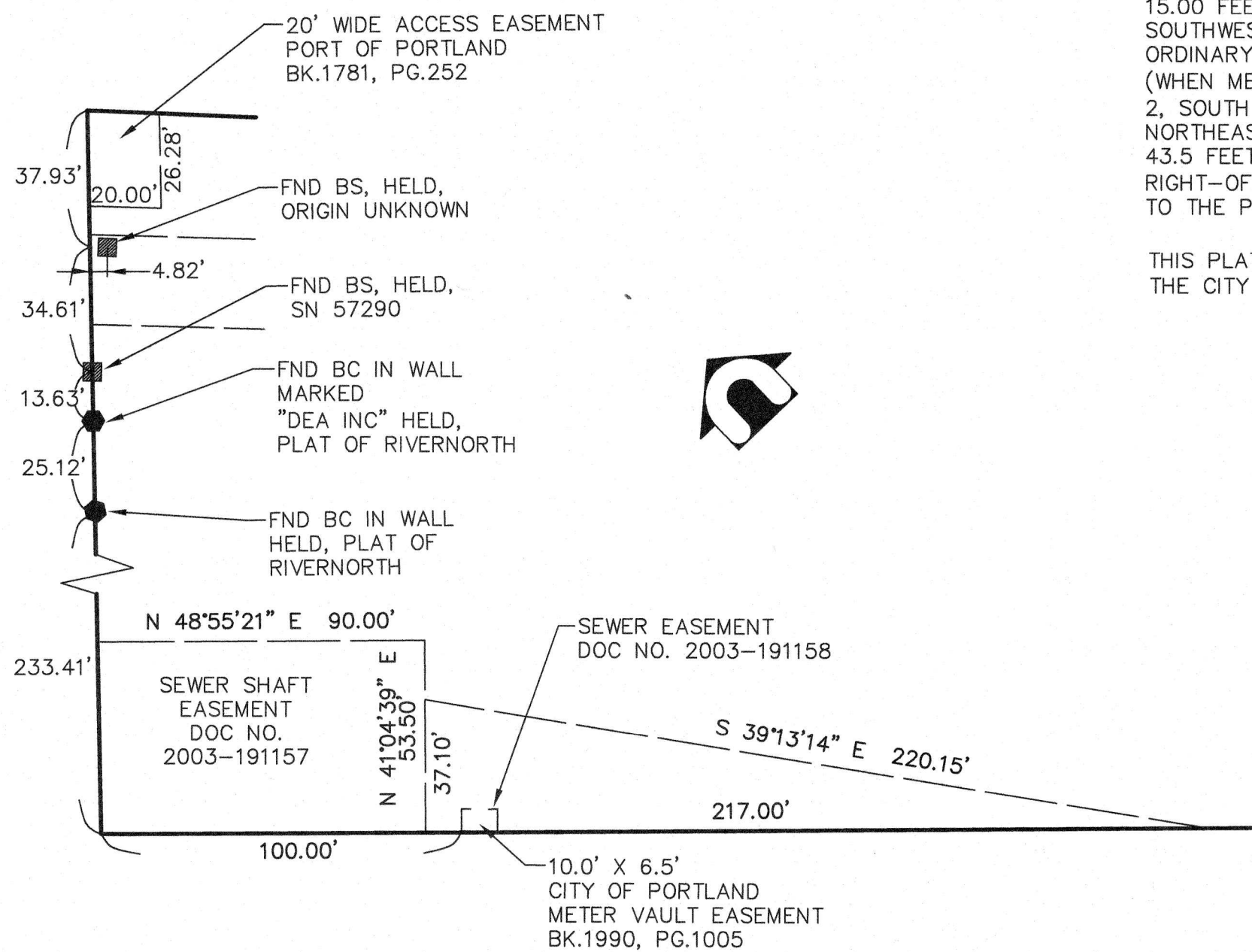
BE IT REMEMBERED THAT ON THIS _____ DAY OF _____, 2017 BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID STATE AND COUNTY, PERSONALLY APPEARED XX, WHO BEING DULY SWORN DID SAY THAT, PATRICK GILLIGAN, EXECUTIVE VICE PRESIDENT OF FREMONT PLACE, LP, A TEXAS LIMITED PARTNERSHIP, EXECUTED THE FORGOING DECLARATION AND ACKNOWLEDGES SAID DECLARATION TO BE A FREE ACT AND DEED.

NOTARY PUBLIC - SIGNATURE

COMMISSION NUMBER

NOTARY PUBLIC - OREGON

MY COMMISSION EXPIRES



EASEMENT DETAIL
NOT TO SCALE

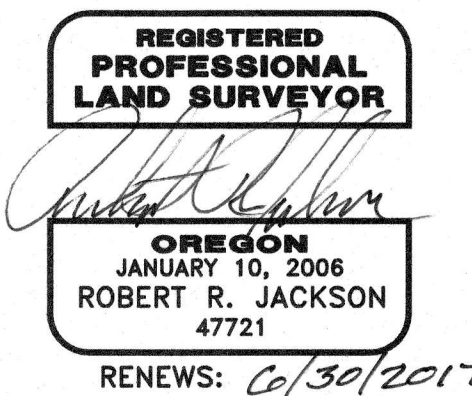
SURVEYOR'S CERTIFICATE:

I, ROBERT R. JACKSON, DO HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS THAT LAND AS REPRESENTED ON THE ATTACHED REPLAT MAP, SAID LAND BEING DESCRIBED AS FOLLOWS.

THAT PARCEL OF LAND SITUATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 28, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, IN THE CITY OF PORTLAND, COUNTY OF MULTNOMAH AND STATE OF OREGON BEING ALL OF RIVER LOTS 2 THROUGH 10 AND THE NORTHERLY 15.00 FEET OF RIVER LOT 1 ACCORDING TO THE DULY FILED PLAT OF WATSON'S ADDITION TO THE CITY OF PORTLAND, FILED IN PLAT BOOK 2, PAGE 60, RECORDS IN SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF SAID RIVER LOT 10, SAID POINT BEING NORTH 41° 04' 39" EAST, A DISTANCE OF 3.50 FEET FROM THE MOST NORTHWESTERLY CORNER OF SAID RIVER LOT 10; THENCE ALONG SAID NORTHWESTERLY LINE OF LOT 10 NORTH 41° 04' 39" EAST, A DISTANCE OF 344.70 FEET TO THE ORDINARY LOW WATER LINE OF THE WILLAMETTE RIVER; THENCE ALONG SAID ORDINARY LOW WATER LINE SOUTH 45° 29' 11" EAST, A DISTANCE OF 113.15 FEET; THENCE SOUTH 14° 42' 43" EAST, A DISTANCE OF 21.92 FEET; THENCE SOUTH 65° 45' 01" EAST, A DISTANCE OF 36.12 FEET; THENCE SOUTH 24° 41' 51" EAST, A DISTANCE OF 25.54 FEET; THENCE SOUTH 48° 20' 26" EAST, A DISTANCE OF 313.61 FEET; THENCE SOUTH 45° 58' 15" EAST, A DISTANCE OF 413.02 FEET TO A POINT THAT IS 15.00 FEET SOUTHERLY (WHEN MEASURED PERPENDICULAR TO) OF THE SOUTHWESTERLY LINE OF SAID RIVER LOT 2; THENCE LEAVING SAID ORDINARY LOW WATER LINE AND PARALLEL WITH AND 15.00 FEET SOUTHERLY (WHEN MEASURED PERPENDICULAR TO) SAID SOUTHERLY LINE OF RIVER LOT 2, SOUTH 41° 04' 39" WEST, A DISTANCE OF 301.11 FEET TO THE NORTHEASTERLY RIGHT OF WAY LINE OF NAITO PARKWAY, SAID LINE BEING 43.5 FEET FROM THE CENTERLINE; THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE NORTH 48° 55' 21" WEST, A DISTANCE OF 915.00 FEET TO THE POINT OF BEGINNING.

THIS PLAT IS SUBJECT TO THE CONDITIONS IMPOSED BY THE CITY OF PORTLAND IN CASE FILE NO. LU 17 _____



PARTITION PLAT NO. _____

BEING A REPLAT OF A PORTION OF RIVER LOT 1 AND RIVER LOTS 2 THROUGH 10 OF WATSON'S ADDITION TO CITY OF PORTLAND SITUATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 28, TOWNSHIP 1 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON TVAX0000-0013



APPROVALS:

APPROVED THIS _____ DAY OF _____, 20____
CITY OF PORTLAND PLANNING DIRECTOR'S DELEGATE

BY: _____
APPROVED THIS _____ DAY OF _____, 20____
CITY OF PORTLAND CITY ENGINEER'S DELEGATE

BY: _____
APPROVED THIS _____ DAY OF _____, 20____
MULTNOMAH COUNTY SURVEYOR

BY: _____
ALL TAXES, FEES, ASSESSMENTS, OR OTHER CHARGES AS PROVIDED BY O.R.S. 92.095 HAVE BEEN PAID AS OF _____, 20____
DIRECTOR, DIVISION OF ASSESSMENT & TAXATION
MULTNOMAH COUNTY, OREGON

BY: _____ DEPUTY
STATE OF OREGON }
COUNTY OF MULTNOMAH }SS

I DO HEREBY CERTIFY THAT THE ATTACHED PARTITION PLAT WAS RECEIVED FOR RECORD AND RECORDED _____ 200_ AT _____ M AS PARTITION PLAT NO. _____ MULTNOMAH COUNTY RECORDING OFFICE

BY: _____ DEPUTY
DOCUMENT NO. : _____

Township No 1 North Range No 1 East Willamette Meridian

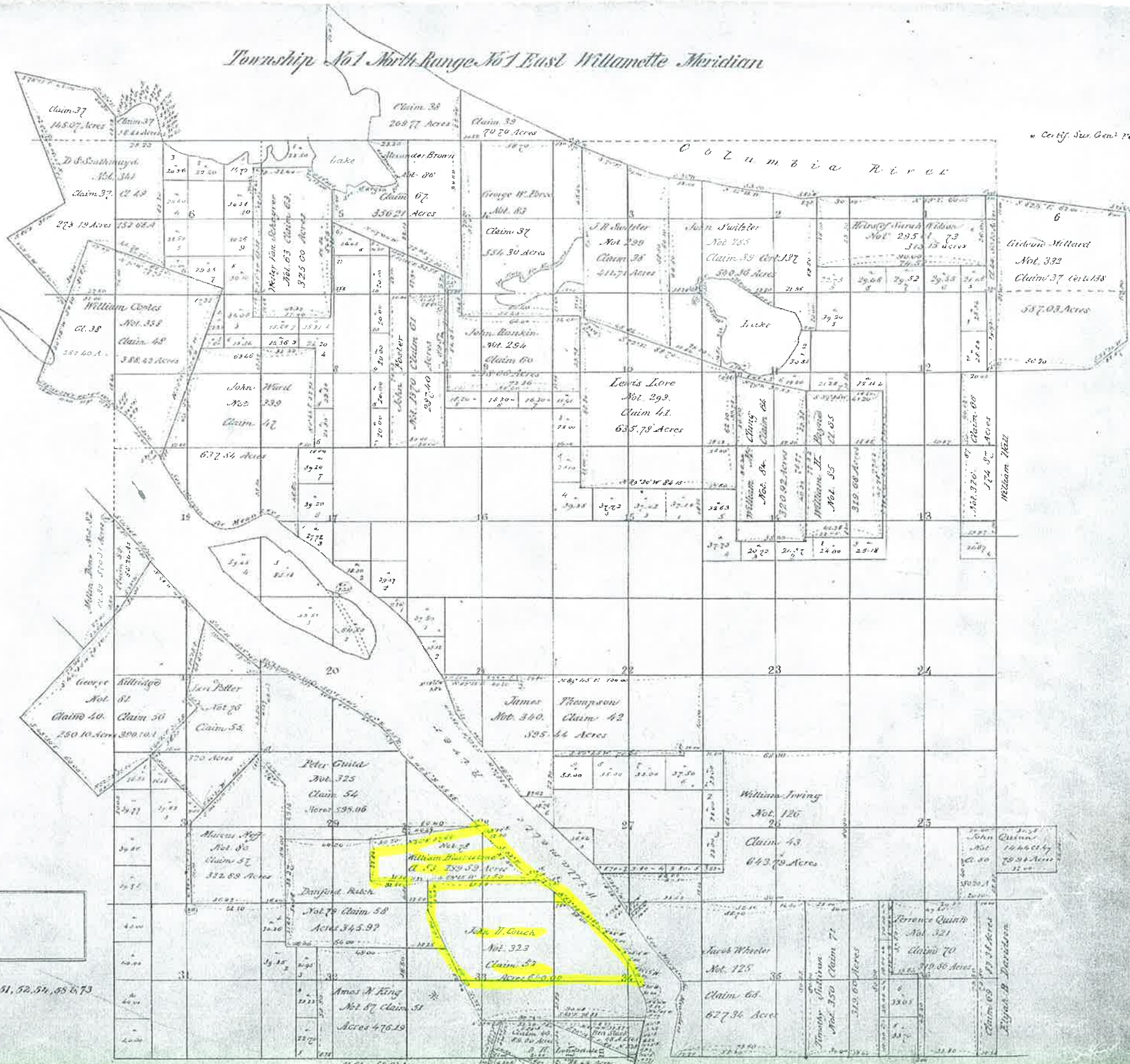
1761

Certif. Sur. Genl. Feb. 11 1860

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE.

This map of 1 R. 1. E. 1 S. is kept as to meanders
by me.

D. H. Chapman



Aggregate Area of Public lands
Private surveys

For Meanders see margin of Original Plat
Surveyor General's Certificate for Claims 51, 52, 54, 55 & 73
See margin of Original Plat.

* Diagram showing meanders of
Amos N. King's claim see letter from
Sur Genl. Dec 3rd 80 87 79 399 in Div. D
P. 17

The above map of the survey of Claims in Township No 1 North Range No 1 East of the
Willamette Meridian, Oregon is strictly conformable to the field notes of the survey
thereof on file in this office, which have been examined and approved.

Surveyor General's Office
Eugene City Sept 20th 1860

D. H. Chapman

Attachment 2

8-20-80

FORM No. 433-WARRANTY DEED (Individual or Corporate)

SEVEN-NINE LAW PUBLISHING CO., PORTLAND, OR. 97204

1-1-74

WARRANTY DEED

BOOK 1463 PAGE 1221

KNOW ALL MEN BY THESE PRESENTS, That Emery N. Zidell

hereinafter called the grantor, for the consideration hereinafter stated, to grantor paid by: A.J.E. Realty, Inc., an Oregon corporation, hereinafter called the grantee, does hereby grant, bargain, sell and convey unto the said grantee and grantee's heirs, successors and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or appertaining, situated in the County of Multnomah and State of Oregon, described as follows, to-wit:

PARCEL I:

That portion of Lot 43, Block 318, COUCH'S ADDITION TO THE CITY OF PORTLAND, in the City of Portland, County of Multnomah and State of Oregon, conveyed to Spokane, Portland & Seattle Railway Company by deed recorded March 30, 1910, in Book 488 at page 389 of Deed Records, said tract also described as follows:

Beginning on the line between the said Couch's Addition and Watson's Addition to the City of Portland, where the same intersects the east side line of Front Street in the City of Portland; thence following the said division line 31.25 feet to the line between the said Lot 43 and Lot 1 in River Block in Watson's Addition to the City of Portland; thence westerly on an extension of said last described line 19.72 feet to the said east side line of Front Street; thence northerly along the said east side line of Front Street 24.75 feet to the point of beginning, being a triangular piece of land. (Legal description continued on reverse side)

To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever.

And said grantor hereby covenants to and with said grantee and grantee's heirs, successors and assigns, that grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances save and except those encumbrances mentioned, described and set forth at Exhibit A - Schedule of Encumbrances appearing on the reverse hereof and by this reference incorporated herein as if fully set forth verbatim and that grantor will warrant and forever defend the said premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, except those claiming under the above described encumbrances.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 545,000.00

In construing this deed and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

In Witness Whereof, the grantor has executed this instrument this 31st day of March, 1980; if a corporate grantor, it has caused its name to be signed and seal affixed by its officers, duly authorized thereto by order of its board of directors.

(If executed by a corporation, attach corporate seal)

Emery N. Zidell
Emery N. Zidell

STATE OF OREGON, County of Multnomah, 1980

STATE OF OREGON, County of Multnomah, 1980

Personally appeared the above named Emery N. Zidell

Personally appeared Emery N. Zidell, president and that the latter is the secretary of

and acknowledged the foregoing instrument to be his voluntary act and deed.

and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.

Notary Public for Oregon My commission expires: 6/8/83

Before me: Notary Public for Oregon My commission expires:



Form with fields for Grantor's Name and Address (Emery N. Zidell, 3129 S.W. Moody Avenue, Portland, Oregon 97201) and Grantee's Name and Address (A.J.E. Realty, Inc., 8435 S.W. Fairway Drive, Portland, Oregon 97225). Includes a section for recording return to: Thomas A. Sherwood, Esq., 3121 S.W. Moody Avenue, Portland, Oregon 97201.

STATE OF OREGON, County of Multnomah. I certify that the within instrument was received for record on the day of March, 1980, at 10:00 o'clock A.M., and recorded in book/reel/volume No. 1463 on page 1221 or as document/tee/file/instrument/microfilm No. 63613. Record of Deeds of said county. Witness my hand and seal. County affixed. NAME: By

AUG 2 01980

8-20-80

BOOK 1463 PAGE 1222

(Legal Description continued)

PARCEL II:

River Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, WATSON'S ADDITION TO THE CITY OF PORTLAND, in the City of Portland, County of Multnomah and State of Oregon; said premises also described as Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, River Block, WATSON'S ADDITION TO THE CITY OF PORTLAND, in the City of Portland, County of Multnomah and State of Oregon.

EXHIBIT A - SCHEDULE OF ENCUMBRANCES

The title and estate conveyed hereunder is so conveyed subject to the following described encumbrances and none other, to wit:

1. The rights of fishing, navigation and commerce in the State of Oregon, the Federal Government, and the public in and to that portion thereof, lying below the ordinary high water mark of the Willamette River.
2. Subject to the effect of the laws and regulations governing public streets, roads and bridges, Lot 10 and a portion of Lot 9 being included, this being a public bridge area.
3. Easement, including the terms and provisions thereof, for a bridge, supporting structures, storm sewer, and other necessary and related highway facilities, granted by the Spokane, Portland & Seattle Railway Co., to the State of Oregon, by and through its State Highway Commission, recorded June 16, 1969 in Book 682 page 923, Deed Records, including the rights reserved by the grantor and restrictions pertaining to said reserved rights.
4. Conditions, restrictions and set back lines, and Waiver of Access as set forth in the easement referred to next above.
5. Restriction in Deed from Spokane, Portland and Seattle Railway Company, a Washington corporation, and Burlington Northern Inc., a Delaware corporation, to Emery N. Zidell, recorded July 9, 1976, in Book 1114 page 988, Deed Records, as follows: "As a further consideration for the conveyance of the premises, Grantee hereby agrees the premises shall not be used for railroad car repair purposes."
6. Easement and Option Agreement, including the terms and provisions thereof, between Emery N. Zidell, an individual; and Margaret B. Maradudin, Gilbert T. Benson and William W. Wyse, Trustees under agreement dated May 12, 1976 with Dorothy L. Benson, dated July 9, 1976, recorded July 9, 1976 in Book 1114 page 991, Deed Records. (Affects Parcel I and the Southeasterly portion of Parcel II)
7. Option to Purchase, including the terms and provisions thereof, between Emery N. Zidell, and Margaret B. Maradudin, Gilbert T. Benson and William W. Wyse, Trustees under agreement dated May 12, 1976 with Dorothy L. Benson, as granted by Easement and Option Agreement, recorded July 9, 1976 in Book 1114 page 991, Records of Multnomah County. (Affects Parcel I and the South 85 feet of Parcel II)

RECORDED
INDEXED
AUG 20 1980

63613

STATE OF OREGON }
Multnomah County

Director, Department of Administration
L. L. ...
for said County, do hereby certify that the within instrument of writing was received for record and of said County at

1980 AUG 20 PM 1:38

RECORDING SECTION
MULTNOMAH CO. OREGON

In Book 1463 On Page 1222
witness my hand and seal of office affixed

Director
Department of Administration
Service

Rec-17
M. Zidell
Deputy

63613

700

AUG 20 1980

Attachment 3

Multnomah County Official Records
R Weldon, Deputy Clerk

2016-094370

08/01/2016 10:48:29 AM

1R-W DEED Pgs=8 Stn=36 ATBHE
\$40.00 \$11.00 \$10.00 \$20.00

\$81.00

After recording, return to:

Perkins Coie LLP
1120 NW Couch Street, 10th Floor
Portland, Oregon 97209-4128
Attn: Andrew Solomon

Until a change is requested, all
tax statements shall be sent to
the following address:

c/o Lincoln Property Company
55 Francisco Street, Suite 450
San Francisco, California 94133
Attn: Roger Dean

Re: Fremont Place I & II
1650 & 1750 NW Naito Parkway
Portland, Oregon

SPECIAL WARRANTY DEED

THE REALTY ASSOCIATES FUND IX, L.P., a Delaware limited partnership (“Grantor”), conveys and specially warrants to FREMONT PLACE, L.P., a Texas limited partnership (“Grantee”), the real property, including all improvements and fixtures located thereon and all appurtenances thereto, described on Exhibit A attached hereto (the “Property”) free of encumbrances created or suffered by Grantor, except those described on Exhibit B attached hereto.

The true and actual consideration for this conveyance is \$31,500,000.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON’S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR

SPECIAL WARRANTY DEED - PAGE 1 OF 3

Recorded by TICOR TITLE 362616 016994

PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

SPECIAL WARRANTY DEED - PAGE 2 OF 3

EXHIBIT A

PROPERTY

PARCEL I:

That parcel of land situated in the Southeast one-quarter of Section 28, Township 1 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon being all of River Lots 2, 3, 4 and 5, the Northerly 15.00 feet of River Lot 1 and the Southerly 26.90 feet of River Lot 6, according to the duly filed plat of WATSON'S ADDITION TO THE CITY OF PORTLAND, filed in Plat Book 2, at Page 60, records of said county, said land being more particularly described as follows:

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

EXCEPTING THEREFROM the ownership of the State of Oregon in that portion lying below the line of mean high water.

PARCEL II:

A parcel of land situated in the Southeast one quarter of Section 28, Township 1 North, Range 1 East, of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon being all of Lots 7, 8, 9 and 10 and the Northerly 73.1 feet of Lot 6, River Block, according to the duly filed plat of WATSON'S ADDITION TO THE CITY OF PORTLAND, in the City of Portland, filed in Plat Book 2, Page 60, Records of the County of Multnomah and State of Oregon.

EXCEPTING THEREFROM a strip of land 3.50 feet in width dedicated to the City of Portland for street purposes described in Book 1647, Page 597, recorded February 22, 1983, Multnomah County Deed Records.

Said land more particularly described as follows:

Commencing at the most Westerly corner of Lot 10, aforesaid; said corner being in the Easterly right-of-way line of N.W. Front Avenue, 80 feet wide; thence North 41°20'00" East along the Northwesterly line of said Lot 10, 3.50 feet to the point of beginning, said point being in the Easterly line of that certain parcel of land deeded to the City of Portland by Warranty Deed recorded February 22, 1983, in Book 1647, Page 597, Multnomah County Deed Records; thence continuing North 41°20'00" East 378.22 feet to the Harborline of the Willamette River; thence along said line South 45°59'20" East 473.62 feet; thence South 41°20'00" West 356.10 feet to a point 43.50 feet (when measured at right angles) Easterly of the centerline of N.W. Front Avenue; thence North 48°40'00" West parallel to said centerline 473.10 feet to the point of beginning.

EXCEPTING THEREFROM the ownership of the State of Oregon in that portion lying below the line of mean high water.

EXHIBIT B

PERMITTED EXCEPTIONS

1. Property taxes, which are a lien not yet due and payable, including assessments collected with taxes, to be levied for the fiscal year 2016-17.
2. Rights of tenants in possession under the Leases, as tenants only, pursuant to unrecorded leases.
3. Reserved.
4. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

In favor of: State of Oregon, acting by and through its State Highway Commission
Purpose: Construction and maintenance of bridge structure and supporting piers, together with storm sewer and necessary and related highway facilities
Recording Date: June 16, 1969
Recording No: Book 682, Page 923
Affects: Lot 10 and a portion of Lot 9

5. Covenants, conditions and restrictions but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document:

Recording Date: July 9, 1976
Recording No.: Book 1114, Page 988
As follows:

- A. "Subject to the effect of the laws and regulations governing public streets, roads and bridges, Lot 10 and a portion of Lot 9 being included, this being a public bridge area" and
- B. "Grantee hereby agrees the premises shall not be used for railroad car repair purposes

6. Conditions and restrictions as established by the City of Portland:

Ordinance No/File No: CU-20-83 Recording Date: June 17, 1983

Recording No: 83-038540, Book 1671, Page 1928

7. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

In favor of: The Port of Portland, a municipal corporation
Purpose: Installation, operation and maintenance of an access float and gangway
Recording Date: October 15, 1984
Recording No: 84-72260, Book 1781, Page 252 Affects: Portion of Lot 10

8. Conditions and restrictions as established by the City of Portland:

Ordinance No/File No: CU 91-85 Recording Date: January 7, 1986
Recording No: 86-000974, Book 1876, Page 1962
Note: Access to riverbank

9. City of Portland Ordinance No. 15911, Recording Date: November 14, 1986
Recording No.: 86-094173, Book 1955, Page 2249

10. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

In favor of: Northwest Natural Gas Company, an Oregon corporation Purpose: Gas pipeline
Recording Date: February 25, 1987
Recording No: 87-015133, Book 1982, Page 1319
Affects: Parcel 1

11. Easement(s) for the purpose(s) shown below and rights incidental thereto as disclosed by the Record of Survey, revised February 24, 1987, made by Jim Weddle & Associates, Inc., Job No. 87-1419, and as disclosed on record as a part of the Minor Partition

In favor of: City of Portland
Purpose: 10 foot by 10 foot Meter Vault Easement Recording Date: March 25, 1987
Recording No: 87-023927, Book 1990, Page 1005

12. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

In favor of: City of Portland, a municipal corporation
Purpose: Greenway Trail Recording Date: April 8, 1987
Recording No: 87-028558, Book 1993, Page 2562

13. Declaration of Covenants and Reciprocal Easements Agreement and rights incidental thereto as set forth in a document:

EXHIBIT B - PAGE 2 OF 4

Executed by: Fremont Place Partnership, an Oregon general partnership Recording Date:
April 9, 1987
Recording No.: 87-028980, Book 1994 Page 799

14. Greenway Permit No. GP 12-87, including the terms and provisions thereof;

Recording Date: July 7, 1987
Recording No.: 87-059036, Book 2021, Page 2213 Amended
Recording Date: June 28, 1989
Recording No.: 89-051731, Book 2215, Page 1544

15. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

In favor of: Level 3 Communications, LLC, a Delaware limited liability company
Purpose: Fiber optic conduit
Recording Date: August 4, 2000
Recording No: 2000-107227
Affects: Parcel 2

Partial Transfer of Interest Agreement
By and Between: Level 3 Communications, LLC, a Delaware limited liability company
And: Williams Communications, Inc., a Delaware corporation
Recording Date: January 29, 2001
Recording No.: 2001-013012

16. Conditions and restrictions as established by the City of Portland:

Ordinance No/File No: LUR 00-00592 DZ Recording Date: December 22, 2000
Recording No: 2000-174027

17. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Entitled: Agreement for Sewer Shaft Easement
In favor of: City of Portland, a municipal corporation of the State of Oregon Purpose:
53.5 foot by 90 foot easement for sewer shaft facilities
Recording Date: August 15, 2003
Recording No: 2003-191157
Affects: Lots 9 and 10

17. Sewer Easement Agreement, including the terms and provisions thereof;

EXHIBIT B - PAGE 3 OF 4

By and Between: McMorgan Institutional Real Estate Fund I, LLC, a limited liability company And: City of Portland, a municipal corporation of the State of Oregon
Recording Date: August 15, 2003
Recording No.: 2003-191158
Affects: Lots 7, 8, 9 and 10

19. Any rights, interests, or claims which may exist or arise by reason of the following matters disclosed by survey,

Job No.: 16045
Dated: June 6, 2016
Prepared by: Marx Associates

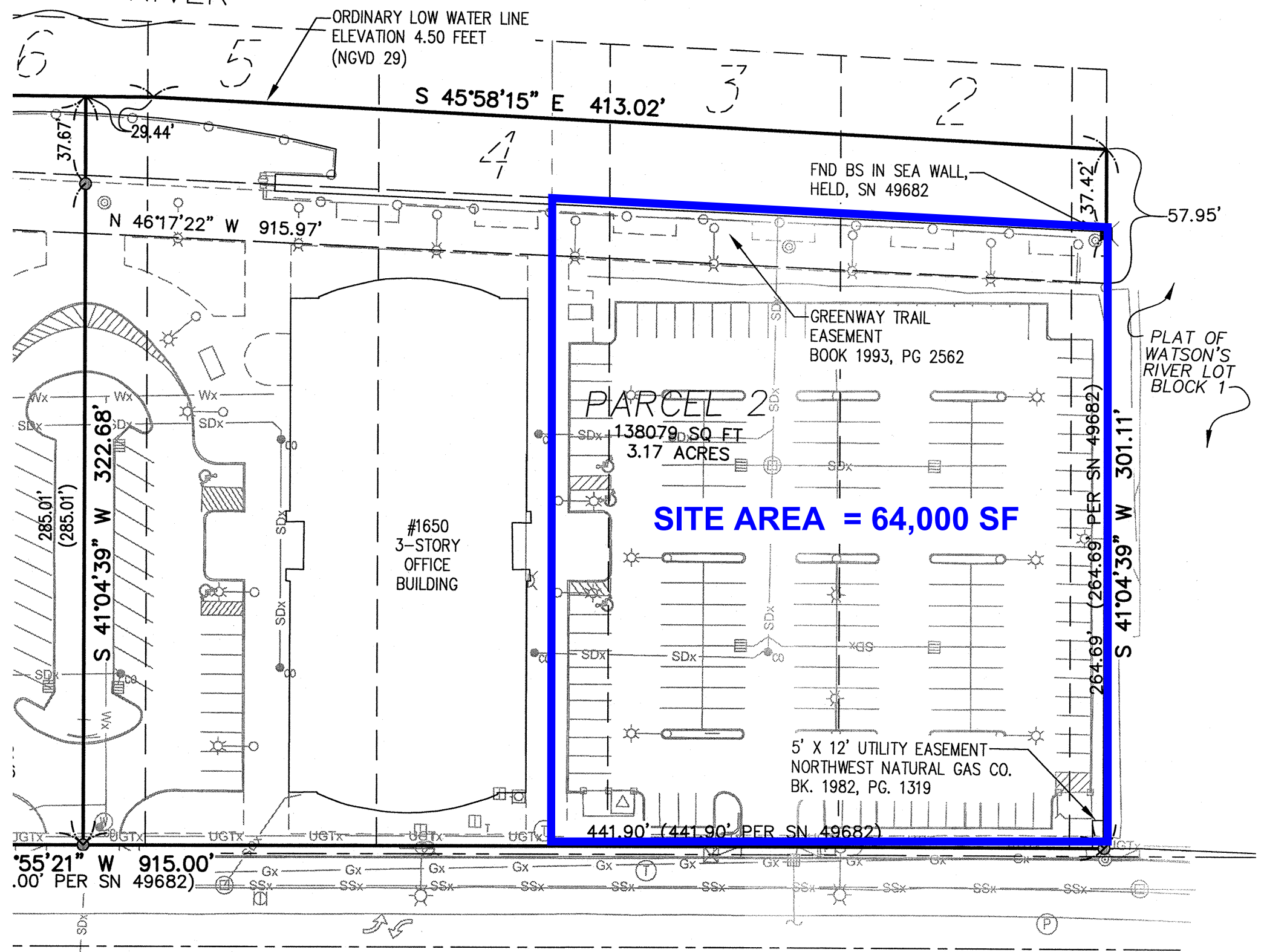
Matters shown:

- A. Chain Link Fence (N. Essex Avenue) as shown
- B. Curb, Planter, Concrete Strip, Power Poles (NW Naito Parkway) as shown

EXHIBIT B

DATE:
MAY 03, 2017

LETTE RIVER



TO PARKWAY

EXHIBIT C



February 27, 2018

Portland City Council
1221 SW 4th Avenue, Room 130
Portland, Oregon 97204

Attention Council Clerk
via email: Karla.Moore-Love@portlandoregon.gov

Re: City Council Agenda Item 177, Appeal of DR Approval LU 16-278621 DZM GW

Dear Mayor Wheeler And Members Of The City Council,

During the appeal hearing on February 21st, there were some questions from the council on sustainability certification for the project, specifically LEED. As was noted in testimony, LEED certification in particular adds a great deal of cost to a project and we are not intending to pursue that for the Fremont Place apartments at this time.

However, we wanted to make clear that the project will be designed, as are all of our projects, as a high-performance building which will include many sustainable features. TVA is proud to have completed over 3 million square feet of LEED certified projects, many of which are LEED Gold and Platinum rated. We bring that cumulative knowledge, passion, and expertise to each project, regardless of whether or not certification is pursued.

For this project in particular, we have several substantial sustainably-designed components in building systems and site design, as are outlined in the attached memoranda from Interface Engineering and Place landscape architects.

Sincerely,

Tim Wybenga
Principal
TVA Architects

tva architects, inc.

920 sw sixth avenue | suite 1500 | portland, oregon 97204
phone: 503 220 0668 | www.tvaarchitects.com

Attachment 1

memo

Project Number	2017-0104	Date	February 26, 2018
Project Name	Fremont Place South		
To	Pearse O'Moore	Phone	(503) 220-0668
	TVA Architects Attn: Accounts Payable 920 SW Sixth Ave., Ste 1500 Portland, OR 97204		
From	Andrew Lasse, PE, LEED AP	@	Interface Engineering, Inc.
Distribution	TVA		

Applies To Mechanical; Electrical; Plumbing; Sustainable Design

FREMONT PLACE SOUTH MEP SUSTAINABILITY MEMO

Summary

The purpose of this memo is to provide an outline of the sustainability measures currently being planned for the Fremont Place South project as it relates to Mechanical, Electrical and Plumbing systems for the building.

Sustainability Measures

The Fremont Place South project is targeted to incorporate an array of highly sustainable conservation measures. The alignment of the measures outlined below, coupled with the additional site, construction, and architectural measures, will put the project within reach of the rigorous LEED version 4 certification requirements.

Below is a summary of the sustainable design measures currently projected to be included in the MEP design.

- **Envelop:** The building envelop is showcased with super high performing glass utilizing aggressively low thermal resistance assembly values almost twice as efficient as code minimum. The roof will also contain significant rigid insulation that is double code minimum requirements.
- **Lighting:** Energy efficient LED luminaires will be utilized in all interior and exterior spaces. Occupancy sensors in the garage, corridors, and stairwells will be utilized to reduce the lighting levels to 50% when unoccupied to reduce energy consumption. All other interior common spaces, offices, storage rooms, etc. will utilize occupancy sensors to turn off the lights when unoccupied. Exterior site lighting will be controlled by a timeclock and a switched photocell to further reduce energy consumption. Automatic daylight sensors will be utilized to dim lights in common spaces where daylight is sufficient to meet standard light levels.
- **Water Conservation:** Low flow plumbing fixtures in the living units and commons spaces are anticipated to save over 30% of the domestic water usage of the facility.
- **Green Roof:** The project will contain a large green roof for the benefit of occupants and to reduce heat loads in the building, thereby further reducing annual energy costs.

- **Variable Frequency Drives:** All rooftop exhaust fans for kitchens and bathrooms will include rooftop scavenger fan systems utilizing VFDs that will turn down airflow at times of low use throughout the facility.
- **Garage airflow optimization:** Garage exhaust airflow will be optimized by reducing airflow to minimums when contaminants are not present in the space. This will be analyzed by the team using CFD software to determine the most efficient configuration of fans, and maximizing flowrates with minimum motor horsepower.
- **Condensing Boilers:** Both the central domestic hot water system and the building heating water system supplementing the water source heat pumps will utilize condensing boiler technology in order to reduce heating energy requirements of the building.
- **Cooling Tower water reduction:** Cooling towers are anticipated to save up to 50% of the annual makeup water usage by using closed circuit cooling towers rather than open towers, in order to reduce evaporation.

Document1

Attachment 2

February 26, 2018

Fremont Place Apartments – Landscape Sustainability Memo

Overview

As part of the overall design strategy for any intervention within our built environment, it is essential to apply a comprehensive approach towards sustainability. Many of the most basic strategies, yet highly visible to the public, are the landscape design concepts that are applied throughout the site.

The Fremont Place apartments landscape design has been conceptualized to be woven not only with the architectural design elements, which provides a design vision that extends beyond the building, into both private and public realms, but also with the larger urban context of the River District, and with the Willamette River Greenway.

We found particularly important to create a sense of place at the arrival sequence of the ground floor, as well as in the interaction with the right of way along Naito Parkway; Through formal landscape elements that frame the views, and create rhythms and spatial definition, the relationship of the building with the open space around it is reinforced.

Likewise, at the private level, and taking in consideration the articulation of massing and careful orientation of the tower's forms, the upper level terraces create a series of experiential and contemplative gardens that provide additional opportunities to engage with the outdoor space and the larger views towards the city and the river.

Design / Sustainability

Beyond the formal and sequential qualities of the landscape design, it is important to emphasize the sustainability strategies that add another level of value to this urban intervention, as well as the integration of systems and program.

The landscape design is composed of the following elements:

Right of Way Planting – Following City guidelines and standards, and through creative problem solving for specific challenges of the site, we are providing a combination of naturalized plant species that provide character, color, and texture along the furnishing zone of the right of way. Due to infrastructure limitations, new street trees are not viable, but we provide engaging vegetation with low maintenance and irrigation requirements.

Sustainability elements: Adapted and native planting, water efficient irrigation systems, maximized permeable area at the right of way.

Entry Court – The formal, yet dynamic allees of trees at the entry court create a sense of arrival and harmonious rhythms with the architecture; storm water planters, based on city standards and practices, provide treatment to surface runoff water and variety in vegetation to the space; this variety is complemented with raised planters with native and adapted species. The overall resulting

character of the entry court is of an urban garden plaza that acknowledges and celebrates its natural systems in conjunction with architecture, infrastructure, and human interaction.

Sustainability elements: Adapted and native planting, water efficient irrigation systems, storm water management, planting diversity; enhancement of the public realm towards healthier and safer environments.

Greenway Trail – As the entry court meets the edge of the greenway, the intention is to bring the energy of this urban transition into one of the best features of the site: its direct relationship with the river front. Through the amphitheater and the articulation of the vertical plane, we seek to create a direct visual connection with the river and the Fremont Bridge; as the pedestrian and visual flow turn the corner, so do the planting and urban furnishings. Planters, trees, and articulated benches create a transitional edge between the building and the greenway, maximizing the views while creating a subtle screen for the ground floor. Again, the adapted and native species, along with efficient irrigation and permeable surfaces allow this greenway to maintain its urban character within its context.

Sustainability elements: Adapted and native planting, water efficient irrigation systems, maximized permeable area at the greenway, directed and protected views, enhancement of the public realm towards healthier and safer environments; potential for recycled and/or certified sustainable materials.

Level 2 Terrace – The main goal of this terrace is to reinforce the relationship between the building and the greenway; through intensive eco-roof elements, and with the opportunity to apply additional soil depth, we create a densely vegetated sequence between the private and the public realm. The expanse of vegetated area allows for a significant amount of rain water to be treated through the eco-roofs,

Sustainability elements: Adapted and native planting, water efficient irrigation systems, intensive and extensive eco-roof areas, rainwater treatment, directed and protected views; potential for recycled and/or certified sustainable materials.

Level 6 and Level 9 Terrace – As we move up on the tower, the character of the landscape tries to allow for open and framed views; the use of extensive eco-roof help us maximize the area for treatment of rain water, while shrubs and small trees in containers carry over the formal rhythms of the building. Although the moves begin to be more succinct, the landscape design provides color, texture, and contrast to the built elements.

Sustainability elements: Adapted and native planting, water efficient irrigation systems, extensive and intensive eco-roof areas, container plantings to frame and direct views, rainwater treatment; through program, the terrace creates opportunities for community identity building; potential for recycled and/or certified sustainable materials.

PLACE

Miguel Camacho-Serna, ASLA

Project Designer

EXHIBIT D

FREMONT PLACE DESIGN REVIEW HEARING 9/28/17

Audio Length: 2 hours and 32 minutes

9-28-17 LU 16-278621 DZM GW

00:00:00

Chair: I think that we are all in the room and ready to begin our fifth agenda item of the day. Fifth and final. I will point out that we are ten minutes ahead of schedule, so our goal is to be wrapped up at 7:30. At the latest. Just some final items. LU 16-278621 DZM GW, the Fremont apartments. And Benjamin Nielson is here with a staff presentation.

Nielson: Good evening. So, I might go a little long today. Just be aware.

Chair: It's a large project with many add-ons. So yes.

Nielson: I'll start out with the basics. So our site is located to the northeast of northwest Naito Parkway, between Naito Parkway and the Willamette River. It's close to the Fremont Bridge, but otherwise there's no other cross streets to help identify. The project area is about 72,000 square feet of larger site. There's a current lot confirmation process underway to separate this site out from the larger site that you can see dashed in red. It's essentially a flat site. It's currently a parking lot with a portion of the Greenway Trail. Naito Parkway is obviously a pretty busy street, it's also the only street giving access to this property and where the northwest triangle pedestrian district. And here is an aerial, kind of bird's eye view of the site giving a sense of the mass of buildings around. There's been a lot more development than what shows up in this picture, but it kind of gives you an idea. The Fremont Bridge is really the defining characteristic, aside from the river, of this site. So, looking to the southeast along Naito Parkway, this is looking to the northwest. You can see the existing office building adjacent to the site right there. Some views of the Greenway and the Fremont Bridge. Another view of the Fremont Bridge--this is a parking lot at the northwest end of the site. This is a view from Fields Park towards the Fremont Bridge. A lot of comments have focused on views from this park towards the bridge. And then looking back towards the North Pearl area from the subject site. This is a closer view of the existing office building adjacent to the subject work area. This is a warehouse, two-story warehouse that's immediately to the southeast across a parking lot. And then of course, Centennial Mills, what's left of it, is visible also--a pretty character defining feature of the site for now if it stays. One of the buildings in the waterfront Pearl Development father to the southeast. This is what the Greenway Trail and the river look like today from behind the subject site looking towards the Broadway Bridge. Looking towards the Fremont Bridge, you can see

that there's a little dock that extends out over the river, so you can get closer to the water, at least horizontally if not vertically. And then looking at development to the northwest of the Fremont Bridge, it takes on quite a different character. It's a lot lower in scale, and all residential, and it really opens up to the Greenway Trail. Greenway Trail itself is also wider, you don't really find any trees, and in portions of it, there's a sea wall, and for other portions there isn't. This is one of the most recently opened developments at the very northwest end of the river scape area. And then looking across northwest Naito from the northwest side of the Fremont Bridge, this has been recently approved and now under construction office complex. Some of the residential housing across the street from that. And then we're back at our subject site. So we did kind of did a nice little circle.

Getting into the zoning. The zoning is [00:05:00] EXd with a G overlay as well. The D connotes design overlay, and the green is for. Excuse me, the G is for the Greenway Overlay. We're in the river district sub district of the central city plan district and we're in the North Pearl sub area of the river district. Approval criteria, there's a bunch, central city fundamental design guidelines, the river district design guidelines, those are because the D overlay, modification approval criteria for requested modifications, and because of the G overlay we have two additional criteria which are the Greenway review approval criteria and chapter 33.440 of the zoning code and the Willamette Greenway Guidelines as well. Getting into FAR, Floor area ratio, the base FAR is two to one. Additional bonus of up to three to one is possible for a maximum five to one FAR. Current total proposed FAR is 4.26 to one. Maximum base height, this is through the central city plan district code chapter, is 100 feet. An additional 75 feet of height may be earned in the North Pearl sub area through modifications. This floor area has to be earned and used as, excuse me, this additional height has to be used as floor area bonus, so it can't be the base floor area, it has to be bonus floor area above 100 feet. And that can go up to 175 feet in height. Floors above 100 feet are limited to 12,500 feet in area and façade length is limited to 120 feet maximum, although through modification requests that can be increased to 150 feet. Any other modifications to this are prohibited. The proposed height of the building therefore is 175 feet, and we'll get in to some of those modifications later on. Because we're in the North Pearl area and on a particularly large site there are some very particular standards that apply to the site and I want to go over those quickly. North Pearl sub area has its own development standards, one of those is the open area requirement. That requires 30% of the site area over 40,000 square feet, which comes out to about 9,600 square feet, give or take, should be dedicated to open area. A minimum of 50% of that required open area must be in the form of parks or plazas and at least 25% of the total required open area must be devoted to at least one plaza or space. Walkways can constitute no more than 25% of that required open area. Shadows must cover no more than 50% of the plaza at noon, or 75% at three p.m. on April 21st, that's very specific. Border trees, low laws planters or similar features are required along the edges of the plaza to give it definition. And then another requirement is that this must provide safe, attractive and convenient linkages to adjacent developments and sidewalks.

Some additional North Pearl sub area standards have to do with waterfront development. So for development along the waterfront, at least 25% of the width of the site, as measured along Northwest Naito Parkway must either be devoted to a view corridor or multiple corridors. There are setbacks. In addition to the Greenway setback along the river, buildings or portions of buildings over 35 feet of height must be set back from that Greenway setback by one foot for every foot of height above 35 feet, and we'll see a diagram in a minute that will make that more clear. The maximum building dimensions in any direction are 200 feet. Public access must be available and clearly posted. Getting in to some of the specific development standards through the Greenway Overlay. There's a Greenway setback that was already mentioned. This extends from the top of the bank to a point 25 feet landward of the top of bank point or line. Any development that's proposed within the setback or riverward of the setback, so towards the river, including building foundations and footings, storm-water planters, or any other occupiable floor area, must be either river dependent or river related. This is really a state requirement that the city has adopted. [00:10:00] If not, if it's not river dependent or river related it requires a Greenway goal exception approval, which is a city council action. I think that maximum building dimension of 200 feet is left over from a previous slide, so we'll skip that. Some landscaping standards are very specific to the Greenway Overlay. There's a requirement for one tree for every 20 feet of river frontage and a minimum of one shrub for every two feet of river frontage unless the trail is wider than twelve feet and then there's a slightly different standard that I didn't get in to. Unpaved areas must have living ground cover. Everything should be planted within and riverward of the Greenway setback. Plantings can be grouped together rather than linear, so you don't have to have, literally, one tree every 20 feet, they can all be grouped together in one spot. The plants must comply with the native plant requirements of the Willamette Greenway Plan. So I think we got through, kind of, all those very particular development standards. Now, on to the project. I think most of you, or all of you, have seen this project before. It came here in June, I think June 1st, for a design advice hearing, so I just wanted to post some comparative images for you to look at today, design advice request images are on the top and the current proposal is on the bottom. It's a 17 story building, contains retail of approximately 6,600 square feet. There's about 275 residential units on floor two through 17. The ground floor is devoted to lobby, retail space, and service uses as well as parking, and there's parking in the basement as well. Comparing the site plan from the design advice hearing to today, you can see that the plaza has evolved quite a bit. There's no longer car access proposed on to the plaza; except for a very, very short piece, right, let's see if I can get this working, right here, which is pollarded off as a little loading area for the restaurant or retail space or drop off area. The rest is completely devoted to pedestrian movement but the pollards are removable for fire access. Parking access has been completely consolidated to the southern edge of the site, as well as loading, so there's one door that accesses all that. Then everything else around the edges is pretty much activate in its use. Getting in to some of the requested modifications, there are six. I'm going to talk about five. First is height modification request.

This request is specific to the mechanical equipment on the roof and the screening that shields that from view. The applicants are requesting a modification to allow that to be ten feet over the height limit and up to 73% of the roof area. The standards in chapter 33.140 limit that to 10% of the roof area, 10 feet in height and the screening and mechanical equipment would have to set back 15 feet from all roof edges that are facing a street, so the screen is pretty much up to the edge of the roof. Skipping modification number two, because it's just talking about narrowing bicycle parking width, that's something the commission frequently approves, and that's for long-term bicycle parking. Modification number 3 has to do with North Pearl sub area height opportunity area, which I discussed a little bit earlier. This request is to ask for the full 75 foot height bonus, so that's above 100 feet up to 175 feet and also to request that façade length be allowed to exceed 120 feet. The proposed length is about 125 feet 2 inches in the east-west direction and that's the direction parallel to Northwest Naito Parkway in this case and 142 feet 8 inches along the north-south direction which is perpendicular to the river, so we're talking project north and project east-west. Staff does not yet recommend approval for this modification request. The original staff report did recommend approval based on further conversations with a specific member from the North Pearl, excuse me, the Pearl district neighborhood association. I realized that I'd accidentally omitted a very major part of [00:15:00] this, of the findings for this modification which is that the extra height can only be earned through modification, it's not automatically granted with bonus floor area, so staff revise the staff report, you should've received that in e-mail today, this morning. Sorry it was so long, but staff has retracted its recommendation of approval for modification number three at this time, pending further discussion today and further revisions. Modification request number four is to the shadow standard on the plaza, reminding you again that standard requires that no more than 50% of the plaza area be covered in shadow on April 21st at noon. The proposal as approximately 84% of the plaza in shadow, however by one o'clock, a significant amount of that shadow has moved off of the plaza, so staff is recommending approval for that modification. Modification number five gets back to this Greenway setback above 35 feet in height. So, that setback requires one foot setback for every foot of height above 35 feet and that's represented by this diagonal line. So the building projects in to that setback in a couple areas lower down and then a much larger portion of the tower and this is looking perpendicular to the river. So this projects in to, what would otherwise be a setback. This modification also requests the building dimension in the perpendicular direction to the river to exceed the maximum allowed length of 200 feet. The request is for 230 feet 9 inches. One more modification, this is somewhat of a technicality, there are pedestrian standards in the base zone that require area between the sidewalk and the building to either be completely paved for pedestrian uses or planted to the L1 landscape standard. Because the ground floor of this entire building is raised up on, basically raised up a few feet from grade because of flood issues, there's kind of a dock and planter condition going on along Northwest Naito Parkway and where there is not pedestrian access proposed, there's a planter. These planters are really much too narrow to

accommodate trees, so the modification request is to not have trees in these planters along Northwest Naito, these right here. Staff supports that modification request. Overall, currently, staff does not recommend approval of this project based on four primary unresolved issues. The first of these are two critical development standards that haven't been met. The first of those is that in order to construct the building as proposed, bonus floor area must be earned and not all of that floor area has been earned yet. The eco roof floor area bonus, BES has not signed off on that, they have indicated that the current proposal would not meet the requirements for that floor area bonus. And then for the locker room bonus, which grants a pretty significant amount of floor area based on its, relative to its small size rather. The applicants have to provide extra long-term bike parking on the order of 110% of the requirement and that really needs to be demonstrated in the drawings, and it's not demonstrated yet. Another development standard that is not yet clearly demonstrated if it's met is development that is not river dependent or river related within the Greenway setback. So, I mentioned earlier that stormwater planters are not allowed in the setback. There's a couple stormwater planters, one right here, and maybe a tiny sliver of one here, it's kind of hard to tell, that projects and for land use reviews that are just entirely Greenway reviews, staff are very strict about that, so I want to make sure that I'm holding to that same standard. Foundations also cannot be set within to that Greenway setback. Now this foundation line right here might just be a drawing error, but the bigger question is how the footings of the foundation, [00:20:00] how do they work with this Greenway setback. It's likely that they can be achieved in some way that doesn't intrude in to that setback, but again, that's not demonstrated, so I can't say that standard is met yet. There are some architectural coherency and material issues that staff identified in the staff report. The first is that there's a very large material palette. There's multiple kinds of glass and spandrel glass, flat metal panel, multiple colors, ribbed metal panel, two colors of fiber cement, brick and also board form concrete. Articulation of the massing could also be more consistent and simplified and I'm pointing to a specific case here, but there's other instances described in the staff report. What I'm pointing to right here is the way the vertical tower massing is interrupted where datum line for the podium section would cut across. Staff believes that the vertical articulation of the massing should be continued on the tower rather than reflecting the podium massing, in this case. There are some other cases described in the staff report where massing kind of pushes and pulls and changes where it probably doesn't need to, necessarily and it complicates the overall coherency of the massing and the building. Some of the façade articulation patterns also complicate how the building massing is expressed, so looking at the east, excuse me, this is the north elevation along the plaza, there's a very regular order to this elevation. It expresses quite a bit of verticality and then as an example, that verticality doesn't necessarily translate to other elevations. So, this is looking in to the courtyard, down here, where horizontality really takes over and it's kind of hard to see in this image because it's so small, but rather than having these vertical spandrels define the façade, the horizontal spandrels really take over the expression. And then just as a general note there's also some missing information and supporting details for

the proposed materials and also a couple drawing coordination issues, specifically, between the architectural and landscape plans that could use some resolution. Those are more minor issues than the other issues I was just talking about. Then related to the revised findings based on modification number three, the tower massing could be made to be more supportive of the neighborhood character, context and views. So, the applicants have done quite a bit of work already demonstrating how shifting massing around on the site can help to improve, what would otherwise be, the allowed height of a building on the site which is represented by this light green box. It would really significantly block the view from the bridge, view from the field's park towards the Fremont Bridge, and I think you can see that pretty clearly right here. Shifting the massing starts to address that issue, but because of the massing and articulation issues identified in the findings, and the fact that the floor area has to be earned through bonus, staff believes that additional work could be done that could help to further support the neighborhood character and protect what's possible of the view from Field's Park. I'm just looking back towards the Pearl district again had some of the tower masses that followed these same guidelines, but of course don't have such precious views, I guess, to block. These towers here, these three towers, this is a more rectilinear tower, but these two towers are much more square in nature and they all respond to this same development standard and the same guidelines. The one difference I might note is that they are allowed taller maximum height. So, that's an important piece of the puzzle. Getting on to some of the Greenway setback, Greenway Trail and open space issues staff identified. A few of these revolve around the termination of the Greenway Trail, so right now, the seawall stops at the south end of the site as does the Greenway Trail. [00:25:00] It's unclear as to when future development might happen on the parcel to the south that would allow for the extension of this trail. As such, the Greenway Trail termination needs to be designed to both accommodate future alignment of the trail on the abutting property because the seawall stops, it's not clear where the top of bank line is and staff is leery about allowing an approval of the Greenway Trail extension to be constructed out over the river. Also, at this termination point, there's a mechanical room and ventilation that opens on to the trail. Staff believes that needs better resolution. And then a relationship of the second floor terrace to the Greenway Trail needs to be improved, and here's an elevation view looking at this mechanical area, so this glazing right here is translucent glazing, it's not looking in to active ground floor use, it's looking in to the mechanical room, and these vents as well are mechanical ventilation. This section shows that it's for the underground parking. And then, just the disconnect, the visual and physical disconnect from the Greenway Trail to the terrace up above. Staff wrote some findings expressing concerns about that and to kind of build on that, I wanted to show you some images from north of the Fremont Bridge. So, the development here, as I mentioned earlier, really opens up on to the trail, so all these planters, basically, separate the trail from private development, but it's very visually permeable and even physically permeable; there's no gates blocking access in to these areas. This right here is a connecting trail from Northwest Naito to the Greenway Trail and this leads right in to the new, I think this is the

Rivage development, with a water feature kind of down here. It's really hard to see, the only thing keeping, I guess, non-residents out of this area is a little tiny sign down here that says private property, no trespassing. And just some more images showing development to the north of the Fremont Bridge. Again, just a little couple tiny steps and some planters. This is a more recent development, everything is at grade. Blow up of some of these signs telling people not to skateboard and not to walk up on those steps. And then one of the office buildings to the south of the Fremont Bridge, adjacent to our subject site, this also is right at grade with the Greenway Trail. And then, talking about the design of the Greenway Trail itself, the design kind of deviates right through here, from what's typically found on this section of the Greenway Trail. So, to the south of the Fremont Bridge, there are trees along the seawall currently. The trail, I don't know the exact dimension, it's probably at least twelve feet in width, the applicants are proposing narrowing the trail to ten feet and angling it kind of towards the building rather than just simply running parallel to the seawall. To the north of the Fremont Bridge, for reference, the trail is just wide open area. All the landscape is basically off to the building side, or whatever's growing down below the seawall. And then staff had some concerns about the proposed placement of the building tight up against the south property line. This was discussed at the design advice hearing, but staff wanted to revisit this issue just to point out what the future development pattern may be because of that. So, looking at development along the river front, these blue lines represent areas where pedestrians can walk from the Greenway Trail to Northwest Naito. Right through here, there are no current pedestrian connections and the trail also stops; there is no trail connection through here. So, development standards aim to get these breaks, these pedestrian connections in view corridors, to represent Portland's traditional 200 foot block pattern. And, staff is concerned that by having a common end wall at the south property line [00:30:00] that sets up a condition where the 200 foot block pattern would be broken and a potentially longer block would be expressed. Looking at the plaza on the north end of the sight, this plaza has very little engagement with the existing office building. This is a linear storm water planter with one break right here into the existing sidewalk along that building. Staff believes this plaza should fully engage both buildings though staff also notes that there is a grade separation that's happening here. (This slide right here shows that so the new development is right here, plaza runs through here, storm water planter is here and the existing sidewalk along the office building is there). So there is grade separation; it's fairly minor. It could probably be accommodated through steps or through other creative landscaping on that plaza area. Staff also notes that the S have not signed off on these storm water management planters and would like to ask the design commission how well these meet the water features guidelines specific to the river district. And then finally, another question is due to the large scale of the development and the large size of the site, if there's an opportunity to propose public art in the large plaza connecting the Greenway Trail with would also meet one of the river district design guidelines. Okay, getting down to the end, response to service bureau requirements. Fremont hasn't received the required utility vault

information yet. I've heard from the applicants in the past that this has been a challenge for them as their project manager keeps switching and new requirements keep getting imposed, so they're working on that. And then the eco roof and storm water issues that I've already talked about. So, I'm sorry that took so long; there's a lot to go through. I'm sure you have questions; I hope I can answer them.

Chair: Questions for Ben?

Don: On modification 5, I didn't understand if you supported that modification.

Nielson: Staff supports that modification. I can explain the reasoning, too. So, for the length of the building being over 200 feet, that length is perpendicular to the river. The standard is really to get to the 200 foot block pattern, which there's not going to be another street along the river, and that block pattern could be met along the Naito direction, the building length there is about 182 feet, if I recall correctly. So, it's longer in one direction and shorter than it needs to be in another direction.

Don: So, it's longer on the east-west and shorter on the north-south?

Nielson: Yeah, longer in the perpendicular direction to the river and shorter parallel. And then, staff is supportive of this intrusion into the Greenway setback on a 45 degree angle thing. Based on past commission comments at the design advice hearing and really how it allows the building to begin to open up views of the Fremont Bridge again from Fields Park.

Don: You expressed some concerns about the view from Fields Park later on in your presentation.

Nielson: Yes. So, staff's position is that more work to the massing could be done to reduce its impact on the view and to create a more coherent mass expression of that tower component.

Don: But, you do support this intrusion into that...

Nielson: Pending further discussion from you.

Don: Discussions.

Nielson: Yes.

Don: Got it. Okay.

Jessica: On the south side, the issue regarding the building...I guess I'm calling it the south side, but it's...

Nielson: Yeah, it's complicated because we're at a 45 degree angle.

Jessica: Right. We're at a 45 degree angle.

Nielson: That's the project south direction.

Jessica: So, along that side staff is concerned that there won't be connection to the Greenway.

Nielson: Well, there's two concerns. [00:35:00] Either that there won't be connection to the Greenway and the block pattern will exceed 200 feet or that there will be a connection there and it will be a long blank wall.

Jessica: Right.

Nielson: So.

Jessica: So what would be, what is staff's recommendation on that side, because if the other building does build up to the property line, that's going to essentially be a tunnel.

Nielson: Exactly.

Sam: Well, and then the building would come to design review and...

Jessica: Oh, true.

Sam: It's also so other things would happen, so you can't really hold, you know, them to both sides of their side. My opinion.

Nielson: It would be a difficult condition that would have to be addressed in a way that may not be ideal, but I'm sure could be handled. So, I mean, the real way to have prevented this problem in the first place would be to have active ground floor use all the way around. But then these services have to go somewhere, I mean, they're kind of in a logical place so it's really a conundrum. And it's, yeah, it's why I'm bringing it up again, basically.

Jessica: Okay.

Don: There may not be a better solution.

Sam: I just have a quick question in terms of the S and storm water. I know it's not necessarily been your... anyway, but still... if you're right next to the river, do you still have to do planters? I mean, that storm water is going to go into the river.

Nielson: I think they require filtration and treatment before it goes into the river regardless of where you are.

Sam: Sure, it has to be able to _____ [inaudible 00:36:44] this and the other, but it can be done mechanically or whichever way, right? It doesn't have to be done necessarily through planters?

Nielson: I really can't specify to that.

Sam: Great. Thanks.

Nielson: The other storm water issue was the eco roof bonus, which has more specific requirements, and that also hadn't been signed off on.

Sam: And I was going to ask you about that, actually, thanks for bringing it up. What is the deficiency, I mean they're proposing a green roof, so what's the deficiency there?

Nielson: So I got comments from BES today and I don't exactly understand the details of it but the general outline is that a lot of the eco roof proposed is proposed as intensive eco roof rather than extensive. Extensive meaning it incorporates deeper soil and trees and requires additional irrigation and that comes into conflict with some BES requirements about, I think pollution control, talking about nutrients getting into the storm water. I'm not exactly sure. Where it goes beyond that, that's kind of broad outline. I'll leave it to the engineers to figure out how to fix it. But his recommendation was that extensive eco roof so thinner soil, basically seedings in low plants are all that they would support.

Chair: So, Ben, I might have the generation prior staff report in front of me.

Nielson: I have an extra copy.

Chair: And it sounds like the revisions are, the revisions that you very recently made are to a couple of the modifications in your recommendation on the modifications.

Nielson: Just modification number 3.

Chair: Number 3. Okay. Thank you. So, the staff report doesn't recommend approval and there are a lot of outstanding issues. How best to frame this...from your perspective, what is the best outcome of today's discussion?

Nielson: The best outcome of today's discussion would be to address these issues and the guidelines specifically that aren't met. Try to provide guidance to the applicants so they can make revisions. Some of the guidance is also to staff so the design commission may decide that revisions aren't warranted in some of these cases, and that some guidelines outweigh others. And that's your call.

Chair: So many of the issues...I believe that this is a new case for you.

Nielson: It is.

Chair: The last time this was in, Stacy was here with it.

Nielson: It was Stacy's. Yeah.

Chair: You've adopted it.

Nielson: Yes.

Chair: Many of the issues that are outlined in the staff report were present at the DAR. Can you tell us what the conversation with the applicant has been like [00:40:00] since the DAR and do you believe real legitimate effort has been made to resolve what were then outstanding issues?

Nielson: Well, I do believe legitimate effort has been made, I just don't know that it's gone far enough. So, the applicants have definitely worked on the Greenway issues that have been identified from the DAR, specifically the terminus area. I don't know that it's gotten better, personally, I think it's probably not gotten better. It's probably veered off course. I think they've done quite a bit of work on composition issues on the building in terms of patterning and materials. Staff still believes the number of materials is probably too big and there's still work to be done. But I recall commission specifically asking for a glassier tower or glassier building and I think it's starting to read slightly glass here. So there is movement in the right direction based on past commission comments. Certainly the open space is a big change figuring out how to consolidate parking and loading, getting that to be a fully pedestrian space. That's a big change. In terms of address massing issues that were identified by the commission, I don't think there has been much movement on that and I think some of the podium issues that were discussed, transitions and materials on the podium, those have not gotten better either.

Chair: Thank you very much. Commissioners, were all four of us here at the DAR. Yeah, okay, very good. So the commissioners who are here today are knowledgeable. With that, we'll turn it over to the applicant.

Wybenga: Excellent. Thank you all. I'm Tim Wybenga, Principal with TBA Architects, and I'll do my best to get through this quickly. I think Ben's just given us a new potential name for the project, which should be Conundrum. [laughter] There are a lot of rules and a lot of regulations that are sort of getting us at each turn here, so obviously that's reflected in the complication of the issues that we like to move through with you tonight. And, as been said, our primary goal short of you all approving this project tonight and all going home early, our primary goal would be to find out a lot of the things that we continue to work with are clearly very subjective, very subjective in nature and we are, in our conversations with Ben have been quite good, certainly of late, and yet we're working through the level of betterness for which we are bettering the guidelines in order to accomplish the modifications we've asked for. So, I'll move through these things and certainly I have no doubt there will be some questions when we get done. Just briefly, I'll tell you, when we get back to the material question, we believe that our material pallet is actually important. And, part of the reason for that is shown here in a couple of these neighboring buildings, which is the simple extrusion of these...in its particular I would say on block 17 and the envy, and similarly on the civic.

We're not talking about...this is not a custom curtain wall project, this is a modular unitized new wall system and we think that the beauty that we can make from this comes from how we detail it, how we allow it to intersect with other materials and how we keep it from being just a plain extrusion of plan. We think that's important to the composition and it's certainly important to the owner. So, as we move through here I'll start with the material pallet. So, as we discussed at the DAR what we really looked at is not an intent to make a direct historical reference but to allow the sort of shoulders of this building to be of an appropriate scale and a contemporary interpretation of some of that industrial riverfront language which we find to be very much in concert with the guidelines for this zone. As we move to the tower, we have moved towards an increasing level of glassiness. [00:45:00] And, again, acknowledging that we are talking about unitized window wall, we're not looking at custom curtain wall. It just simply doesn't fit the proforma for this project. So, we've started to look at articulating the corners with balconies, creating units with full floor to ceiling glazing. And, most of the things that we've done compositionally in the building are really set up to give the building sort of a directionality. So, we typically move towards these full glass corners, we're pulling back the spandrel pieces so that each time you move towards the corner of the building we're integrating either floor to ceiling glazing with no spandrel or we're integrating balconies as we kind of pin wheel around the plan. And again, so the question of the material pallet being too varied, the port form concrete that's at the lower left here, this is a base material. This happens really only at the offset between the sidewalk grade and our 3 foot elevated platform that is caused by the flood issues that Ben mentioned. That material and our fiber cement panel actually are both sort of cementitious in origin. We find them to be directly connected so we're not talking red and purple here. And, similarly, the brick and the box for the metal siding which is actually only really at the tallest part of the building. This is at the mechanical screen. And what we now have, this photo looks a little too light, but basically if you take a look at the materials we have a very small amount of an accent, fiber cement panel. But, these 3 materials are essentially the same color, very similar color, very similar sheen and a different texture so it's more of a subtlety in how we tend to blend these things on the façade. And then, the image on the right really speaks to yes, we do have two spandrel panels and we have, as well as, the clear glass which actually have a green tint. This building as well has two different colors of spandrel and you can see when put in context with the metal detailing it's actually a fairly minor and subtle shift. In reality you read a large glassy volume. So that's our intention for the material pallet. Concept in massing--this obviously has been a lot of our discussion. We've been to the Pearl district neighborhood association twice for conversations with the neighbors. We have started this project from the outset as being a project that is being considered of that view from the park. We identify that as important and the neighbors agreed it's extremely important to them. There is no requirement upon us to do so, so a lot of the conundrum that comes with the massing of this building stems from looking at the project from that vantage point. So, which is why I would argue with some of Ben's characterization and I think we've gone very far away

towards the betterment of the standard just by the way we've looked at this one issue which is not required. And, I'll kind of put up this diagram so you can see what it is. We decided to update this image to try and actually put in the massing of the building so this is a very poor schematic model rendering but just to give an idea of the mass. What you can see is this is our 100 foot height line. So, we have intentionally pulled the Naito Parkway side down two stories below where it could be by right and similarly as we go back you can see we've kind of knocked off as much of that volume as we can and pushed it further into the background strictly for reasons preserving the view. You can see the difference between our 100 foot line and what that impact has on the bridge. And, I should mention this view is actually slightly different than the prior diagrams. Meeting with the neighborhood association I was told by one of the neighbors that she thought it would be important that we look at the view from the terminus of the boardwalk that intersects the ellipse, so we've used that geometry to reset these views which actually has a slightly better impact relative to our massing on the bridge. It's a slight improvement. Anyway, this brings us back to the conundrum. Right? Anything we take off the tower or off of that 230 foot length is going to come back here somewhere. Right? This is the reality of what we do. Right? This is the FAR as the toothpaste in the tube and if we squeeze it it's going to come back somewhere else as we're trying to do it. And, we should also mention that this project is currently the FAR as 4.2, right, so we could max out those bonuses to get to 5 [00:50:00] and the owner's made a conscious decision not to do that. But, we're at the line of what they need to have this project be feasible so this is why we're not lopping off portions of the building without good reason. Again, this kind of shows it in another view from down below. So, we have taken further look at the rendering of the building. We had some drone photography done so that we could actually set the building in context. So, obviously here we're at the southwest looking...these views are obviously a little confusing. A lot of times we start with only ground level views, pedestrian level views, but we thought these views give a good sense of the building in its context and the overall scale of it. Northwest view, you can kind of see that, that full glass element at the corner. You can see how we've sort of integrated. We had been working on integrating this piece that we talked about during the design advice hearing and to get a better sense of how this plaza interacts. So, list us as critical to the project and this essentially 60 feet right-of-way that we're creating here, this 60 feet public plaza, 60 feet wide by 240 feet deep, we see that as being more critical to the Portland block than the 200 feet in this case. So, that's really a city right-of-way. Our concern is if we push the building further to the North which is one of the suggestions we have from staff, we very much...we exponentially worsen the shadow problem and we create a space that doesn't have the feel of a city scale public space. So, that one we feel pretty strongly about. Looking from the southeast we can kind of see this actually doesn't even have our current views of the end of the Greenway, but the plan for that second level terrace is one of the things we discussed relative to BES so that's probably the very simple representation here. The idea is that terrace was intended to be very lush, large scale landscaping which counter-intuitively doesn't meet the BES standard. We

have more than enough area to accomplish the bonus but what we're going to have to do is switch a good portion of it from tall grasses and plantings to seed them. So, we have the area and in addition of the current idea for the owner, we've kind of gone back and forth on this area as a terrace versus a pool. The most likely outcome is we're going to make that a terrace, which means we're gone to have another chunk of space to incorporate additional green roof and a little more flexibility with the geometry. So, again, I'm looking from the northeast you can kind of get a sense of the scale of this piece relative to its neighboring buildings and street level views from the northwest corner both day and night. On the modifications Ben has covered these very thoroughly. A couple of things that I wanted to point out. One of the things that's noted in the staff report which we take issue with, I don't quite understand. You had a similar comment from the neighbor about an "L" shape not being appropriate and I don't know what that means or if you all would concur with that. Looking at this very simply, again that view from Fields Park, that view from the principal section of Pearl comes right across these two corners. It's literally how we configured the shape of that tower. If we were to stick with 120, the footprint of this tower becomes far less appealing for units, right out units will all become "shot guns". I realize that's not the issue with the designing view commission but more importantly than that, that means that if you track these two lines out the corner of our building is now considerably more impactful to the view, just what we're trying to avoid so that's the nature...that's why we see the increase in façade length as better meeting the standard. And, that's really a similar thing on the base. I know Ben said the staff is in agreement with this modification but, you know, the additional 30 feet here perpendicular to the river doesn't detract from anyone's view and it allows us to put a good chunk of that FAR somewhere where it is the least obtrusive to the views and to the neighbors. Other than that, I think on the modifications, you know the general idea for the roof top mechanical is pretty clear. We're trying to integrate that with the mass of the building [00:55:00] and we're trying to make sure that the mechanical equipment is visible from all over the Pearl as well as from the bridge. So that's a pretty simple one. The shadow...it sounds like we've covered that so I'll keep going. Tech plan at Greenway. So, we've talked about the plaza. On the Greenway itself it is a tricky condition. Again, conundrum. And what we're working with now is the idea that we have to both create an end to the Greenway in its current status and we're trying to make it where it's a linkage to the future Greenway. And so our idea here is that we're trying to refocus the Greenway so that there's not a 25 foot wide swath ending at a fence with a sign on it. So, we've tried to redirect really using like a serial vision type of concept. We're trying to redirect someone so that the eye goes to the public space. And this public space is intended to really work almost like a ball joint. So, if you were trying to create, we don't know what the geometry is to the property that's south. No, I don't think it's fair to saddle this project with a need to connect to the broken geometry to the property that's south, we're trying to find a way to allow that to happen in the future. So, if you picture that joint as being by creating that note at the end in the future that's a pause point. In the current condition it's a place to gather, turn around, and we have

some views of that as well. So here's the geometry as we proposed it. We can talk through this in more detail through the question period. And, here's the condition, so we actually think that neighbors top of bank here is right about at the inside edge of our Greenway easement. So, there is an issue and you can kind of see how that...the geometry of that corner and pulling back the building will allow more flexibility on that connection in the future. And, this is the type of space that we're looking for. So, this is always one of those tough things to guess. Do we show trees or do we not show trees? So, you know, this elevation, actually a lot of this is driven by the comments we receive through the DAR process which was don't make a space that looks like the public can access if the public can't access it and it was create a set of stairs and an access so that the tenants can access the Greenway directly. I think one of the bigger issues is the idea of bringing in a mechanical venting out here. In truth, the venting only happens above 10 feet. There is no safety issue. We've tried to work these lugs in as an architectural element and rendering this to show the architecture we took out the trees. But if you notice that plan there are two large trees that stand right in front of there. So we love to have direct input from you all on what sort of façade treatment would be acceptable there considering how we've activated the rest of the Greenway. We also would contend that as opposed to the properties to the north, you know, a stoop from an individual unit technically activates the Greenway, but for the bulk of this site we've seeking to activate the Greenway extensively throughout the patios, through restaurant uses at a level that's not done anywhere else on the Greenway, so we think we've already gone above and beyond in the activation mode. So, pedestrian scale elements--kind of move through these. We talked a little bit about the access from the building to the north, there are actually four points of access. There's of course Naito and the Greenway and we have two points of access from the adjacent building, which is shared under common ownership. The reason for that is that this middle zone is the flat spot of that plaza. So, in an attempt to make a space that has special events usage. We've put utility pilaster in there so that food carts and mobile vendors and festivals can set up in this space. We need to maintain that flat spot, essentially. That's this zone across this middle here, between the two access points. That's the reason why we're not putting a stairway directly up from the adjacent building. Seemed like the right solution to us. Going around the building, we've done a lot of study of the, kind of, pedestrian scale materiality and form of the building, since we were here for the DAR, so this is obviously looking at our entry corner and the plaza there on the northwest corner of the building on Naito Parkway. You can see that, sort of, minimal quantity of the board form concrete, as well as our thoughts on signage and the double height lobby. Again, these views start to give a better idea of how we are using those brick piers to break down the scale and make something that is, you know, appealing at that pedestrian scale, to bring [01:00:00] down some of the proportionality of the building and to introduce a more appealing, really, texture at this level then something that might be a little bit colder. Here's the primary entry, sorry, the secondary entry to the lobby which is on Northwest Naito Parkway, just to kind of give an idea of how we're turning that corner. We can go

through these rather quickly, we don't really need to go through the plan. If you have any specific questions we can go back and talk about, you know, if we nip and tuck from here, where else would that go. We can kind of explain the rationale for each of these plans if that's something that you need. Elevations we've covered. One thing I would note, on the right hand view our building at this portion of the tower is at widest point, about 70 feet and that is the same width as the prow on one of those waterfront Pearl buildings. So, that building is set back, I don't know, 20 feet from the Greenway, that prow piece. That façade of this building is set back almost 100 feet. So, in terms of that, the move in to the setback, we're considerably farther back than the precedent building down river. Maybe I'll just let these go. You've probably seen these in the packet, but there are some, we made a good deal of effort to take the input from the DAR and reflect that in the in the current iteration of the building such as it is. Lots of notes and lots of text. Anyway, that's the gist of it. We certainly have more detailed information and would love to have your opinions.

Chair: Thanks very much. So, questions from commissioners.

Don: With all the conditions and modifications from Ben and now this presentation, it's a little hard to...I think we have to systematically start to go through this thing; otherwise, we're going to get as confused as some of the presentation was to mean.

Chair: Yeah. Okay.

Don: I don't know exactly how we do that, but I'm curious about the canopies. On that one, I think it was the brick side on Naito Walkway, you had some of these and you had some of these. What's the purpose of changing them up that way? Some entrances and some are just weather protection? Or what does it represent?

Wybenga: That's exactly right. So the glass canopies mark the three major entrances of the building, so there's one on this façade, there's one at the, this would be the entry to the restaurant space, and then just to left there you can see the one that's the main entry, accessible entry to the lobby of the building. So, that's exactly right. Then the steel frame canopy with the wooden lay are to give a sense of cover and scale to those sort of areas where you're walking parallel to the building.

Don: So, there's two entrances into the lobbies: one off of Naito Parkway and the other one off of the plaza?

Wybenga: That's correct.

Don: And both of those have, it looks like you have [inaudible 01:03:28].

Wybenga: Steel and glass canopy.

Chair: So, I would like to ask you a couple of questions about your responses to DAR comments. I'd just like to ask you to expand a little bit on, here in the hearings

room, on the responses included in the package and that were on the summary sheet at the end. So, and in fact this might be a little bit more than just the response to the DAR, but some of the underpinnings of the design decisions that have led you to where you are today, many of which were touched on in the DAR. So why is the building weighted to the south property line rather than the north property line? Why is the pedestrian space not on the south side of the building?

Wybenga: As a practicality, we have a fixed object, being an existing office building, to the north property line, which is ten feet from the property line. In order, our opinion from the get-go, is really that 60 foot of width is a requirement of the 25% rule. So we have, essentially, 240 feet of frontage, we have to provide 60 feet clear through to the river. We've looked at that many different ways and to split it 30 and 30 [01:05:00] leaves two very unsatisfactory spaces; 50 ten becomes even worse. That's one of the main things that we wanted to ask if the commission agrees with staff that we need to provide some buffer at that south end, what would the nature of that be that would be acceptable, because to us, a five foot landscape barrier or a ten foot space becomes a future tunnel, it becomes something fairly unsafe potentially, or unpleasant at best. That's kind of a question on where you all would stand on that zero lot line issue.

Chair: Ok, we will talk about that more because the fact the building is tight to the south property line has a really significant impact on that south wall. I mean, that is blank wall. Which drives the second question that I have for you, which is why is parking access tight to that south property line rather than inboard? So, if it were inboard, active space could presumably kind of wrap around the south side of the building.

Wybenga: I'm sorry, could you tell me again by inboard? On the Naito Parkway front?

Male: Mid-block.

Chair: Yeah, why is parking access not mid-block?

Wybenga: On Naito?

Chair: Yeah.

Wybenga: I would chalk that up to the fact that it is a, we're not working with 200 feet of frontage, we're working with 165 feet of building frontage, so, that's a big hole to put in the middle of the building relative to trying to maintain some sort of pedestrian presence along that edge. That's the primary reason, it becomes sort of an awkward hole in the middle of the building because we can't, there is no side street. Which is really why we started out saying we wanted to bring the traffic in mid-block on the north side to keep that Naito façade as intact as we can from an urban edge vantage point.

Don: So it's basically the back of the building at this point? It's going to be a blank wall for the whole thing? Is there an imagined access path in to the river along the south property line in the future, for the next development to the south?

Nielson: It could be located there; they could choose to locate it somewhere else. There's no requirement.

Don: So they could butt right up with the back of their building against this one?

Nielson: Could.

Don: Yep.

Nielson: Yes.

Don: But then that would give you, essentially, two blocks basically of...

Nielson: Potentially.

Don: ...instead of the 200 foot forms?

Nielson: I also have...

Don: ...the consequence.

Nielson: It's potentially true. I also have written testimony that will be handed out to you in a minute that I received yesterday from that property owner. It sounds like he's not interested in building up to that wall. It's another point to consider.

Chair: Does that mean that redevelopment of that site is planned?

Nielson: It's currently in for redevelopment of the existing building. I don't know what the future holds beyond that.

Don: Right now, it's their parking lot abuts this. Is that correct?

Nielson: That's correct. That's right.

Don: So that's a major concern. There's no real provision for the future there.

Sam: Well, but, I guess my point is that if the plan should have then regulated that, there's no regulation, and you can't hold one guy or one group versus another group responsible to meet some very vague guidelines.

Don: The neighbor on the north certainly gets the benefit of this project than the neighbor on the south, doesn't get any. I mean, there's no requirement that they have to give anything to the south neighbor. But the question is, should something happen there? Should there be a setback? I don't know. I mean,

there's no way to get access through there, but there's no requirement that there be access either.

Sam: Right, but even if you...so back to, I don't know, we're not in this, we're in discussion time or?

Chair: No, it's question time.

Sam: Question time, sorry.

Chair: So, we can come back to it, but if you would like to frame it as a question to the applicant, awesome.

Sam: No, that's fine, just leave that to discussion time.

Don: There's a lot to discuss.

Chair: Yes, indeed. Do you have any images. Did you have another question?

Don: No, I'll, not right now, no. Go ahead.

Chair: Do you have any images of the northeast corner, the restaurant corner? I think there was a tiny one.

Wybenga: I think we may only have that on this package. [01:10:00] We may only have that in the aerial.

Chair: Okay. Is there a grade change between the restaurant deck and the Greenway?

Wybenga: There is, there's a three foot grade change down that side as well.

Chair: Oh, it's a three foot drop, okay. And do you have images of the perspectives from the DAR that we could compare to what you have now, or does staff?

Nielson: I don't think I brought those.

Wybenga: I don't have those with me. These images didn't, we didn't have these images, we had aerial photography done in the last month or so, so these images didn't exist. We really had some ground level perspectives and I think rendered elevations at that point.

Chair: So, at the DAR, we had quite a bit of conversation about this piece and my notes about that are pretty sketchy. Just that that really is an impact to the overall coherency of the building. It impacts massing very substantially. I'm hoping you remember that better than I do and that you can tell us what exactly, clearly there's a performant there and it's being driven by the number of units and there isn't a better place for you to locate them, but what else did you look at, and then what has been done to resolve this piece?

Wybenga: The issue at the time at DAR was that, essentially, was a dog-leg off of this taller mass. And what we've been trying to do, well, first thing we did after the DAR was try and find a place to displace that, so that's about 10,000 square feet. It's a big chunk to move, and a chunk that really can't be lost from the project. What we didn't want to do was do the deal that Ben showed in his reference image, right, where we're stepping every floor along that 45. We found it to be a highly unpleasant fix. So we've tried to minimize the number of steps and the only other place that, really I think that, mass cleanly goes is going back to the Naito Parkway side. We're at eight stories here, so, from strictly a position of 'we'd like to get rid of that compositional difficulty' the easiest place to put it and stay within the rights of the project would be here. All of a sudden this piece comes to 100 feet instead of 80, nominally 80 feet. This height has a pretty good tie in, it's very close to that main building at Centennial Mills. Assuming it stays. We keep looking at this in order to make the tower more vertical and in order to make the building have less of imposing mass on a pedestrian walking down Naito Parkway. We've really tried to keep this low. So we looked at it, we modeled it again, we popped it up a story, we popped it up two stories. We believe that that is, the corner here, actually has a substantial, if we go up to 100 feet, substantially negative impact on the view, more than the one beyond. It seems like one of these things that it is the least obstructive place, where we have it now. So what we've done is worked to better integrate it as part of that, in sort of this series of reveals. We have a reveal here, you know, where we've stepped back that floor at the transition from the podium to the taller element. We've integrated it with that piece in terms of its architecture and articulation because we don't really have a way to remove it. So it became, when the massing thing seemed like a dead end, it really became a question of articulation and integration.

Don: At the DAR there were some concerns of how do you clarify this mass and this mass and the relationship between this vertical element and then the two horizontal elements. That was an area of concern that came up and I was just curious how've you responded to those concerns from the DAR.

Wybenga: What we've worked to do, I actually was saying to Ben when we talked briefly yesterday, I think he's correct in noting that we have an anomaly on the north façade here in the way this is articulated because what we've done since the DAR is we sort of had a different system of articulation in the window system that happened at this podium mass then what was happening in the tower. Then what we've done is sort of simplify that. We had a lot more patterning of mullions and things in the tower. We've tried to strip some of that stuff out so that the pattern of fenestration [01:15:00] in the podium is really an extension of what's happening in the tower. The take on different functionality, you know, we have, this is the only place where we have Juliets is in that massing, but we've tried to come up with a common language between the glazed portion of the building to help tie those things together.

Don: Is the composition of this, with the brick and the spandrels, is same on this element? And it still have the same brick, as I understand it.

Wybenga: It is, yes sir.

Don: So the detail is the same?

Wybenga: Yes.

Don: Okay. I wasn't sure. It doesn't necessarily look it. No horizontal brick...

Wybenga: Correct.

Don: ...elements in here. It's the same as this, just simple vertical...

Wybenga: That's it.

Don: ...brick columns. Okay.

Chair: If there are any other questions...

Nielson: I'd just like to say, I did get the DAR drawings. If you want me to load them up for any reason, I can do that.

Chair: Could you do that?

Nielson: Yeah.

Chair: Please? We do have two people here to testify, and so after we take a quick look at the DAR drawings so we can do a little before and after comparison, we will then have public testimony.

Don: I've got a question: why is this so large?

Wybenga: The mechanicals? For the most part the, well, we certainly have elevator, stair, and major rooftop equipment. The main reason for that is really to increase the, we talked a lot about the verticality of the DAR of these elements. Rather than pull that back and have the top of this, what's really the clearest southern facing façade of the tower cut short, we've extended the roof screen on both the river side and the south end. It's really about the composition of this façade, as opposed to having a need for that much space up top.

Don: And this color goes all the way down this vertical element and not in this plane. That's correct?

Wybenga: That's Correct. And it's really a, that's a fairly subtle shift from, sort of, a medium metallic gray to a darker metallic gray. So it's not a huge contrast in terms of the two, in terms of that color versus the standard body metal.

Don: And that big vertical cut there, is there, what's the purpose of that?

Wybenga: It's really, again, we're, we did talk about this in the...now I'm trying to think back what we had there in the DAR, but all these moves in the corner had to do with increasing the verticality. We had more of a ladder stepping horizontal expression here and we talked quite a bit about verticality in that corner, which is what we're trying to emphasize.

Chair: Before you leave this image, can you tell us why, if you look at the north façade, it wraps around and ends here and terminates with the balconies and this different window wall expression, in somewhat the same way that it happens on larger towers. But it is different at this corner, this piece does not, the dark masonry does not pull all the way around. So what is it about this piece that causes it to be different?

Wybenga: It really has to do with that view from Naito. So, in all these cases, you know, I think part of this, our design intent is to get the scale and materiality of those brick piers without, at any point, giving a historical reference or any indication that these are no bearing type brick or something. We've tried to, each time, we end that we've kind of allowed the glass in the balcony to slip past it as an acknowledgement that it is a façade treatment. On the Naito Parkway side it's really a matter of balancing, what we are trying to do is balance the length of the repeated brick elements along Naito, and if we pull that all the way back to the corner the same way it sort of becomes two equal legs and it just seemed to be much more static and much more heavy than what we were going for. So, we've looked at this several ways and to say where do we pull that back. Do we come all the way to that corner balcony, do we come one level in so we're sort of just pulling back a single bay? But really it's, again, I'd say that's one of those subjective compositional balance questions.

Don: Is this a combination of green roof and some other roof treatment too?

Wybenga: Yes, so these are fairly generically defined here, but basically anywhere this tan color exists [01:20:00] is active use for residents of the building, and then everywhere the greener color is a combination of either intensive or extensive roofing. So, the roof terraces exist, you know, we've got one here that kind of looks back towards downtown across the Pearl and to the west hills. We have one that will look a little bit more towards the bridge and one that focuses on the river as well as the bridge, that's a variety.

Don: Will there be vegetation up here then too? Inside the use area or around it?

Wybenga: Yes, this is really just intended to find the use zones. There's a lot more detail on the use zones in the landscape package, which, in the interest in time, I didn't put in this package.

Chair: Okay. Thank you.

Nielson: Would you like me to load up the DAR drawings?

Chair: Yeah, if you don't mind. Let's just look very quickly.

Don: It would be great to see the two side-by-side, but that's not possible
[laughter][inaudible 01:20:56]

Male: Test your skill.

Nielson: I don't know. [laughter]

Don: Side-by-side? Can you do them side-by-side?

Male: They could be, small then.

Nielson: I'm going to hide this.

Male: If you full screen, it'll go.

Male: There you go.

Nielson: I think that's as close as I can get it.

Chair: That's close enough.

Jessica: Nicely done.

[cross talking 1:21:51]

Wybenga: Tell me when you want to.

Chair: Can you go back, oh okay, never mind. That looks, it looks different, other than the ground level. It looks really the same.

Wybenga: There is a lot, I mean a lot of the work that we've done on this project, well, it's interesting because there's been a big reconfiguration relative to the planning of the building internal reconfiguration to get the traffic to the south, and then there's a lot of refinement and detail has gone in to how we're treating the window/wall elements, material palates and simplification of all this, the fenestration. There's a lot of those things that we really spent a good deal of our time on. Again, this is kind of the contrast of where we were and why we sort of thought that seemed a bit heavy on the south side.

Chair: So that brick extends to where, to the notch, which Julie mentioned . . .

Wybenga: Back to the back corner.

Chair: . . . or the right?

Nielson: Yes.

Chair: Okay. Do one more flipping.

Nielson: Okay.

Chair: Can you go to the similar view on the new?

Wybenga: I'll try.

Chair: There you go.

Wybenga: Hence, there was a lot of comment about sort of this articulation as being unnecessary, on the inside, or here. That projection actually came forward in to the courtyard view instead of sliding in with the taller mass. Then we put, as I say, more detail on to the kind of consistency in the fenestration around the building. And I think this one didn't have a [inaudible 01:24:24].

Chair: Would you go to a plan view that shows the ground floor and the plaza?

Wybenga: So, this was a big driver for our reconfiguration, right? We had this sort of alley condition here which was [01:25:00] objectionable when we met at DAR so, and we were combining cars and pedestrians in the plaza to kind of get to that access.

Chair: So this will come up again when we have conversation. We had a lot of talk--about this--and, you know, great job, really nicely done. Thank you very much.

Wybenga: I guess we've been looking at that restaurant so long [laughter] that I forgot what a difficult change that was. And that's kind of what I was saying earlier, you know, maybe the idea that, you know, we're putting an extremely active use and trying to bring the Greenway visually and experientially towards Naito Parkway. I think that's a big thing that this project has to offer, that is, in our opinion, more valuable than if we had, you know, a single tenant with a stoop.

Chair: Okay, are there other images that commissioners would like to see?

Jessica: I think...have we made it through all of the perspectives from the DAR?

Wybenga: Yeah, there were just a couple of them in there, so.

Jessica: Okay.

Wybenga: Lot of plans.

Chair: Okay. Thank you.

Wybenga: Yeah.

Chair: Okay. Great. So if there aren't more questions, we'll have some public testimony and then we will come back for discussion and we will have a very organized

discussion around, that will be structured around the issues in the staff report so that when you leave, you will have very clear direction from us...

Wybenga: Excellent.

Chair: ...on what it's going to take to get to a vote. So, first, two people here to testify: if you don't mind stepping back while I invite folks who want to testify to come forward. Adam Havens and Glenn Treager both are here to testify against the proposal. And Mr. Havens and Mr. Treager, if you will begin with your name and your address. If you represent the neighborhood association, please state so and you will get an additional minute to testify.

Treager: I have a couple handouts.

Chair: Very good. Thank you.

Male: Thank you.

Treager: My name is Glenn Treager. I'm on the board of directors of the Pearl neighborhood association and the planning and transportation committee. I'm here just representing my own views. What I'd like to talk about, three things; setbacks, the amount of, setbacks and actually building dimensions are the two major components that I'm concerned about. If you look at the handout that I showed you, there's the first photograph shows a north view of the green that is just north of the Fremont Bridge. As you can see, it's a pretty wide and expansive Greenway, and I actually did a real quick step-off on how wide the Greenway is from the back of the seawall to the building foundation, and it's around 40 to, maybe 45 to 40 feet, as far as the setback. And this Greenway extends maybe 2 or 3 blocks, maybe even more. So it's a consistent Greenway. It has a nice view [inaudible 01:28:55]. It's very expansive in its nature. The second photograph that you can see is the Greenway just north of the proposed property and it's south of the Fremont Bridge. There's a dock where you can see the, where that lady is standing, there's, I guess, a little dock that makes the Greenway much more wider. But as you can see here, even in this view, you can see that the Greenway is pretty expansive in its [inaudible 01:29:28]. If, on the handout here, we show the site plan, we look at the Greenway of the proposed project, it shows a walkway of about ten feet where it necks down. And also, if you look at the [inaudible 01:29:47] is right next to the Greenway, and I guess the [inaudible 01:29:51] is five stories tall, 60 feet high, [inaudible 01:29:57] this seems like, kind of strange [01:30:00] why you would have this expansive Greenway to the north, you have the over Greenway pretty wide to the north also, and then all of a sudden everything necks down to the, with this newer development. It just didn't make sense to me that they weren't meshing correctly. You've got this narrow Greenway with the proposed project, but then it expands out, you know, drastically, when you get to north of the Fremont Bridge. And even actually, I guess, north of the proposed project. So I did a little research, and on the next page, I went to the North Pearl plan, which was a plan that was developed in 2008

and 2000 for two years. The citizens within the Pearl, they held 20 meetings over a two-year period to determine design guidelines for the North Pearl. And one of the recommendations in that North Pearl plan was to come up with setback requirements and building dimensions for new development in the North Pearl. When you look at the current city central plan for the [inaudible 01:31:10] North Pearl sub area waterfront development. So, this criteria wasn't just for like the North Pearl or the Pearl in general, this is a specific planning guidelines for this small little piece of the Pearl that's on the waterfront from the Fremont Bridge to the waterfront Pearl project. So, basically, what I'm saying is that I'd like to see the project meshed correctly, be a little bit wider, take the setback that the project, I guess the current building is extending 3, 30 feet into the Greenway. I'd like to see it back to more with the city code recommends.

Chair: Thank you for that. Any questions?

Don: Yeah, is this site in the North Pearl sub area?

Treager: Excuse me?

Don: Is it in the North Pearl sub area?

Treager: Yes, in north, yes. The site and the sites to the south are in this North Pearl sub area, and it's not only in the North Pearl sub area, it's in the waterfront development. So this isn't, you know, I've heard some mention about the Pearl and block structure. This is specific plan and guidelines for the North Pearl on the waterfront. Thank you.

Chair: Thank you. Okay, the applicant is invited forward again. Ben, there is an adjustment. One of the modifications is relevant to the Greenway, I thought.

Nielson: To the Greenway setback?

Chair: Yeah. Is that not the case?

Nielson: Yes.

Chair: Number five.

Nielson: Number...I think there's, yes, that's the one.

Don: So do these standards, does this building adhere to these standards?

Nielson: No, that's what modification five is talking about. So, the standards he handed out are from section 251 and chapter 33.510. He highlighted section D number 3 part B and C, and that's exactly what the modification is asking about.

Chair: Okay, and your language in the modification states portions of the building are not yet clearly identified on the plan drawings.

Nielson: That was the original set of plan drawings.

Chair: Yeah. Okay.

Nielson: That was a mistake that should've been deleted.

Chair: Okay, gotcha. So, we do know exactly what's being asked for in terms of these modifications.

Nielson: I have it crossed out on my copy already.

Chair: Okay.

Nielson: That would be that diagonal dashed line you saw on the elevations.

Chair: Okay, great. So, let's have some discussion among commission members about the issues that are outlined in the staff report, and maybe the thing to do is begin with the big issues around [01:35:00] massing and articulation.

Jessica: So do we, are we following the...is this the memo? No.

Chair: It's sort of the memo, it just doesn't say memo at the top.

Jessica: Oh, it is the memorandum. Is it?

Chair: Yeah.

Jessica: Okay.

Chair: It has a list.

Don: So where's the list?

Chair: You know, I just don't think I have a copy of that, and I am very sorry for that. If you have them written down. I think you began with development standards that are not being met. We can shelve that because they're development standards.

Nielson: Yes. I'll also raise that the same list is provided at the back of the staff report.

Chair: Okay.

Jessica: Is it the abbreviated version of the many pages long list?

Nielson: Three pages instead of 50 pages?

Chair: Conclusions.

Jessica: On page 46.

Don: Page 46?

Chair: There we go. Okay. Issue 1, critical development standards that are not yet met. Bonus floor area is not yet earned. Ben, do you believe that is something that can actually be resolved?

Nielson: Yes.

Chair: Okay, development that is not river dependent or river related is proposed within the Greenway setback.

Jessica: The footings in the stormwater planter.

Chair: And stormwater planters.

Nielson: That can be resolved.

Chair: Yeah, and you asked for a little bit of feedback from us on stormwater, but I think that you asked for feedback specific to stormwater planters in the plaza.

Nielson: Stormwater as it pertains to guideline A 5-3.

Chair: Okay. Issue 2, architectural coherency and materials. Large material palate, articulation of massing, could it be more consistent and simplified, façade articulation and fenestration patterns complicate the overall building massing and some missing information and supporting details for proposed materials and drawing coordination issues. Drawing coordination issues--we'll just assume that those will all be resolved.

Nielson: And then, today on the revised staff report I issued, there was a letter E, tower massing could be more supportive of neighborhood character, context and views, and that relates back to modification number three.

Chair: So, generally, commissioners, who would like to begin with thoughts on massing, articulation, material palate, fenestration patterns, the big issues around the architecture and how this thing sits on the site all the way to how the openings are put in the walls.

Jessica: Do you want to go one by one or do you want to go all together?

Chair: Let's go commissioner by commissioner.

Jessica: All issues at once.

Chair: Yeah, please. Otherwise, we're going to be doing round-robin forever.

Jessica: For me, the material palate is not, it meets the guidelines because I feel that it's mostly changes in textures, the colors remain the same, even if the materials change. So, it's not a patchwork of lots of different things, it's really changes in

textures of the same color. The articulation of the massing, could be simplified but, I guess my comment about that is related to the response to the geode comment, which you mention in the packet, which we said if it's supposed to be a geode, it really needs to read as one. I don't think it successfully does that, although I do think that everything you did to make it more read as a geode was the most that you could do. I just don't think ultimately it is very cohesive. It was more cohesive with the lower masses being in brick, without a change in material sort of halfway through a façade. As far as the horizontal lines versus the vertical lines, is that intentional, or is it just the way that the renderings are reading?

Wybenga: I think it's primarily the way the renderings are [inaudible 01:39:54]. You know, a lot of the subtlety with this comes from [01:40:00] spandrel glass and [inaudible 01:40:01], which is a very notoriously tricky thing to kind of show in this way.

Jessica: Okay.

Wybenga: But I do think, you said earlier with Ben's comment about the north façade, we have a different thing happening relative to the verticality on that one piece that's central to this view that I think things would be better _____ [inaudible 01:40:17] back together with the rest of them.

Jessica: Okay, that works for me. And then missing information and details of course, that can be resolved, so. That's it for me. Although I would like to know what everyone else thinks of the extra chunk of mass that's still there, but I don't know that there's much to do about it. The little piece.

Chair: This piece?

Jessica: Yeah.

Chair: Okay.

Sam: I think I echo what Jessica is saying. I'll talk about this because I remember distinctly we had a lot of conversations...

Chair: It was very long.

Sam: ...at the DAR. I mean, I remember it was, we went back forth on this: do you take the floor out, do you push it back, do you push it that way. And it all came down to the overall result as vis-à-vis the views of the bridge, and you know, when we, I think when we measured those two things, you know, put those on the balance, we said that was really important and that the building did a great job at achieving that, so. I mean, it does, is there a way to, I mean I think there's a little bit of an attempt here to push it to create a different volume and different mass there that reads distinct to the tower and distinct to the base? It probably isn't as successful as it could be, but I don't see how else you manage that without jeopardizing some of the other coherency, which I think is well achieved, so I

think it's a pretty coherent, overall and balanced, I think, is very coherent. I don't have a problem with the massing and how it hits the street and how it hits all the different nodes, I think it's pretty good. If you turn it around to the other side of this, yeah, this here, DAR had the break coming all the way out there. That seems still, to me, to make more sense. It's the way this is articulated, and unless you put those balconies there, this doesn't seem like it does the same thing.

Jessica: I agree with that.

Chair: I agree.

Sam: So, I think, I mean, that's a simple change, is just to continue that break. I don't know if the heaviness versus the lightness was, I know that was the consideration, but I don't know if it's achieving, it's confusing, that's the one thing that I think confuses the massing.

Jessica: Sam, I'm going to chime in on this because I think this is an important issue for me as well and looking at it from this perspective makes me think that, yeah, you want the masonry to wrap around because this wall treatment is so significant you would want this wall treatment to be the balconies in order for that to read, for that treatment to read consistent across the building. But when you stand down here and look at the building, you know, what you're going to see is this corner, and then this masonry volume sitting on top of this corner, and I'm just not sure that the massing there is all dialed in yet. It seems awkward, it seems really awkward.

Chair: Can you expound on that?

Sam: Do you have a view from there? Or kind of from there?

Nielson: No, I only have [inaudible 01:43:58].

Sam: Okay.

Jessica: We have the view from the DAR but not on.

Sam: Okay, well, that's better, yeah that one. That one's...

Chair: So can you, okay.

Jessica: Oh, I see.

Chair: This, length of this wall.

Sam: Didn't we talk about pulling that back though? At the DAR? I mean of this...

Chair: Well, this started out back here.

Sam: Right, but, and then we asked them to pull it, I mean. I, okay, was it the other way around? I do remember having that discussion.

Chair: We did, because it was too far back.

Sam: It was too far back, wait no it was too far forward.

Chair: It was creating a dark, a dark corner.

Jessica: Okay, so, sorry to jump in on your conversation.

Sam: No, that's alright, I just wanted to load that, that's a good point. I mean, that's all I had to say, I mean I think this is, I think this is probably better, just overall [01:45:00] from the views that you're going to have from certain distances, particularly given the room you have from parks and stuff you have on the other side of the Pearl district. That's a good comment, I don't know if I would push it back a little bit, just to clear the corner, so that you could really read that corner, and now I'm remembering that we did ask them to push it all the way back there, maybe it's too far.

Chair: It's back one bay, it's back half a bay.

Sam: Just so the corner.

Jessica: Of two bays.

[laughter]

Male: We've pushed [inaudible 01:45:38] several times back and forth.

[laughter]

Nielson: We've got one bay, another bay back would probably not be in alignment with what you'd ask of us at the DAR.

Sam: I mean other than that, I again, back to another comment, and I don't know if I'm, you know, the other modification which was the, I mean I think there's some consistency there, I don't have a problem with that at all. Yeah.

Jessica: No, yeah, I agree with that.

Chair: Okay, Don?

Don: Well, I've always been concerned that this thing was much more complex than it needs to be. They've simplified this façade and I think that was a good move. Trying to clarify that, but this massing, out to go all the way around here and there should be some coherency to all these lower pieces, the articulation of the façades should be the same and the materials and it should go all the way back, so, this material kind of picks up in here and this entire little piece reads as separate from

the tower piece, it'll strengthen the tower. And then this little bump here, you've got to decide what is it, and is it part of the tower or is it part of the base. My guess, is it's probably part of the tower, and should read as part of the tower also instead of being a separate piece. Now why does it set back, we can't see it from here as well as when we were looking at it from the northeast corner. There was, okay, yeah, why does it set back from this plain here. Wouldn't it be better if it was just was coplanar with this? Because, clearly some of the same material as the glass tower portion, it's just a sort of a reduction of that.

Wybenga: Right, and what we were trying to do is visually match the width of this piece with the width of the tower, but it seemed like a gangly appendage when it was in the plain. So, this was picking up from the DAR of trying to allow this to kind of slide passed, slide passed that larger plain of glass on the other side.

Don: But, then it becomes its independent little piece that isn't part of this, or it's not really part of that.

Wybenga: And I think you're right it has to be, it has to remain part of the tower [cross talking 01:48:02].

Don: Seems like it.

Wybenga: ...rearticulate it in terms of its fenestration and detail, I guess, part of the tower. We just change the plain relationship to take away some of the mass and give a little more flow.

Don: I think you lose a little something unless you're going to put balconies or something there that was part of this form, kind of coming over and completing it...

Nielson: Tying it.

Don: ...that's another way to [cross talking 01:48:24] make it more coherent, but [cross talking 01:48:27]

Wybenga: A series of balconies at that transition would tie it a [cross talking 01:48:29].

Don: Hey, we got lots of little red lights.

Wybenga: Sorry.

Don: Yeah, this piece coming down here could kind of be picked up here, also.

Wybenga: Yes.

Don: So, it kind of cascades down. Again, it simplifies it and makes it a little more coherent.

Sam: I think I agree with that approach, I mean it does need to do something. It's not quite, not part of the thing, kind of its own thing, but it's not. I mean, it's all over the place.

Don: You don't want more than two forms in this whole thing.

Sam: But, that it I don't think necessarily, it doesn't need to go it just needs to be articulated better.

Don: But, even that, I mean, it's not even easy to integrate two basically disbarred forms, but to have a third one makes it really difficult and probably not possible to ever pull that off. And, I guess then my other question is, is this where this [inaudible 01:49:22] wants to sit, or does the whole thing want to slide to the north, to give a little space on the south? Some of those questions, is the massing in the right place?

Chair: Yeah, so let's hang onto that until we have open space discussion on the next issue, because I got, that's on that, too and I'm sure Jessica and Sam do. So, Tim, you said there's about ten thousand square feet in this?

Wybenga: That's correct.

Chair: I absolutely understand that you are doing your level best to make a tall, elegant, tower. But, that ten thousand square feet [01:50:00], what happens when it sits, when it just increases the floor plate of every floor a little bit?

Wybenga: I was actually looking at that today. It's not, there's not enough area there, even if we went to 150. So we're at 142 in length on that side, and the maximum on the modification request would be 150.

Chair: So, you can't do it in that.

Wybenga: It doesn't quite make up for that. When we met with the neighborhood association, one suggestion was you need more floors in this tower. That essentially is, that piece goes away with one extra floor, but we're at the limit, right? We're at the limit of what's allowable at 175 so that would be great. We can't go there.

Nielson: I want to chime in here, adding more floor area depending on how high it goes...the floor plates above a 100-feet in height are limited to twelve thousand five hundred square feet, which there currently maxing out.

Wybenga: Right. That, sorry, I should have said that.

Nielson: So more than the length, they can't increase that at all. That's fixed.

Chair: Okay, got it.

Wybenga: I should've said I looked at that and then I asked Ben and he said there's no possible, that there's no possible way we can do that.

Chair: So, I'm going to echo the thought that it needs another pass at integrating it into the massing. The material pallet, Don, did you weigh in on the material pallet?

Don: Yeah, just a little bit, yeah I think they simplified this which is good, I think. This is its own pallet type and then, didn't you have the brick samples? The really textured brick, the highly textured. Yeah, and that's consistent around the whole base, and I thought they did a nice job on Naito, on the store fronts on the ground level. That was big improvement over the original one, I thought. I think keep it down to two basic material types makes a lot of sense, don't add any more than that.

Chair: Yeah, okay. So, this need to be improved. Flipping around to the other side, I also don't have any trouble with the way the mechanical equipment is screened. I think that really does a lot for the coherency of the building overall. Just cleaning up what's happening on the roof is a good idea, but flipping around to the other side. The way that the podium piece is expressed, this also need more attention and thinking about how this piece integrates with what's happening at the ground floor is really critical, I think that that is potentially a massive blow in the pedestrian zone, and next time you come in we should look very carefully at that corner. It's a prominent corner. It's where parking access happens that is far from ideal, and then there is some really tricky stuff going on with the massing. So, there's really some stuff to look at there. I agree with the materials, and I think what you've done since the DAR to kind of streamline the materials on the façades is definitely a move in the direction. Fewer is better. Then, I think we've covered issue two fairly well. Do you have any questions for us about issue two?

Don: Yes, can I ask specifically about modification number 3?

Chair: The tower massing for the neighborhood?

Nielson: Right. So, talking about the tower mass I think you've probably touched on it. Specifically, not just that one, but specifically how the tower massing relates to views from the park. I think we've heard that they're doing the right thing. I just want to make sure that the commission is supportive of the overall tower massing the way that it's currently laid out. Aside from the issues you've just talked about to figure out some of the podium issues.

Sam: Yeah, I don't see how you can do a better job at it.

Don: Was the neighborhood organization supportive of this thing?

Nielson: They didn't come down in support or opposition yet. They had very similar concerns to what were raised in my severance work.

Chair: Yeah, so I appreciate the neighborhood associations position. That this is an important building and the North Pearl subarea made more important by the fact that it is right by the river, so it needs to be remarkable [01:55:00] and a really clear crisp tower would be ideal. You kind of gone the other direction and really massaged the massing to maximize the views of the bridge. So, you've given up a lot on in terms of the architectural form of the building in order for make those views happen, but clearly the views are a priority, our priority as well. So, I think it's just a decision the design team made and the views of the bridge are very important.

Don: So, modification 3 is about this little piece right here?

Chair: Can you go to the 3-D view that shows the massing and what the box would look like against the bridge?

Male: The red one?

Chair: Yeah, there you go, that works, yeah. It's more what we're talking about.

Don: We've articulated to minimize all of this stuff.

Chair: Right.

Don: Helps.

Sam: So modification of...

Nielson: For clarification, modification number 3 specifically relates to increasing the building height to 175 feet, I think, I'm pretty clear that that is the right direction to go.

Chair: I agree.

Nielson: And the other half is increasing the façade length above 120 feet when we're talking about the area above the tower, above 100 feet in height. So, increasing that in one direction by about 25 feet and in a perpendicular direction by 43 feet, give or take a few inches.

Chair: Which ultimately results...

Nielson: Excuse me, 23 feet.

Chair: But it ultimately results in actually seeing more of the bridge, right. Right?

Male: Right.

Male: Yeah.

Jessica: Yeah, no, I'm supportive of that.

Chair: I'm supportive.

Male: Okay.

Jessica: And I think it better meets the guideline.

Sam: And I think that's consistent with what we said at the DAR too. I mean, we talked a lot about the give and take and that that was an important thing to give them back in order to get the views.

Chair: I agree.

Nielson: Good transition to the next issue.

Chair: Okay, good.

Nielson: How do you anticipate this? What if the mass were shifted to the north?

Chair: Yes, so I think this gets to open space and, you know, where does it really belong? Do we just have one plaza, should there be two that may somewhat be compromised or does it all belong on the south, in which case what happens with the parking access? I mean, just the whole ground floor is, I think, complicated and involved in this discussion.

Jessica: Wouldn't you just have to flip the whole thing? Presumably.

Wybenga: I think that comes back to this diagram.

Chair: Yeah, that is the one on the left.

Wybenga: If you flip the whole thing, the tower's on the south.

Chair: Yeah, alright.

Wybenga: Which is clearly far worse relative to anyone downstream [inaudible 01:58:05].

Don: If you move the tower 5 or 10 feet, would it have much of an impact on the view?

Wybenga: It's pretty, I would say that's a fairly nominal change to the view. My question, that was literally one of the main things I, that we talked about that I'd like to understand the commission's perspective on, if it moved 5 or 10 feet, what's the nature of that 5 or 10 feet?

Chair: You see...

Wybenga: What is that?

Chair: If it were to push, I mean, my goal would be to get active space on the south side of the building rather than blank wall for the length of that very long property line.

Don: That probably means moving the driveway further in, which it could do.

Chair: Right. Yeah, but I don't know.

Jessica: Yeah, but then you've got two skinny plazas.

Chair: Exactly. Yeah, parking access mid-block in this building.

Don: What's the length of this? It's less than 200 feet?

Sam: It is 100, 170.

Don: 175.

Sam: 160, I think.

Don: It's less than a block.

Sam: Yeah. I mean still remember having also that discussion at the DAR. I mean extensively. And we debated the 230-foot-wide pathways. I mean, I'm looking at the plan. I mean, eventually you need something that is going to, I mean, first of all, if you do that, are you going to be able to have successful ground floor spaces on those corridors. I mean, I just don't know if you can...

Chair: Right. It's tough.

Sam: ...with 30 feet.

Chair: Could you go to a plan? Ground floor plan. So, if the building stays where it is and if folks, if commissioners are good with the modification about presentive shadow in the plaza space, parking is here because that gives us the absolute best [02:00:00] outcome along Naito and the continuous active use, all active, phenomenally active, you know, I think, this corner is maybe problematic. And when the green way-trail continues through it, it becomes more problematic than it currently is. So, I guess I would put it to the applicant. What can be done here that's going to be, you know, really good mitigation for the length of this wall?

Nielson: And I think the other thing that we'll be able to look at is, as we look at this corner I think the other potential that we have is which literally relates to, at this point, the pool is less likely to happen. The pool has dimensional constraints which means that we can start to notch this corner back to for sure link that wall. For example, if we took your suggestion and came back one additional bay, then we're able to carve out a little bit of this space, we can now make a substantial impact in that wall. And then sort of treat this as either an active use or find some

other way to, that may even allow us to bring the mechanical _____ [inaudible 02:01:09] off of that piece.

Sam: Can you bring it inside? Yeah, that would, I think that would be a major improvement and a good compromise.

Chair: I agree. I mean, this is going to go through at some point.

Don: Oh yeah.

Chair: And so, you know, having this corner being set up for success and then assuming also that there will at some point be access through your minimizing the length of that wall is important.

Sam: I think you could develop the idea of the knuckle a little better, too, then. If you have a little flexibility on this edge.

Nielson: Right.

Sam: Because I think that makes sense that you were trying to set it up where that the connection could be happening, can happen anywhere along that knuckle.

Don: Is there ever going to be any connection from Naito all the way out to the river?

Sam: Depends on the next developer.

Don: Pardon?

Sam: Depends on the next problem.

Don: Yeah, the next developer would have to give some of his property to that [cross talking 02:02:03].

Sam: Well, he will have the same rules, right? I mean.

Chair: Yeah, same, yeah.

Sam: Same rules apply.

Nielson: I can clarify that. He'll have to take 25% of the property length along Naito and devote that to corridors of some kind, whether they are pedestrian corridors or just view corridors.

Don: Or whether they would choose to do it here or some other place on the property.

Nielson: Him or the design commission to confirm if that's meeting guidelines.

Don: Okay. And this is the 25% from here over to over here?

Sam: Correct.

Don: Of this one?

Male: Correct.

Nielson: I think it's 25% and a extra foot or few inches.

Male: Yeah.

Don: One extra foot?

Nielson: Pretty close. Yeah, I think it's, I think we have 61 feet and 60 would be required.

Chair: So, Ben, it sounds like the buildings location on the site is okay. This needs to be addressed, the length of this wall needs addressed and let's walk through the rest of the list on Greenway setback green-trail and open space. So, designing the Greenway Trail termination to accommodate alignment with the future trail on the abetting property to the south. Commissioners, what do you think about this treatment and its inconsistency with what's happening to the north?

Don: There was some concern about the width, also. This is only 10 feet, I gather up above in this area it's significantly more, I don't know how much more.

Jessica: There's really not a strong enough reason that I heard to change up the pattern of trail that's already there.

Chair: Yeah.

Sam: The trees are a requirement, right, Ben?

Nielson: Correct.

Sam: So, they have to have trees.

Jessica: But not on that side.

Nielson: They don't necessarily have to be right there.

Sam: But they don't have to be right there.

Don: They don't have to happen.

Sam: Okay.

Don: So is there a minimum width requirement for the Greenway Trail? Or is up to every land owner to do it differently?

Nielson: I could not get an answer from Parks as to what the width needs to be. They set the standard.

Don: Because it's way wide up here.

Wybenga: It's much wider up there.

Nielson: The Greenway setback itself is only 25 feet, and the trail has to essentially be in that, it really doesn't have to stay within that necessarily, so if the trail is 40 feet wide, it's just because that's what they wanted to do.

Don: So, it could be doable [cross talking 02:04:33]

Nielson: As far as I'm away.

Sam: So, just, the park doesn't have a standard, I'll have personal preference.

Don: I'm surprised.

Sam: I like to see the water, so the last thing I'd like to see is, you know, places I can't really get to the edge. I like to see places.

Don: But you can in places.

Sam: Well, yeah, it's the stopping places. I don't know what that is there. I mean, I thought it was required that the trees...

Chair: [02:05:00] And this is all seating for the restaurant, so it seems as if that should be unobstructed.

Sam: Right. But if you need to put the trees, I'd rather put them on that side even, you know, shading the restaurant and this and the other.

Nielson: So, I think technically, the trees need to be in the Greenway setback, but we could through a modification place them adjacent to the setback in strategic locations.

Jessica: It seems like that's what they did.

Don: Does it have to be a tree?

Jessica: Say put the trees on the...

Nielson: On the land, on the upland side.

Jessica: Yeah, the upland side.

Don: Do those have to be trees or can it be green?

Nielson: The standard requires trees. To not provide trees would be another modification.

Don: Well, if you put it here, it's still obstructs the restaurant view.

Sam: Well, but if they are nice and tall and columnar...

Jessica: Canopy over the tables.

Sam: Canopy over the tables would be nice.

Don: Yeah, I suppose. I don't mind them where there are frankly, but yeah. And 10 feet I think is, works. You know, it's minimum, but so if it's 40 feet as you go up ahead, well it's just a shift, I guess.

Chair: 10 feet seems really tight given the potential use once this connects all the way through.

Jessica: Right. It'll be more like an esplanade.

Chair: Yeah, I would urge you to make it as wide as it can possibly be now, just based on where we think this is going to go in the future.

Wybenga: And just kind of give you a background of what we were trying to do here. So the park thing, this, Parks seem to be a little bit vague on that, so what we read, which was a minimum of 10-12, I don't know how you get two numbers in a minimum, but there's no issue with making that 10 feet to 12, right? We can clearly do that. In terms of tying into the context, the next, I don't know, 800,000 feet has really pavement, which is about 12, maybe 13 feet wide. Taking away the tree well, the trees on the river side. So, to maintain continuity with the pattern, we brought the trees to the river side. I guess our thought on it, if you look, if Ben had an aerial of the Greenway further than north with all the new residential, and it's essentially 20 feet wide, unbroken, pavement. No feature, no trees, nothing. So, you know, we've looked at this, part of this side to the north has, you know, inlets and outlets that deal with the trees on the river side. We tried to pick up on that pattern and the ideal was in the same way that you are coming down in this width, we have an expansion of public space. We were looking at it as it kind of as a system of expansion and contraction. And to be honest from a design prospective, if this is 25 feet wide of concrete and it comes down, and now we're looking at that fence. It's, this is that, you know, I-5 off ramp that they never finished. You just look at this huge thing comes down to nothing, and so our intent was to kind of use that kind of expansion and compression to provide different experiences along the Greenway that would again kind of currently work as a terminus but eventually work as a pause point that would lead into the south. I guess it's another thing worth noting; however, this thing might go past the adjacent property or Centennial Mills or all the way down and it switches, those are probably more structured than Greenway and then when it gets all the way down to Albers Mill, it goes to a very narrow sidewalk through landscaping connection to a dock, or a deck. So, there's a lot of change along this Greenway and we were trying to take that as an opportunity to recognize that we really don't want this thing to come

down here and just be lopped off. It seems an unfortunate way to leave it, not knowing that the next development's coming.

Don: Yeah, pretty haphazard.

Sam: But, Tim, you are creating this space, which is a great terminus. [cross talking 02:09:04]

Don: A very large space, that's probably 30-40 feet across.

Sam: And, independently what happens here is, you might be able to just say well temporarily that element continues to use.

Chair: Yeah, is that possible?

Wybenga: Sorry, what?

Chair: To extend the bench over temporarily, piece by removable piece.

Wybenga: Benches can be within the Greenway, yes.

Chair: Oh, that's great.

Sam: So, I guess my only, and I hear what you're saying to some extent creating that visually this is going to be incredibly wide, you know, from a pedestrian perspective it's a lot narrow. It's just when I see this grassy area there, I'm like, okay well I can't really go look at the water, so maybe the trees are there, creating that, but maybe it's in tree wells. I don't know.

Don: It gives a little cadence to the whole walk [02:10:00] across the whole, open, shut, narrow, then wider again. I don't have any problem with it.

Wybenga: Something else I should clarify, the footing that looked like it was in the Greenway was a drawing error. And then there's a piece of storm water was actually intended to treat the hardscape in the Greenway, so it has nothing to do with the building and we actually thought that was required. So, if, that's where that piece comes from. It is river related in that it has to do with keeping water from the Greenway from going unfiltered into the river.

Chair: Okay, so it sounds like another pass through the Greenway design maybe, maybe you're going to address this. Maybe there is some seating that happens here and that terminus keeps continues to wrap around and there is a legitimate end for there for the length of time that there needs to be a legitimate end there. And it sounds like a majority of commissioners would like you to take a pass at free locations and how they live. At what their treatment is like, how they live in the ground plain. And, you know, I understand that some of this is describing, at least I think some of this is describing what's happening overhead but this, the strong directionality onto the private property seems as though it should be strong

directionality onto the next phase of the Greenway development. And then you're going to deal with a temporary terminus.

Wybenga: Right, and what we were discussing with Ben is the fact that the most likely connection to the next piece is angled in this direction. So, we were trying to sort of prejudice against that towards that connection because the Greenway probably doesn't go straight through due to the current bank condition. [cross talking 02:12:02] bank moved to the west.

Jessica: [inaudible 02:12:04]

Wybenga: No, it doesn't.

Chair: You know what. Bring in, bring that in and let's look at just that and figure out. Because there is a lot to discuss at this corner. So, bring in that whole corner.

Don: So, it does have the capability of coming to part of this if it has to, so it's real flexible.

Chair: If that make more sense, that's great.

Don: Good to cut this off in that case, yeah.

Chair: Okay [cross talking 02:12:36]. So, a couple of the issues that Ben has raised relationship of the second-floor terrace of the Greenway Trail, that's going to resolve itself because the program at the second-floor terrace is going to resolve itself. Proposed plaza open space little engagement with the office building to the north, you described why the connection happen where the connections do.

Sam: I actually thought that section was very informative and it's okay. And I don't see that being a big problem. Do you have the section?

Don: It just disappeared.

Sam: The whole thing went to new screen [inaudible 02:13:16].

Don: I hope that this actually gets some use at some point. It's such a huge formal area, you know, any idea what could happen in there? Is there any need for anything to happen?

Wybenga: Well, and again, this is something that we were saying specifically in terms of, again, better meeting the standards providing them into the neighborhood is because most of the river where they exist are sidewalks to have a public space that could draw us, you know, the Pearl district to the river, we think it's important to create this multifunction festival space. We've tried to keep it as loose as possible in the programing to allow for things like special events happen on that classified.

Don: Is there a little pedestrian crossing here or anything?

Wybenga: That you have, that's [cross talking 02:14:08]

Don: The bad thing is you can't get.

Nielson: The real problem is the railroad immediately adjacent to Naito Parkway.

Chair: So, Ben, you asked a question about storm water planters in the plaza area and the commission's thoughts on whether or not these constitute water features. Let's very quickly visit the water feature language in the design guidelines.

Wybenga: And actually, maybe I should, before we go into detail, make sure offer our thought on that, if it's okay, which is, we didn't intend for those storm water planters to meet the water feature criteria. So, it's true that they are integrated, which is a requirement. Our intent on the, reading the section that is generally your first [02:15:00] [inaudible 02:15:01] is water features is the way that reads is, your water features or water design themes so, the second part of water design themes that second point, taking Q's from the river, bridges, and historic industrial character in the design of structure and open space so we've described how we're taking the industrial character of the district into the design of the character, how we've created this space to provide engagement with the river. So, those were the two ways we were trying to meet that standard. So, as Patrick said, we have the largest water feature available in the region by providing access to the Willamette and I think a lot of that description in that section is about sort of finding abstract ways to tie the Pearl district to the river. And we have a physical way to do that, so that was our intention.

Chair: Can you just read it out loud for if you don't have it?

Female 2: So, this is the guideline, not the preamble to the guideline, just the guideline. Incorporate water features or water design themes that enhance the quality, character, and image of the river district. And then, of course, there are many examples of how that may be accomplished.

Questioner: I kind of agree with the argument. I mean it's, the whole river is there. It's the river district, not all sites have access to this river.

Chair: Right. But, won't future sites have the same percentage of access?

Questioner: It's still that 20% whatever percent, right?

Chair: 25%.

Questioner: 25%, so somehow everyone that was working on that edge is going to have to create those. [crossing talking 02:16:52].

Chair: My point is, if they are going to have to provide it anyway, is it really providing something extra to meet that guideline? Or does it have to? I don't know.

Voice 4: So, I'll just chime in for a second. Oldest project on the North Pearl waterfront that really, really meets that guideline. That concept is that guideline [cross talking 02:17:22]

Voice 3: They got the waiting pool around the building. The moat. I don't think it needs any more than this.

Voice 4: I don't either.

Wybenga: In terms of your question, in terms of the minimum, you know, the minimum of open space is clear, the minimum amount of plaza is considerably smaller than what we're providing, so making this instead of a landscape space, to meet the open space criteria only, turning it into a really civic space shared by the neighborhood is kind of why we think that's a different, yeah.

Chair: That's good. If you're going to do that, a couple of comments on this space, so it's going to stay on the north side of this building. That's the thing that works to preserve views of the bridge. I'm having a hard time reconciling the geometry of the ground plane with the architecture of the building. I don't see the relationship between the two, and I also don't see the a really strong clear terminus at the end of this that really does engage the river. And so, I think if this were stronger, you would have that river engagement. Right now, what you've got is a plaza, which happens to be right next to the river. It's just kind of a circumstance. It doesn't seem to be intentionally created.

Voice 2: Can I ask a question just to follow up on that? Is this concrete pattern a standard?

Wybenga: No, I actually that's really just planned graphic, that pattern. I think that's a really good point about the terminus of this plaza. I think what you can see if what we've done with this plaza is really intentionally divorce it from the architecture from the building so it has a bit more energy, more dynamism, to the way it moves and to also direct flow right? So, we really tried to direct entry to the building and a lot of this has to do with directing people to the entry to that restaurant which is really critical to making sure we're, you know, you're able to see that. The focus becomes on that entry so that we can increase the chances of success here. So that, a lot of that geometry comes from that. And, to Mr. Rallister's point, you know, we're also trying to use that to give this a bit more [02:20:00] scale so that large public space is contained by some soft scape by some, the geometry of the trees. So, that's with intent, but I think that's a very good point. That the terminus of that is lacking.

Chair: Okay.

Voice 2: Bases it's almost a big plaza. Somehow apply more intense use than it's ever going to get. I don't know if should be narrower or more vegetation, planters, more storm water planters, stuff like that. Things almost too big.

Chair: So, Ben also asked about public art.

Voice 4: Going back to your idea about the terminus at the river, are you suggesting that it needs a focal point, or is the river the focal point and it just needs to express that?

Chair: I would propose the river is the focal point, maybe, if you are using the river as the water element, then you really got to do it. You got to make it absolutely spectacular. Because you're pulling from people back here, right? You have to pull people down from Naito and not just a matter of attractive landscaping. There's got to be something spectacular there that people are drawn towards. Public art in the large plaza, guideline A5-4 is integrate works of art. And that plaza does seem like a good place for public art. There's a lot of square footage there. How likely is that to happen?

Voice 4: So, our question on that is, again, it's similar to the water right where the section reads, public art or special design features, so the question is, is there a way we can create this shared public space use with the Pearl district as a special design feature as opposed to focusing to a single piece of art? And that would be our preferred way to look at this. Right, that way, again, it could be the way that we scale that space, per your comments it has to deal with [inaudible 02:22:35] and in with providing, you know, utility connections, so that the space is setup for festivals and those kinds of things that those things are special design features that meet that standard better than a sculpture or something, so.

Chair: So...

Female: Can you read it?

Chair: Yeah. So here's how it reads. This is the guideline only, not the preamble. And remember that this is, these are the guidelines for the river district and we are talking about the Pearl district. Integrate works of art or other special design features that increase the public enjoyment of the district. So, agreed that the plaza that you are required to create, to be able to develop this building, it does that, but because this is the Pearl district and it is the central cities arts district, I think it's important that there be some acknowledgement of that.

Voice 4: Something that we've discussed, and kind of just be great to kind of know what the temperature is on that, something that we discussed is the potential for, again, as a special design feature, something that is experiential or informational or historical, you know, as a person moves across that plaza. For example, using the banding that we have there to provide information about the history of the river, history of the waterfront, something, right, that, something that becomes more experiential as opposed to, again, a piece of art. So it, is that something that the commission would generally look favorably on?

Don: The Tad always says, you know, if you're going to do a piece of art, well, you have to do a good one, and you might as well have \$300,000 minimum to throw at it, so.

Chair: Yes. If Tad were here, he'd hand you a budget.

Don: So, and he better go to [inaudible 02:24:26] to do it at the same time, so don't do it would be his position, I think, but...I don't know. How do you do a significant piece of art in there without a huge budget to do it?

Male: Yeah.

Don: So.

Chair: So I do think that the use, the treatment of paving materials or, you know, the introduction of some type of historical narrative is not adequate. So if you're going to do something, don't do that thing because we've got a lot of that in the neighborhood already. [02:25:00]

Don: Okay.

Female: But integrating it into the landscape design seems...that's what you're saying we already have enough of, as opposed to a sculpture or something else. I mean, why is that not okay?

Chair: Well, we've got, in the neighborhood there is, there's a lot of half-hearted attempts at telling the narrative of the neighborhood in the pavement.

Female: Agreed. Yeah, that doesn't really count.

Chair: So we can, I don't know how the commissioners feel about it, maybe it's not an issue, maybe I'm the only one who thinks it's important.

Don: Not one for me.

Sam: It, or, I mean, I, it's an incredibly expansive plaza. I think he would, if Tad were here, would tell you \$600,000...

Don: Yeah, probably, right.

Sam: ...to do something, you know, something [inaudible 02:26:01]. Don't die of a heart attack just yet, okay.

[cross talking 02:26:02][laughter]

Male: ...what everybody would say.

Sam: Yeah, no.

Don: So what's another half million?

Male: [inaudible 02:26:09] do business with [inaudible 02:26:10] [laughter].

Male: [inaudible 02:26:11] an artist [inaudible 02:26:12]

[laughter]

Sam: So, so to do something of that significance, I mean, I think pavement art [laughter], I'm not sure about that either. So I, I'm actually a well-designed, I mean, I think Tad would also say...I mean, we're talking like he's _____ [inaudible 02:26:33].

Chair: Yeah, right.

[laughter]

Chair: But Tad, Tad just isn't here today.

Sam: Just so you know, yes.

Don: But he's listening.

[laughter]

Sam: No, that doesn't sound good either. But no, I'm just saying I think it's, he'd rather see a better piece of architecture in the...and I agree with him in that, in the plaza, than to try and put up random sculpture somewhere or random, you know. So I think that the landscape design, the pavement design, the treatment of all that, is to be, has to be spectacular. It's a spectacular space. So you have to get there. So, I mean, that's my two cents. So I, it's not a big, I don't think it has to be a sculpture in the side to meet the guideline. I think it just has to be a very special space, which has to do with what you were saying about, you know, showcasing the river.

Chair: Yeah.

Sam: And as part of that.

Don: Well, then there's C69, which shows precedent photographs of the entry court. We have some stuff to work with there also. You know, the one on the upper right, for example, that has some seating, that sort of stuff mixed in on this one edge. It's like I say, it's such a huge plaza, what are you going to do with it anyway?

Female: Okay. If the, if there could be more of a sculptural quality to what's in the plaza, then I think that would...

Don: Yeah.

Female: ...that would fill both sides equally.

Chair: A plaza that looks as though it belongs in the central cities arts district.

Female: In the arts district. Yes, go a long way.

[laughter]

Female: Do that. And provide the power.

[cross talking 02:28:16][laughter]

Female: Don't take away the [inaudible 02:28:22].

[laughter]

Don: You could do it with some of the design, landscape design architecture. That would be more meaningful, I think, than something plopped in there.

Chair: Okay.

Nielson: So tagging on to the art conversation and moving away from the plaza for just a second. Going to the end wall, what about original art murals?

Male: What, which end wall are you talking?

Chair: South.

Nielson: The south end.

Male: The south end wall?

Nielson: Here.

Male: Oh, that one.

Nielson: Is that something that would fit in the neighborhood?

Male: Geez.

Nielson: Don't know that I've ever seen a mural in Pearl, but...

Chair: Well, there's one in, there's some really interesting ones in the north park blocks.

Don: On the north part blocks?

Chair: Yeah.

Don: Oh, at the far end?

Chair: The other one. I don't even know how to describe it.

Female: Oh yeah.

Don: The Lee Kelly sculpture?

Chair: [inaudible 02:29:09] to our house.

Female: Yeah. Yeah, yeah. On the DeSoto building.

Chair: Yeah, yes.

Male: Yeah. You're right.

Chair: I'll try to think of others.

Don: But the problem is, nobody has access to that wall, really.

Male: Yeah.

Don: It's private property.

Male: Well, and currently it's covered by trees.

Don: Yep.

Chair: Yeah.

Don: But even then, there's no public access to it because it's all private property, and it just doesn't seem like it's the right place.

Female: You wouldn't be able to maintain it, for sure.

Male: Yeah. Just wanted to...I don't think the owner...

Chair: I really like that idea, but.

Don: For this to become a walkway through here, then it would have some relevance, I think.

Chair: Yeah.

Don: But now, uh.

Chair: Okay. Enough brain damage?

Male: Yes.

Chair: Yes. Thank you.

Don: Yeah. Absolutely.

Chair: Yeah. We started out [02:30:00] planning to end early and now we are ending late, so apologies all the way around. Do you have any questions for us?

Male: Get out my list.

Chair: You got a long list, man. Sorry about that.

[laughter]

Male: This is very helpful.

Male: You have three questions. That's it.

[laughter]

Male: Three wishes.

Don: As long as Ben's list.

Chair: How about a return date?

Male: Yeah. Let's talk about that.

[cross talking 02:30:53]

Chair: Oh, God. I'm so sorry. Be careful.

Male: I'm tired.

Chair: Be careful.

Male: Yeah.

Sam: Oh, that's right. You're going to the coast, huh?

Male: Yeah.

Chair: See you next week.

Male: Glad to hear that.

Male: Sorry about that.

Male: Thank you very much.

Don: Look forward to the newest iteration.

[inaudible; mumbling; cross talking 02:31:18–02:31:25]

[no recording; dead air 02:31:26–02:31:42]

Male: Alright, we'll tentatively schedule a continued hearing for November 2nd.

Chair: Okay. We will see you again on November 2nd.

Male: Thanks a lot.

Chair: Thank you very much. We are adjourned.

[END OF MEETING]

FREMONT PLACE DESIGN REVIEW HEARING 11/16/17

Audio Length: 02:01:45

11-16-17 LU 16-278621 DZM GW

Chair: Who needs to be in the room for the next hearing is here and so we will move to item # 3 on the agenda which is LU 16-278621 DZM GW. Fremont Apartments. This is the second type 3 hearing for this project and Ben Nielson is here with a staff report.

Ben Nielson: I might just jump in with a bit of housekeeping for members of the audience who are here. I see several relatively unfamiliar faces. If you want to testify please sign up back over here so that we get you on the list. And with that I'll jump in. Just a quick reminder of where we're at. This site is located along Northwest Naito Parkway near the Fremont Bridge and the Willamette River. This is in the North Pearl subarea of the Central City. The project site is about 72,000 square feet, basically flat, and an axon view of that. You can see there are two adjacent existing office developments on this larger parcel and we are in the EX-d-g zone so that's central employment with design and greenway overlays. Approval criteria are many because of the location, Central City Fundamentals, River District Design Guidelines, also Modification Approval Criteria in Chapter 33.825 and because we're in the greenway overlay zone, Greenway Review Approval criteria also apply, as do the Willamette Greenway Design Guidelines. So, a quick reminder again of floor area, the base FAR is 2 to 1 max, an additional 3 to 1 is possible through bonuses and base height is 100 feet max, and then an additional 75 feet of height may be approved through modification to get up to a total of 175 feet. And above 100 feet that floor area must all be earned through bonus and is limited in its length and area. Just a quick reminder that because we're in the North Pearl subarea, there are a bunch of unique standards that apply that don't apply elsewhere in the Central City. I'm not going to read through each one like I did last time, but they are there. And then there are specific greenway overlay development standards, probably the most important of which for this site is that there's a 25-foot set back from the top of bank to create the greenway set back. There are six modifications that you've seen before, I want to add a seventh modification to standards. This is to parking space width. Some of the parking spaces are actually slightly narrower than the 8'6" minimum that's required. This is due to building structure setting down into the edge of some of those spaces. So, taking a step back in time, you've seen this project twice before at one Design Advice hearing and then at a Formal Design Review hearing which was in September. So, looking at the building, its progression from that Design Advice hearing to the hearing in September and then again from the hearing in September to today, so you can see a lot of the changes were fairly small in scale, but they add up to changing the composition at least at a broad level. And looking at the

site plan, I think the changes are a lot more noticeable here from the Design Advice hearing to the September hearing. You can see the change in the plaza area at the north side of the site and then further refinements of that and of the Greenway Trail as we move into the hearing today. So I wanted to call attention to those. Staff at the September hearing came in with a recommendation of denial at that point. There were a number of unresolved issues. Most of those issues have been resolved. Staff believes that one guideline in particular has not had enough attention paid to it yet, which was the response to guideline A5-4, integrate works of art. This is based off commission discussion at the last hearing which requested that the plaza in lieu of having actual works of public art take on more of a sculptural quality. So, you can see the site plan shows fairly minimal change in that respect. And the site sections also are relatively flat. So, depending on the interpretation of sculptural quality, I think it would be good to get some more direction from the Design Commission on that issue. There were also a couple of service bureau support issues, one of which has been resolved. So, at the time that the drawings were sent to you, the Bureau of Environmental Services had not yet certified the eco roof which is required to earn some of the floor area bonus needed for this development proposal. That since has been certified by them so staff is now confident that the full bonus floor area can be earned. We're still awaiting approval from PBOT for the location ... or support for the location of the underground switch vaults, which, I don't know if I can, I don't have my pointer, here it is, which is located right here on the outside. So if that were to need to move to a different point either on the site or in the right of way would likely affect the location of the transformer room, which could have rippling effects on the ground floor design. Therefore, staff was not able to recommend approval because of potential changes that could result from that. I believe PBOT's going to have a response to that within the next week or two so that should be resolved and all signs are pointing to yes at the moment from what I know. So those are major issues I identified in individual conversations with some of you. I have also heard that there are some possible massing issues that could still arise and I'd like to hear about that today if those are still of concern to you. And that's all I have, I'm going to try and keep it short and sweet.

Chair: Thank you very much. Do the commissioners have questions for Ben?

Don: One question on the unresolved issue which is A5.4, have you worked with the applicant on that or have they not been responsive?

Ben Nielson: I've brought it up several times. We actually spent a lot of our time focusing on greenway issues over the last few weeks so I think this kind of fell by the wayside. You can see they did do some changes, and I'm sure they'll get into it as they do their presentation, but they did some work down here at the river end of the plaza. There actually, instead of sloping down, now sloping up to this kind of wooden amphitheater that overlooks the river which I believe is a good response to better integrating the river into that plaza area. But in terms of different, any other design moves in this area, I don't know that there's anything significant, but again I'll leave that up to the development team to discuss.

Jessica: In previous, I think it was a hearing or DAR, there was a discussion about the storm water planters for incorporate water features, storm water planters fulfilling that guideline, but there not really doing anything. We decided that the river was.

Ben Nielson: At the last hearing, we were talking about how the river is the water feature rather than the storm water planter and from what I heard the Commission was accepting of that. If you think otherwise it would be a great time to hear it, but that's where we landed.

Chair: That's how I remember the conversation as well and the focus was really on making the approach through the plaza a very special approach to the river. I mean if the river is the water feature and that really makes a lot of sense in this location, then that plaza really has to knock it out of the park and make it clear everybody that that's what happening here.

Ben Nielson: So, in staff's opinion, this is a much-improved response to that, to the river, in terms of providing additional view opportunities from the plaza itself and creating a kind of small space at the edge of the Greenway Trail overlooking that, overlooking the river.

Don: Does the Greenway Trail then go underneath part of this raised area?

Ben Nielson: No.

Don: It goes around it?

Ben Nielson: No, the Greenway Trail goes right over it. So where the ... this wood right here is at grade with the Greenway Trail and it steps up to the plaza as you go this way and then a ramp here accommodates accessible access to the plaza which is raised up from the greenway. Maybe if I show you this, these two sections again that would be easier to understand. So the Greenway Trail is located right here and this section, it's the paving if you will is ipe wood instead of the concrete of the normal trail, and then that wood extends up these steps to some point back here. And this section down here is the section cut through the ramp off to the side.

Chair: So, Ben, a question about process. We don't have a staff, or fresh staff report today.

Ben Nielson: Correct.

Chair: Does that mean that the staff report that was produced for the last hearing is still in effect?

Ben Nielson: Yes.

Chair: OK.

Ben Nielson: Though it hasn't been updated with updated findings. So if we were to vote on it today, or vote on the project as it stands today, I would ask that we punt that for two weeks to give staff a chance to write revised findings.

Chair: If I'm recalling the last staff report correctly, it didn't recommend approval or denial because there were many outstanding issues including bureau review.

Ben Nielson: We don't recommend neither. We always recommend either approval or denial, so that was a recommendation of denial.

Chair: OK. So there is a recommendation of denial on the table and that means that a vote could be called for today.

Ben Nielson: Only for denial.

Chair: OK.

Ben Nielson: Not for approval.

Chair: OK. Thank you very much. So in fact its most likely that the applicant will be returning one more time for that vote.

Ben Nielson: Yes, I would hope.

Chair: OK. Thank you. Alright, other questions? [12:02 - whispering] Great, we'll turn it over to the Applicant.

Applicant: Excellent. You threw me for a loop with that one. We weren't aware of that technicality coming in today, so hopefully we can discuss that a bit further. So, to not regurgitate too much, I think we made such good progress the last time our intention today is really to kind of go through the, really focus on the changes and the evolution of the project since we were last here. So, just by way of brief overview, we've covered this since the DAR, but just to review in case this hasn't been seen before. We've started this project from the beginning looking at how to use the FAR available to the developer in a way that is most sensitive to views, in particular the view from the Fields Park. So, we have done multiple iterations really looking at this central location in the middle of the ellipse in Field Park as our vantage point. In talking with the neighborhood groups was also requested that we look at the sort of the end of the boardwalk element as it projects into that ellipse, which is almost identical to this view and so we don't have a second set of views for that. We've met with the neighborhood group multiple times, in fact three times. The most recent one is actually just to show the evolution since we had our prior hearing and I'm sure we'll hear from folks today. But in general things were pretty well received. There are certainly no shortage of people who wish there were no building here at all, but we've gone to great length here at the developer's behest to kind of make sure that we're being sensitive to the views and sort of controlling this massing and the view to the bridge as much as possible. And, of course, we live in a city, so there are buildings in the Pearl that

block Broadway Bridge and that the new ZGF building blocks the Fremont Bridge from most of town, so we've tried to be as sensitive to that as possible and to work within the constraints as we see them. And the other thing I note on that is that we are currently at an effective FAR of 4.2 to 1, so we are sort of leaving FAR and bonus on the table to try and keep the scale of this thing down to have the least impact. So we've kind of gone through that with the neighbors that the only thing we have left do was lop off sections of this building and that's not financially feasible given the constraints on the project. Anyway, this is really what it all boils down to for us. The red box here is the 100-foot height limit, the sort of by right base height limit, and from the get go, we recognize that, that building out to that lower height and not employing the tower element and not shaping the building as we have, would have a negative effect on views specifically from the park, but from elsewhere around the neighborhood as well. So, to move on to specific areas of concern. I'd like to start by reviewing the sort of primary areas that we took away from our last hearing with you all that we've been looking at. So, there are really four primary focus areas. The first is the building mass and fenestration related to the north façade. Second, is the building mass and fenestration of the southwest corner and the south façade. And then really the evolution and development of the northern plaza and the greenway, and with the greenway, I've put in the southeast corner of the development, which was kind of a blank corner previously. So, we can walk through what we've done there. Looking at the building elevations, we had, this is now primarily looking at the north and west. So, the northern façade piece we had a comment from staff, which I believe correctly noted there was a, sort of a different fenestration, different patterning of windows and balconies on this volume of the building that didn't exist elsewhere. The other thing that happened here is we had a series of balconies that are turned parallel to the river and then the sort of a transition where this lower mass sticks out where a general comment from the commission was that that was an unresolved portion of the building. And then, of course, following the DAR, we had brought the driveway to the southwest corner and pulled that all the way up from the street. I think it was general agreement maybe that was an over correction. So, then looking at the south and east elevation. On the south, we had the fenestration issue with articulation of this podium piece and the fact that we were trying to let this glass element slide in behind just a few brick piers and again the notion of pulling that garage entry back to full bays. And then on the upper right here, you can see this, this is that rotated balcony condition at that lower, that mid-scale mass that we were talking about previously. And then the last one here, is the southeast corner. So, we had, we had some mechanical grills and some sort of false glazing in that location to try and make use of the space in a way that made sense pragmatically, but didn't really meet the standards of the Design Commission. So similarly reviewing the plan, and a lot of these things really are about the pedestrian scale, a lot of the things we most significantly focused on. So again, we sort of have three, or four locations. There's the southwest corner, the plaza itself, and in particular the way we sort of focused on this head condition where we meet the river, and then really the entirety of the Greenway Trail as it fronts on this property. So, keep moving

through here. So, looking at the building mass on the north side and the fenestration, on the upper left is the design from the prior hearing, and the larger elevation is kind of where we are now. We're actually quite pleased by this. This suggestion we think has done a lot of good things from the building. So, what we've done is rotated these balconies so that they're now facing the bridge. And what it's done is not only allow us to kind of stitch these balconies down past to tie these two masses together in a way that they weren't previously, but it also has the effect going all the way back to our DAR discussion, it has the effect of slimming and adding more verticality to this portion of the tower. So again, we've sort of simplified the solid areas, we've simplified the window walls so this condition now matches its matching component on the opposite side of this piece of the tower. So, its glassier and its thinner and I think that this works quite well to help tie those masses of the building together. To look at that in 3D, here's the condition that we had that I think was generally viewed as being a bit awkward when we were here previously. So, by allowing this to slide past, you can see that it actually also sort of thins that river facing façade as well, and we'll get into some of the details down below as we go further along. And then looking at this from this northwest corner, you kind of see that what that also allows, which again this wasn't consistent with what we had in the rest of the mass of the building. Typically, we've been working to put balconies on the outside corners to help dissolve the mass and breakdown that corner a little bit, so now we're having that same effect here on the side facing the bridge which we actually think is quite nice, so we were glad to work that one in. Moving to the southeast portion of the building. Again, kind of looking at this both in plan, we were right up inside that first column, and agreed to be a little too close. Secondly, we had a little bit of discontinuity in terms of the massing of this piece and it was discussed with the commission last time that it probably made a lot more sense to just extend the brick piers beyond, which is actually where we had started, and to pull this back, the garage entry back two bays, which also works well with the bureau reviews because it gives us a little bit safer queuing. So, in plan, here's our kind of revised plan. I'll revisit this corner here when we get back around, kind of moving around the site clockwise. So, you can see we have a good bit more queuing space here, the door is pulled back, and this is sort of the effect on that piece in three dimensions. Still avoids being the alley that was concerned, that concerned at the DAR, but it allows us to land this corner of the building, which we think it actually helps quite a bit. Again, sort of a street level view of that piece showing the brick piers continuing over the balconies kind of threading out very consistent with what we are doing around the rest of the mass of the building, and then down at this sort of pedestrian scale on our side of the street, just to kind of give a sense of scale for how far that sits back, and this is, I know you've seen a lot of these, but this is the speed door with the clear acrylic slats to kind of aid in the safety of people going in and out, make sure pedestrians can see cars coming and going. So, anyway, we think that the way this portion of the building is pulled together actually has been a big benefit to be able to push that back a little bit. Couple of things here. Actually, go back, sorry. Something that I forgot to note. Another change, which is not a design driven change since we were here previously, I just

wanted to make you aware of. Among all the things you discover after you've studied a piece of property for like a year and a half, we came across a 24-inch gas main that runs in the portion of the street where the street trees belong and so there is no way to plant street trees. So, we've cleared this with the bureaus. So no one can actually explain how the current trees are there or what it's going to take to get them detangled from the gas line, but anyway I wanted to make sure that you understood that's why we're not showing trees in these views. They've actually been removed from the project because there not feasible. But again, that's just kind of, this is really mostly an unchanged view other than the incorporation of street shrubs instead of street trees. And again, here's our resident entry off of Naito Parkway. Moving, continue to move kind of clockwise around the site now looking at the north plaza. I guess maybe start by saying it surprised us a little bit that the staff thought we hadn't incorporated enough sculptural elements into this because we weren't, in the same way that we're looking at the river as being the water feature, we didn't feel that it was necessarily directed on us to put everything sculptural into this plaza. So, we put a lot of sculptural development into the evolution of the greenway component, which we think is very, a nice place to do that with public interaction. And we've added quite a bit of sculptural quality to this plaza which is probably a little bit difficult to see in plan and we'll kind of run through those in rendering. So, as Ben mentioned, what were really doing here, previously we have, and this is flood plain related, right, we have a three-foot raised in the middle of the site, so we were kind of going up and back down to the greenway. As we started to look at it and take the notion of the sculptural quality of the space and the experiential quality of the space for pedestrians to mind, we said, what would happen if we actually came back up? And, you know, part of that has to do with we've heard a lot about the views to the bridge, so by pulling this up and sort of getting this, you know, almost like a gangplank type of thing where you're heading toward the river, the section is coming up, it allows us to get three fourteen-inch steps there, so good for seating, good for walking. And really the goal here is to provide something that's both a terminus of this plaza space, but is really a continuation of the pieces throughout. So, if you think about the grade that I just described, you can see is that, you can see that on the next plan, or really trying to do looking at the section is to say, as you move along, so we've previously had to sort of just extruded bench forms moving through the space. And what we've done, seeing some of the renderings, these are now sort of faceted concrete shapes with wood wrap coming over them. And the idea is, you know, if this was something that read well in a prospective we would show it, but the idea that you're standing here at Naito Parkway and you see these series of objects start to raise with the same materiality and each with its own unique sculptural shape, those objects are tracking along your eye level and then just at the end of it, you get a horizontal surface of that terminus of that amphitheater piece. So, the reason I have this box drawn in the middle is that our intention from the beginning with this plaza is to create a multi-purpose space. And so to fill that space with objects for the sake of it being more sculptural would work against, in our opinion, the use of that space in a public setting. So, these are the ways that we envision that space being used

hopefully among many others. At top, you can kind of see, you know, that's just your standard 10 x 10 festival tent, so, you know, just to get a sense of how the scale would read at that flat spot, the idea that there is food related events that tie into the restaurant, drop some food trucks in here, and general seating, as well as the fact that the intention we believe we're going to need access for emergency vehicles about to this point. So, the notion that we can keep this space clean and multi-functional while sort of, you know, we've sculpted the geometry of the site around it, and we've introduced these minor sculptural elements, really allowed the more active sculpting the space to take on this head condition and then as I'll show in a minute, to sort of turn its way along the length of the greenway. And I think, hopefully you can get a better sense of that here, right. Again, this is, this is a rendering inserted into one of our drone photos, but you can kind of see, it's very difficult, if not impossible, to perceive this thing raising back up. But what we're doing is turning the site towards the bridge and we're also creating, using this geometry both in the paving patterns coming from the south and from the north, we're drawing that user, that pedestrian back into the site and keeping that clean circulation along a series of sculptural objects. So as I said, we've used these more minor sculptural elements moving throughout the plaza space. We've really worked to be a little bit softer and more sculptural in the way we treat the transition from the plaza to the greenway. Of course, the bench, or the bleacher seating itself, and then we've introduced these larger scale benches, so again, kind of trying to make sure we don't have a completely different space as you turn the corner. We've tried to address the entire experience in this portion of the greenway. You can see a little bit, sort of some of these faceted concrete benches and the wood wrap coming over and visually we're tying that through to the terminus. And then here's a look at that space, so this is really from, we're sort of standing right at the edge of the seawall. What we've tried to do here is to provide a small patch of green so that as you're kind of looking out, were obscuring that existing fence, which the idea is we're trying to go all wood, and we turn this piece up and there's a little bit of soft scape to kind of really help focus the view out towards the river. And you can see storm water planters, the three-foot offset that provides our dining patio and then these sort of seating sculptures that track down along the greenway which are tied in geometrically and materially to the rest of what we're doing. Looking at this from the other side. Which is something we developed after getting Ben's memo on the fact that the staff wasn't seeing the amount of sculpting that we thought was already in here, but the idea is, oh and this actually, I guess this is something we haven't shown previously since the last time we met with staff, but there was a concern just looking at this in plan, that the sort of wood head condition wasn't tied in. So, our intention is to actually use that, the materiality there of the wood to turn down, and then to highlight the edge of that section. So the wood is drawn back into the plaza space on each of those benches, but also in the sort of cutaway view that expresses the side of this wood mass. And then, as I was saying, here's our dining seating and some of these sculptural benches that kind of start to move down towards the greenway. And we're not responsible for that little fake gable on top of the adjacent building. So, looking at the southwest corner. So, this really was the piece that was at issue. We

had a good bit of louver and then some opaque glazing, metal panel walls that were at this, what's currently the terminus condition with the greenway that we're hoping will become adjoined for the future. In plan, again we were kind of trying to accommodate something that allows us to be really a turnaround. The big issues in the plan that we heard from Design Commission, as well as from the neighborhood, were, despite the fact that we were trying to sort of match existing in bringing the trees, required trees along the river, again you can kind of see the non-sculptural version of this, we're just kind of small benches perpendicular to the trail that we had previously. The trees were generally seen as being too much of a block between the pedestrians and the river and the terminus by being not active with this mechanical space was not really working in terms of activating. So, these are just the architectural plan and the landscape plan of the current design. And, first and foremost, we've done in working with the owner is we've found a way to incorporate two studio units here. So these are the only two studio units that don't have a lobby address, per se. But there is a notion that these could be good short term rentals or they could [buzzing noise - oh sorry I wasn't paying attention] or that they could also be used for guest suites. And again you can kind of see were now creating a sort of a series of eddies and changes in width of the greenway that provide a more interesting experience. Just for reference, our second floor plan, again this was also a change, so in the upper right, we had a pool. The pool came with a whole bunch of mechanical equipment which mandated electric louvers and a bunch of other expense. So, we've moved back towards saying this is a sort of a cascading walk and now it's an outdoor lounge for the residents that addresses directly over the greenway but is secured, and that kind of ties back to our DAR, so there is a stair that runs alongside here with a gate at the bottom that allows easy access for residents. You kind of get a better sense for that here. So again, we're trying to not just have one sculptural condition, but to bring that down along the greenway and develop the terminus that feels good for now, but also will work well in the future. Which is why we have this group of trees here. The idea is currently you look down and there is an end of greenway sign and gate we're trying to sort of obscure that in the short term. In terms of the look and feel of that space, this is where we are. So again, those are the two units. This painted glass will be looking beyond to the stairwell. Let's see if I keep going. And then the last thing I have is just the overall rendering, rendered views and you can see where we are in terms of the massing from these four primary aerial views. That's it.

Chair: Thank you very much. Do the Commissioners have questions of the applicant?

Andrew: Can we go back to that greenway gate?

Applicant: Yeah, here?

Andrew: Back again. Yeah, that one. How tall is that gate and what is that gate made of?

Applicant: Well, sorry I probably misspoke there. So, what we decided to do because we wanted to keep this elevation clear. In the end here, this is actually full height

window wall so what we've done, I'll show you on plan, so if you could see on the plan here actually as you're coming down the stairs, the door is to the side, so this is a fixed piece of glass that's viewing into that stair but the door itself would be in the sidewall of that volume.

Chair: And those are stairs that are coming down from the roof terrace.

Applicant: Correct.

Chair: So in fact those studio apartments or guest rooms or whatever they happen to be do have some direct connection to the rest of the residential development.

Applicant: They do. There are two things that we have done here. One, going back to this plan. So one of the other things that I think made this, kind of see that the geometry was a little more blunt, we were much closer to the south property line and we just kind of had a little tiny reveal here between the masses as we redevelop that what we try to do is provide better access from the second floor terrace for residents but also the studio units have access back through the garage. So they can actually park in the building, they can access the mailroom in the lobby without coming out and around on the greenway.

Jessica: Is there a reason why there couldn't, this wall needs to be back this far. Couldn't it go up closer? I mean, it seems very, I wouldn't walk here by myself at 4:00 in the winter.

Applicant: Part of what we were trying to do actually was to, I mean we sort of how back of house showing for that restaurant space, but in truth we don't know where that is. So part of what we were thinking was as an advantage here was pulling the glass further back. So by insetting that further we have the opportunity for more of a dining space on the corner that looks over this. So it was more about, your point is certainly well taken, but the idea that by activating that end of the dining room we could automatically have more eyes on those two units and the end of the greenway. So that was kind of the idea.

Jessica: If it actually becomes a dining room and not a back of the house or some other kind of unoccupied space.

Applicant: We almost, sorry, we almost took these walls out of the plan because this was kind of an early idea for how that kitchen works, but the more we looked at it and once we started looking at this in three dimensions, this actually is probably the key spot for dining because it's got the best down river views. So we think that's pretty likely enough that it was worth pulling back providing another point of access. What were really trying to do is the reason that pulls back as far as it does is to allow these two units the access back through the garage otherwise they were trying to get another that stair as it goes up so that's just, that's as simple as that. There may be an in between here, right. It could be that that wall falls forward five or six feet, but that was the logic.

Andrew: What are you walking along, or what is this right here, is this a gate too or is this also going to be landscaping plus a gate. What are you visually looking at when you're hanging out here.

Applicant: So on the, if I understand your question, so everything that's sort of white here is

Andrew: No, this right here that's separating from the river.

Applicant: There is an existing seawall with really a galvanized picket rail that's very similar to the one that runs along this whole section of greenway. So its...

Andrew: Will that remain? Will there be any landscaping around it or ...

Applicant: We started with landscaping around it and the general pushback we got in particular from the neighborhood was we got to get up to the rail, be adjacent to the water's edge. So, we've made the choice to pull the landscaping and the trees back against the building for that reason. So that's was what we heard last time here as well as from the neighborhood, let us get up to that railing.

Andrew: Yeah, yeah, get up to the railing. I was just thinking about how you soften up the railing itself, is all.

Applicant: We haven't done that partly because there's also been some input from the neighbors about...we're trying to find a balance here between the existing condition which is the end of the trail and a future condition which, in which case hopefully this thing blows straight through here. The tightest points we have here in our previous plan, I forgot to mention, that was another issue from the commission and from the neighbors which is we had that walk down to ten feet. Now the tightest condition we have from seawall to the point of one of these benches is 13 1/2 feet. So we're trying to be cognizant of the fact that we don't want to scale that down, but not too much, and the concern would be too much landscaping out there would start to narrow it again.

Don: Which was concern last time for sure. What kind of wood are you planning on installing in this area?

Applicant: We've been talking about ipe, sort of like the stuff that exists on the other side of the tracks there as being the right solution there. Something that can hold up to that kind of traffic.

Don: Is it hollow underneath or are you going to raise the earth up right next to it or how do you plan on doing that?

Applicant: Well, this is actually over, this is structured, right. We're over top of our parking below at this

Don: Parking below.

Applicant: So technically the question is we may be filling above a flat slab that's a couple of feet down or we may actually pull that slab up. We haven't figured that piece out yet.

Don: I was curious, you have a rail along this portion also?

Applicant: We do.

Don: What was it?

Applicant: We have a frameless glass rail because we need fall protection on that side. Sorry, find my way around here. So what we're looking to do is hidden shoe, we'll have a have a shoe built into the depth of the wood decking and then a cantilevered glass rail because at this point we're over 30 inches and even where we're not we want to make sure we don't create a public safety issue.

Don: The glass continues all the way along here.

Applicant: Correct.

Don: and these are storm water planters?

Applicant: The lower one is. This one is just standard landscaping. And I'm sure our friends at place would want us to tell you that we've not...

Don: Pardon

Applicant: I'm sure our friends at place would want us to tell you that these are not scientifically accurate species in that landscaping.

Chair: On the north elevation most of those Juliet balconies in the tower are gone, why?

Applicant: Well, partly because of cleaning up that façade, but honestly, it's also a pragmatism relative to the noise. We've studied that quite a bit and feel that façade most directly faces the bridge and so the idea of reducing the amount of operable glazing up there actually is probably the right move relative to the acoustics of that bridge. It's pretty loud. We don't have a way to access how much louder it gets the more your actually in line with that deck. So we think it cleans it up and it's probably a smarter thing to do functionally.

Chair: Other questions?

Don: Yeah, we have concerns about the composition of the facades as you go around the building. You went through that really fast. Can you just talk us through some of those conditions again please?

Applicant: Sure, actually I'm trying to think how to do that. So, on the north side here was kind of one of the primary areas that there was an issue. As Commissioner

Salazar, Molinar, just said, there was a series of Julietts that were kind of sitting in this piece. That's not so much a massing issue, but it did mean that we had a condition here that didn't exist elsewhere on the tower. So to this point, our Juliet balconies are really happening in that podium piece. So as we were looking to clean up both the massing and the fenestration, the massing question as I understood your input last time was related to this discontinuous set of balconies that kind of came down until we hit that piece that pops out. And we were trying to maintain the idea of that glass element sliding underneath the taller portion of the tower, which we have maintained, right. So that piece was kind of working the way we created that reveal and but what wasn't working was kind of the joint between the two and so by pulling these balconies down, were still allowing that piece to slide underneath and again we get a condition on this edge that matches what we are doing on the opposite flanking edge, and it allowed us to kind of straighten up the fenestration on that portion of the tower as well.

Don: Were there any other changes on this portion of the building?

Applicant: Well, yes you can kind of see that by pulling this in it actually, we did have a series of balconies here so we've narrowed slightly this portion of the tower, created a set of glass corners that sit next to the balconies. And then other than that, what we've really been doing is chasing around things like how these different masses, oops sorry, how those different masses interact knowing that we'll be seeing these things certainly from the upper portions of this tower. So we've been sort of tracking through the transitions. Actually put that at the end, sorry. So a couple of comments that we had I believe at our last hearing was kind of the nature of how these masonry podium elements were tying back in and how we were tracking these things through. There were some sort of abrupt transitions so what you can see here is this matching condition, again this is something we kind of had previously with the way the balconies locked down around this piece of the building. And then there really aren't substantial changes to the primary elevations. They've been sort of subtle changes which we sort of took as what we were looking for after our last round of comments.

Don: Has this mass changed at all?

Applicant: It has. Yes. So that's what I was showing earlier. We had the southwest corner of the garages pulled all the way forward. What we were trying to do before was to sort of slide this glass mass in behind two brick piers. It was generally agreed that was a bit of a surface treatment that wasn't particularly working well tectonically and so we pulled the glass piers, or sorry, the brick piers back to complete this volume and to allow it to land. So some of the stuff we have been working on is, each time we have this podium condition, we have been able to bracket it where we have a solid corner at each end of the mass and then we've kept that glass corner open, and that's really a nod to the fact that this is not intended to be traditional massing. We're trying to play with those forms a little bit in a subtler way.

Don: Was this brick back here now or is it all glass?

Applicant: That's glass. I think that's just in shadow there.

Don: [inaudible 48:02]

Chair: Quick question. The wood at the soffit, or least under the canopies, is that the same wood that would be used in the decks or it is a different wood?

Applicant: Right now we have the soffit wood as cedar. The intention was they would be stained to match, but it didn't seem necessary to put ironwood on that surface so that's where we have it shown right now.

Don: Had you looked at other materials for the soffit also?

Applicant: We actually started with glass in those canopies. And you had, it had an odd sort of flimsiness to it despite the fact that we had a steel channel and the tracking around, besides of course maintenance issues of keeping those looking good and clean.

Don: Could you go to that slide?

Applicant: Sorry, say it again.

Don: Could you go to that illustrations showing the canopies?

Applicant: Sure. There are a couple of them here. So, this is the kind of standard non-entry canopy, right, so were talking about a steel frame and wood decking. And then at the primary entry, so the one here at the restaurant entry is a sort of a similar articulation to what we have at the main building entries, which is a steel T's and glass canopy, and those would all be under lit. So this is a footed glass canopy and then switching to the wood. To be honest, the reason we would like to stick with the wood is that once we started to get down at these sort of human scale vignettes, we thought there was a real value to the warmth and the scale that it brings.

Don: Did you ever look at taking the wood and maybe taking it down on these surfaces also?

Applicant: No, we haven't looked at that.

Don: I don't know if that'd help or not.

Applicant: It's a tough one. We still struggle with what the appropriateness of putting wood on a vertical surface on a building of this type. Would be a little bit adverse at going to the faux wood for something that's down in a place where somebody could see it.

Don: Presumably it wouldn't be faux wood.

Applicant: Right. I guess I'm saying, you know the question is if we could create a wood surface area, we feel a little bit safer about things like ironwood as they sit out in the public space, but we didn't really want to create a condition here where that wood doesn't hold its finish because it's on a vertical surface and it becomes a maintenance or aesthetic issue down the road.

Chair: Can you remind me how many apartments are in the building?

Applicant: 275.

Chair: Ok. Thank you. Other questions? There are folks who would like to testify today so if commissioners don't have other questions, we will ask the applicant to step back and will invite some public testimony.

Don: Maybe just one, Ma'am. There was some concern I think that 85.4 on the public space on the north side of the building, had you more communication with Ben on that and expectations of what it can be, should be.

Applicant: Sorry, 85.4, I thought we were talking about, is that the sculptural quality or the canopy?

Don: This would be the sculptural quality of the plaza on the north side of the building.

Applicant: I guess that's what I was trying to describe. We, in trying to find a balance between programmatic flexibility that would allow this to be a multi-use space and finding the sculptural quality that would allow us to meet that sort of public art standard. As I said the last time I was here, the requirement for this plaza is something like half of what is being provided in this plan in terms of the required square footage. So, we started down the path of public benefit by providing more of that type of space and we've tried to be sort of thoughtful about those sculptural innovations to interventions to move them through the plaza in small ways and really around the entire flanking portion, portion sides that flank the building. We haven't had, really until we get the memo from the staff just yesterday, we hadn't had that conversation in any depth about not being sculptural enough. And we obviously think we've added a lot of sculpture here and I think the greenway itself is an area you know we feel pretty strongly that there is an awful lot of the greenway that is either unarticulated boardwalk deck or a 20-foot wide sidewalk, and that a variety of experiences including the sculptural pieces that we've integrated here is an improvement. That's the way we see that 5.4 sort of plan to in our design.

Chair: Ok. If there aren't further questions, I'll ask the application to step back and we will invite public testimony. There are three people signed up to testify all in opposition to the proposal. So I will call up the first two and when they are done testifying, I will call up the third person, and you will all have three minutes to

testify. So, first Glenn Trager and Kurt Sorenson. And if you would begin your testimony with your name and address for the record.

Glenn Trager: Name and address, did you say? My name is Glenn Trager. I live at 1133 Northwest 11th Avenue. I am currently a member of the Pearl District Neighborhood Association and also the Planning and Transportation Committee. However my testimony is just mine alone. I do not represent the Pearl District. The Freemont Apartment project in the North Pearl subarea waterfront, this is a uniquely defined area in the central city plan and has its own requirements for view corridors, building setback, building dimensions and public access. Many of these design parameters were developed as a result of the North Pearl District Plan, a two-year joint effort both with the city and neighborhood. The allowable building dimensions for this project is 200 feet. Since this standard is defined for the North Pearl subarea waterfront, it applies to all properties east of Naito Parkway from the Freemont Bridge to the waterfront Pearl condominiums. The Freemont building depth is 228 feet. This depth results in a building encroaching toward the river 28 feet deeper than what is allowed. The Freemont Apartments as proposed does not meet the central city plan building regulations. What are the effects of the Freemont Apartment encroachment? One, it sets a dangerous precedent. This encroachment encourages future developments along the north Pearl waterfront to further encroach upon the waterfront. Two, constricts the greenway path. The Freemont Apartments encroachment limits the use of the greenway path by making it narrow and dangerous to use. Bicyclists, runners, walkers and children all have to share the same constricted pathway. This will not only become dangerous as time goes on. This will only become dangerous as time goes on. Three, reduces open space at and around the greenway path. This is especially apparent in this case due to the placement of a five-story building directly adjacent to the greenway. This will make this area and the greenway feel more like downtown Portland than an open recreational area. I ask the Design Commission to reject this proposal. The building design standards developed for the North Pearl subarea waterfront were the result of two years of public hearings. To allow the developer to disregard these building standards does a disservice to the public planning process. As the city of Portland grows and becomes more densely populated, the city needs more prime open space and recreational areas, not less. We can't afford to give away riverfront open space to housing developers.

Chair: Thank you very much. Mr. Sorenson.

Sorenson: Yes, thank you. My name is Kurt Sorenson. I live at 1310 Northwest Naito Parkway.

Chair: Your mic may not be on. Let's be sure that your being recorded.

Sorenson: A little red light.

Chair: There we go. Try it again. I think you're on now.

Sorenson: That better? Yeah. My name is Kurt Sorenson. I live at 1310 Northwest Naito Parkway. I am a member of the Pearl Neighborhood Association, but I am not a member of any of the committees so I am, of course, speaking for myself. I have really three areas of concern. Height, bulk and the greenway set back. Not so much the width of the setback, but the angle of the buildings and the setback of each portion of the bulk. The master plan of course controls conflicts with code positions and generally in cases of code conflicts, the most stringent provision applies as set forth in the code. This basically means that the public interest in applying plan standards trumps private investment interests. The parks standards and the maximum height standards in the code are specifically intended, among other things, to protect views, stepdown building heights approaching the river, and measure, and ensure rather building height compatibility throughout the region. The proposed building requires variances because of the 185 feet it greatly exceeds the basic standard and the bulk at 228 and the 230 feet wide approximately also exceeds the standards. The building significantly blocks the view of the Freemont Bridge from the Pearl District generally, not just from the park, but if you walk down Tenth Avenue, you'll see how much is going to be blocked, or for that matter, drive up Naito Parkway toward the bridge you will see that a good portion of the bridge will be blocked. The façade along the parkway takes up significant portion of the lot and blocks the view from the parkway to the river. To give an idea how the building compares to the area, the two water front pearl towers at 10 floors are not nearly as high, there sculptured into streamline shapes to facilitate river views, they have a wide view corridor between them, they are surrounded on three sides by a water feature, there is a wide greenway access on both sides of the complex, the greenway is much more generous than 25 feet, 25 feet is merely the base portion of it, and the buildings are between 170 and 175 feet deep. The bonus site provisions in the code for the Pearl District height opportunity area are limited by 33.510.205H1 so that the additional height shall not and I quote this "significantly affect the views of or diminish the aesthetic qualities of the Freemont Bridge." That happens here. Both standards are failed. This is an attractive building and so is the thoughtful design, it's just not the right building in that location. My suggestion is make it smaller or don't build it. Thank you

Chair: Thank you very much. And Jennifer Martin is also here to testify.

Martin: Jennifer Martin. I live at 1125 Northwest 9th avenue. I'm a professional architect but my testimony is purely from a neighborhood perspective. I read through, I wasn't at the last design hearing meeting, but I read through the decision and it seems to me the massing of the building has been an issue from day one of this project and it has not been looked at. It hasn't changed that much from beginning and I think the fact that it's requiring seven modifications in total to get this project to move forward shows that this is not the right project, or right building for this site. The greenway setback most importantly is one that I think the Design Commission should uphold for three reasons. It helps to ensure that that plaza which has been very thoughtfully designed, it's a great plaza especially the changes that were made from the last meeting, but if it's in shadow 90% of the

time people don't use it. And keeping that setback helps a lot with the shadowing of that plaza, it also helps from the views from the fields park and it sets a bad precedent for that buildings along all that way. It also doesn't support the natural massing of the buildings in the Pearl or along the waterfront. Most of the buildings along that corridor and in the Pearl are much more simple blocks and there are not a bunch of L shapes and if you look at what's going into this setback, it is that L shape and I think that setback needs to be upheld. That's my opinion.

Chair: Thank you very much. So for people who chose to testify today, we won't be voting today because we do not, well I'm assuming we won't be voting today because the staff report that we have recommends denial and it is very rarely the vote is called for when we have a staff report that recommends denial. So if you have the time to stay with us, we will be scheduling a return hearing where the vote will actually take place at the end of our discussion today. And the applicant is now invited forward and has the opportunity to address the public testimony.

Applicant: Thank you. I don't know which comes first. We wanted to talk both about the procedural issue of [inaudible 1:04:51], but we can start with the [inaudible 01:04:54] the neighborhood comments.

Chair: And in fact you are not required to respond to neighborhood comments. You have the option to reply to the comments.

Applicant: I think just in general, you know, I understand that, I think we all understand there is a certain point where no one wants new buildings to block views of other buildings or other things. We know that's not a reality of living in the city. Our hope in this entire process and we started with the neighborhood committee, even before the neighborhood committee, I think to say the massing has been a question, I think it's fair to say the massing being the views have been the driving concern of ours from the beginning even though it's not required of us to do so. And with great support of the client, we've continued to fight against those things. It's one of the reasons why we do need modifications because we've tried to look at this sensitively. And obviously a number of the modifications are quite small and common and it's a complicated site with lots and lots of overlays. So I suppose acknowledging that. The only other thing I was going to say, I just want to clarify that the shadow modification as you would call it, I didn't run through that today, but it has to do with the skewed geometry of the site and it's literally the difference of an hour. It's between noon on the prescribed day versus 1 o'clock on the prescribed day, and then that that public space is in full sunlight for the balance of the afternoon. So we don't see the shadow thing, it's a pretty minor technicality that gets us from noon on April 21st to the 1 o'clock. And then in terms of the massing, I think what you can hopefully see from some of our aerial views, we've actually kept the, what we call the shoulders of this building, down. They are very much in scale with Centennial Mills. Even the river portion of this building as you can see from the more recent views we did were in scale with the existing three story office building because of the delta in floor to floor between office building and housing. There very much in line, they are sort of in line

relative to the orientation to the river and they are in line relative to their verticality. And then the last thing I was going to say was is that I think it's important that we acknowledge as Oregonians there was a comment made in a neighborhood meeting about selling our souls as Oregonians to allow a building to go on the banks of the river, which may be a bit of an extreme viewpoint. In fact to counter that, you know, what we're trying to create here is, it's great to have people on the river, it's great to have activity on the river. We think that we're helping to provide a varied experience and something that, you know, type of interaction that this town could use more of and the way that we engage with the river. So we think we've handled all those things sensitively. We've requested modifications in light of the fact that we actually believe that we've improved upon the standards or we wouldn't have bothered going to these great lengths to request them all. So, that would be my response to that. Is there any other questions?

Andrew: We're there studies, like shadow studies provided to the neighborhood association?

Applicant: No, the only shadow study that's been done is there is a requirement for that plaza.

Andrew: Right. That's what I mean.

Applicant: That's it. Other than that there's really not much else to cast a shadow on.

Andrew: [inaudible 01:08.17]

Applicant: Yes. We've reviewed this with the neighborhood multiple times with the PDNA.

Chair: OK. So that concludes the public testimony.

Counsel: One more, Chair, if I could just for a minute. My name's Steve Pfeiffer, I'm land use counsel for the... Do I have to hit a button? No.

Chair: I think you're on.

Counsel: There we are. ...land use counsel for the project. My address is 1120 NW Couch, Portland 97204. I just want to make a comment and maybe offer a suggestion that I think might make your process going forward a little more efficient. There was an earlier exchange about the extent to which a staff report precludes you from voting today. And as a matter of fact, both under Title 33 and state law that's not at all a requirement. You can vote with or without a staff report, you can vote in the face of a recommendation of denial. That's why it's a recommendation. But I do agree with Ben that you can't take a final decision today because you don't have findings as you pointed out to support a decision other than denial. So the standard course both in other commissions and of the council, would be to make a tentative decision. Take the vote, make a tentative decision which is a very well-established process, and then ask staff to come back at a subsequent meeting with

findings that you would then as a body take final action on. The reason for that it would allow you to take the vote today, it would allow you to close the hearing today, which makes it a more efficient process for your next agenda, and then it also allows everybody from us to the other people in the room who are interested to know frankly what the likely decision is. It's tentative and it could change, it rarely does, in that practice, but it sometimes does. But that I think is both very typical and more efficient than leaving the record open, coming back holding another hearing and voting because you really aren't required to do that. You are free to vote, but you Ben's absolutely right, you have to make it tentative.

Chair: So, yes thank you for the clarification, and I also understand that to be the case and we are I think we are very guilty of using shorthand, but attorneys don't. And we would certainly never send the applicant away today without some indication of where the vote is headed. Great. That said, I think we are now ready to close the record so that the commission can have some discussion about the proposal. And we will ask you to stay here just in case we want to look images, we want you to pull up images, but our intent is not to have further discussion with you now. We will again, but just not now.

Applicant: OK. And I had a request to bring some older presentations which I have available if necessary.

Chair: OK. Thank you very much. And the intent of bringing that is to show...

Applicant: In case you need to look back at the previous designs.

Chair: Thank you.

Don: Quick of question for Ben. Was the length of the building discussed at prior DARs or

Ben Nielson: It was. Yes. The length perpendicular to the river is the length in question. It exceeds 200 feet. I don't have the exact number at my fingertips right now, I think it was around 228, I think that's the number I heard, that sounds accurate. The Commission did discuss it at the last hearing and my notes indicate, and my memory if it serves me right, indicates that the Commission was supportive of that modification.

Don: That's what I was wondering, yeah. I know we had talked about that but I couldn't recall the conclusion if there was a conclusion.

Ben Nielson: It was as much of a conclusion you could have with an open case. Yes.

Chair: So, Commissioners we typically frame our discussion around three primary topics, context, public realm and quality and permanence, because our guidelines largely fall into those three buckets. So we can do that here or if you think it would be more expedient, we can go directly to the outstanding issues from the

last hearing that the applicant has addressed today and run through our thoughts on the responses to our comments from the last hearing.

Don: I think that'd be helpful.

Chair: OK

Don: Resolve that one.

Chair: OK. So with that in mind, I'm going to walk through those issues one by one and ask each of you to share your thoughts. My notes may not be in quite the same order that the applicant's presentation today was, so we might not follow exactly the same order. Item No. 1, the open space. Our discussion at the last hearing was to make the plaza a destination with a focal point at the river otherwise that space really wasn't about the river. How do you feel about the response?

Andrew: I think they achieved that. There is plenty of areas along the plaza for recreation, for community activity and observation. So I think they achieved it. For observation, observing the river.

Don: I think they made a serious attempt to improve the experience. There is that question of public benefit. I think we've always struggled with that one and I think the question I have is, is there sufficient public benefit in what they presented to meet that guideline and that bar. But it certainly is improved from what it was an I appreciate your efforts.

Andrew: Could you clarify that public benefit part for me?

Don: Well, it was, Ben did you bring that up or did the applicant?

Ben Nielson: I don't recall discussing public benefit.

Chair: At the last hearing, there was quite a bit of conversation about public art and public use of the space, but it's not tied to a modification request or a bonus request is my understanding.

Andrew: I remember it being discussed as more kind of an access, wasn't it more about access from the public benefit perspective.

Don: You brought that up, did you not, public benefit.

Applicant: I did say that when I was just presenting. What we were talking about is, again sort of in order to meet that, I'd have to look back at my notes, in order to meet the public art component, there is a piece in there that has to do with public benefit, is not the right term, but it has to do with active spaces for pedestrians or something. There are ways to activate the space not just sticking a piece of art. I'd have to look back at the code and the plan that direct verbiage. I think I used the wrong words.

Chair: So unlike many development proposals that are in front of us, this one is not offering public benefit in exchange for ...

Andrew: Bonus or anything?

Chair: An increased height or FAR consideration or something like that. That's not the circumstance we're in today.

Don: So that term was not correct?.

Andrew: Right, I think it was more around...

Applicant: The piece about the sculpture apparently is public enjoyment.

Don: Big difference.

Andrew: Like activities along.

Chair: Jessica, thoughts on the plaza?

Jessica: The design is certainly improved particularly at the greenway. Does it qualify as sculptural? I would argue not, because there's simply some extruded rectangles sitting on a graphically decorated plaza. However, the fact that you have the plaza and that there, the benches along the greenway side are more sculptural. I think it's pretty close to meeting that.

Chair: OK. Next topic, revisions to the greenway in general. The fact that the landscape is moved to the inboard side, some of the fairly modest requests that were made at the last hearing to improve access to the river along the length of that trail.

Don: I think that making it wider has really helped. Before it kind of looked like a private walkway, now it feels more like a public walkway and this is much more open and welcoming to the general public. I'm assuming at some point that greenway trail will extend to the south, is that correct? It's just a matter of time for the next development.

Ben Nielson: It's probably sooner rather than later.

Chair: Oh yeah

Don: You know that.

Ben Nielson: I don't know that for sure. There's just discussion on the properly adjacent that they might have to do some non-conforming development upgrades which may include extending the trail.

Don: That would be great.

Ben Nielson: That's not decided yet.

Chair: OK. And then next issue is the reprogramming of the interior space at the south end of the greenway from the mechanical room to some small apartments. It's active use now which is what we were looking for, but my sense of that is seems like fairly insecure residential space. It's very isolated.

Andrew: I agree.

Jessica: I agree.

Don: It could be used I suppose for office space also. It could be live/work, either one, whichever they can rent frankly.

Andrew: I do like the idea that maybe using it as a guest space of some sort would be kind of interesting.

Chair: More of a hotel room.

Andrew: Yeah, more of that kind of benefit. Yeah temporary occupancy.

Jessica: But I do think that..

Don: It's a step in the right direction, for sure.

Jessica: Right, but I, that deep canyon is a real security concern

Don: Yeah, that was a little troubling, knowing what's happening with those deep insets around town.

Chair: OK. We'll have a little bit more conversation with the applicant about that. How about the Naito side of the south property line where the entry to the garage is pulled back a little bit and now the building, the podium at that corner lands firmly at the ground and kind of reads as a more coherent...

Don: It really helps the composition of the building. At one time, you had it set way back, didn't they, and everybody objected to that.

Jessica: It was way back, yeah.

Don: and then it came way forward, and now it's partially walked its way back.

Chair: This seems to split the difference fairly well because it really allows that corner of the building to be fully resolved.

Jessica: I agree.

Don: I would agree. Having ceiling space make a lot of sense too. Naito was very, very good.

Chair: I'm reading through my notes from our last hearing. Ok, the articulation of the skin on the north wall. Some fairly significant revisions made to a portion of that wall. Some Julietts have been lost. How do you feel about the change to the balconies, the loss of the Julietts and the clear expression of the skin?

Andrew: I'm ok with that.

Don: Yeah, I think it's much improved. That the building looked a little scattered particularly the first DAR and its looking a lot tighter integrating I think the mechanical equipment enclosure on top and bringing it down with that same material is really helped integrate that portion of the building. So, in general, I think the whole thing is coming together much more effectively.

Jessica: The loss of Julietts is generally not great, but in this particular case, they have so many balconies and so much access to use that that line is not out of the park. That the coherency guideline really needed to help, so I think it balances out.

Don: And you could actually mention this particular location people utilizing them also with the river, the bridge and some of the green portions of the site to the north.

Chair: It seems to me that the more consistent expression of the balconies as you move around the building from north to east and south to west, the way they redid the corners, is much more coherent composition than what we have seen...

Don: Arbitrary materials and corners on the four.

Chair: OK. The small mass. I think you all know what I'm talking about. There's a little piece of the tower that projects out towards the park. It's a small mass on top of a podium but it's not actually a full tower expression. It is better resolved, fully resolved, acceptable, unacceptable? We've had a lot of conversation about it at every hearing.

Don: Can you put that up again?

Jessica: It basically seems the same as it was last time.

Don: But is it. It's certainly improved from the very first iteration.

Jessica: And I think this one we had a lot, we discussed this one every time this comes through and requests that it be better integrated, but this really looks pretty much the same.

Andrew: I think it's another

Chair: So at the last, first hearing, it was inset, it wasn't flush and it read as a separate volume that was attached to the tower. So there's been some effort made to kind of integrate the skin more completely.

Don: This plane lines up with this plane now which it didn't before because they had decks coming out here. So actually it really looks like an unfortunate position for the massing. They have integrated particularly in this space.

Jessica: But I agree with testimony that you look, particularly in this image, at all of the other massing of the other buildings, this is an outlier.

Don: oh yeah.

Jessica: And it's also, there is one really striking piece of this design that is bringing the coherency guideline down.

Don: I agree, yeah. If it weren't here it'd be better.

Andrew: Yeah, that piece right there.

Don: It's cut a little awkward how this piece goes into this piece. And this is part of this with the light color and then suddenly goes into the, I guess that's brick, isn't it, or dark metal. It's a little awkward.

Chair: Do you have a flat elevation of the river side?

Ben Nielson: I can bring that up if necessary. Just give me a second.

Andrew: I'm sort of unresolved about it. You know. I think she said it brings the coherency down, it almost feels like an after thought when you try to tie those two completely different materials together.

Jessica: and it's also extending out of the greenway setback.

Andrew: Yeah.

Jessica: Although not as much as the tower.

Don: Was it right there?

Jessica: No, I think that's..

Don: It's really hard to tell on the elevation.

Chair: So yeah that's kind of why I wanted to look at the flat elevation just to see that the skin expression here was identical to the skin expression here and that it does read.

Andrew: That parts fine. Right here, this part.

Chair: Can you go to the north elevation?

Jessica: From my perspective the signal is not well integrated and really the building should stop here, should stop here, should stop here, and we discussed this from the beginning that if they were going to build in this area, then this all had to work.

Chair: Yeah, that's been a topic of discussion since the design advise request and it is subject of mod. # 5 which has two parts if the mods haven't changed since the last staff report.

Ben Nielson: They're essentially the same.

Chair: OK. So the mod is being requested is to allow portions of the building over 35 feet in height to extend into the setback area which requires the building be set back from the greenway, set back line by one foot for every one foot of height above 35 feet. So the third player here, what's being requested? And also within that mod. # 5 is the maximum building dimension extension from 200 feet to 230 feet and a few inches. OK, so we'll come back to modifications. So massing generally it sounds like everyone is at some level not fully satisfied with the massing and has recognized...

Jessica: It's been an issue from the beginning.

Chair: OK. Are there other provisions from the last hearing that we haven't touched on? That was the extent of my list.

Jessica: Are we moving on to other...

Chair: We can.

Jessica: What soffits?

Ben Nielson: Pardon

Jessica: What of the soffits, we didn't discuss the last time.

Don: Did they change, oh they changed from glass to wood.

Jessica: No, it was wood, we just didn't get to that part.

Don: It was always wood.

Jessica: But if it's going to be wood, cedar seems acceptable. Cedar seems acceptable because it can withstand...

Don: Well it seems acceptable to the fire marshal.

Jessica: Well, that's true.

Don: We're going to make him do a repaint or something that's non-combustible.

Andrew: That seems like a simple modification.

Chair: Other issues we want to raise for discussion. OK, very quickly before we open the record and have conversation with the applicant, I want to be sure that the Commission is clear on modifications. We are at a total of seven modifications. The first his height, that is largely related to the fact that the mechanical equipment is being screened and its being screened in a way that's consistent with the architecture of the building. That is typically approved by the Commission if the modification leads to a more coherent building. There is one modification related to bike parking that is frequently allowed. It's just reducing the spacing of the racks. The North Pearl subarea height opportunity allows the building to be 175 feet tall rather than 100 feet tall but then places restrictions on the length of the portions of the building that are above 100 feet and in order to make this massing work a modification is requested. So the length of the building walls above 100 feet is limited to 120 feet. What is proposed is 125 feet in one location and 142 feet in another location. So in one case, not much, about 4%, and in another case, a fair amount 18% extension of the façade length.

Jessica: I thought there were diagrams in the packet. Let me flip to that.

Chair: Ok there is a modification to the shadow standard for the plaza. 50% of the plaza area on the north side of the site, more than 50% of the plaza area on the north side of the site that is not supposed to be in shadow at noon on April 21st. At noon on April 21st, the plaza as proposed is about 84% shadow, but by 1 o'clock, within an hour, it meets the standard. There is a modification for the height extension into the greenway setback that we already discussed as well as the maximum building dimension. A modification to the pedestrian standards that allows landscaping between the sidewalk and the building along Northwest Naito Parkway. I think that this is related to the water table.

Ben Nielson: It's actually related to the proximity of the building to the sidewalk so the standard requires that it, and I guess it is related to the water table. Sidewalk is supposed to extend up to the building face or there has to be landscaping with trees. You can't extend the sidewalk up to the building face because of the water, the flood plain.

Chair: Flood plain.

Ben Nielson: And the landscaping is really too narrow and frankly it wouldn't be in a very urban condition to have trees between the sidewalk and the building either.

Chair: Ok. Ok.

Ben Nielson: You would either have to push the building back to get the trees in there or, I don't know.

Chair: Ben, before you turn your mic off, you added one additional modification which is parking. I'm guessing that that's the width of stalls or length of stalls with tandem parking.

Ben Nielson: There were maybe a handful of stalls that were slightly narrower than the allowed minimum and that's due to building structure coming down kind of off to one side or the other of a parking stripe and that could just be a coordination issue on behalf of the development team. They hopefully didn't spend a lot of time making sure their parking was exactly right, but as it stands right now, there are a few spaces that don't fully meet the standard.

Chair: Ok. So Commissioners that's a fair number of modifications. More than we usually see and several of them are related to the massing of the building. We've had some conversation about some of them in past hearing and at the DAR.

Don: Apparently some of them were accepted, the length of the building. Did we forget that.

Chair: Ok.

Don: So maybe we should go through each one and...

Ben Nielson: I'll affirm what Don said. The Commission discussed that quite a bit at the last hearing and they seemed resolved to accept that modification.

Chair: The modification for length?

Ben Nielson: Yes.

Chair: Ok. Any further thoughts on modifications? Are there any modifications that are sticking points for commissioners.

Andrew: Can you clarify this water table tree issue and is that something we can even get around.

Chair: Yeah, I don't think so. It actually has to do with the flood plain and I can remember Tim explaining it very thoroughly and I think the DAR, because it was, it had such an impact on Naito Parkway.

Andrew: So that would pretty much drop as a modification. It would no longer become a modification.

Ben Nielson: No, it would stay. If the building stays as designed...

Andrew: That's what I mean.

Ben Nielson: Yeah, it's not talking about the street trees, it's talking about the trees between the sidewalk and the building on private property yeah.

Andrew: If it stays as designed...

Ben Nielson: Yeah, it would remain as a modification.

Chair: OK. I assume there are no other comments on modifications.

Don: No, I think we talked about the height and all that on the very first DAR.

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

Applicant: Sure. Sure. Couple of things. One is, I'll start by saying I'm a little bit taken aback. I know we've talked about that that sort of mid-tower volume from the beginning. The last time that I was here, in general, I recall talking about the need, the financial need to recognize a certain amount of FAR or rentable square footage and we, my characterization of that discussion was that was kind of a, well, yes, with the setbacks being as they are, the tower floor plate limitations being what they are, everything else, there was a general understanding that we were going to have a mid-volume mass and then it was a question of how do we work through the articulation and how does it tie into to the taller tower. So to be clear, it is not that we didn't tackle that piece because we were ignore the advice, the conversation. My understanding of that conversation was, yeah, if we have this 45 degree setback to at least meet it in concept and given that we have no ability to put additional FAR in the tower nor additional ability to put height to the building, which we also discussed, that that's coming out somewhere. And our intention in that piece is we believe and have studied it quite thoroughly that a mid-tower piece like that, that gets us to the FAR that, that gets us to the net rentable that is needed to make the project viable. That it's less intrusive than if we put the additional floor or two back on the Naito Parkway, which would still keep us under the 100 foot limit Naito Parkway, but becomes a much more imposing mass. It's also in a location that we've talked about, there was some commentary about the waterfront Pearl. The waterfront Pearl, the nose cone of those things is about 70 feet wide, which is the same as the widest portion of the tower here. And it is probably 70 feet closer to the river. So in terms of a precedent to violate that 45 degree setback, I understand there is some shaping in

plan, but those things to straight up right from the river. So, we're not asking to maintain that precedent. To be as urban as possible we kept the towers, the tower mass closest to Naito. As I said, I actually thought we were pass the mid-building mass issue in terms of the tower shape. I'll admit to being a little bit baffled by the question of the appropriateness of the plan shape. I'm not quite sure how to address that.

Chair: Ok

Applicant: From a practicality standpoint, given the height, or dimensional constraints that are, that exist on the site over a 100 feet, and given the practicalities of designing units that are livable that aren't, you know, 50 foot deep shotgun 15 foot wide units, the tower, the double loaded corridor of approximately that 70, high 60, 70 foot width, actually works really well. So whether that's the same design as the other towers or not, I'd say if this space, this lot didn't have the dimensional constrictions that it did, that tower could be a bar and it could be taller or longer, but given the dimensional constraints that bar gets bent. It actually works quite well in terms of the centrality of the core in the unit that we don't have extremely long hallways once we're up in the tower portion. But it's really driven by the site and as I kind of said from the get-go by the views.

Chair: Thank you. So. Reflecting on the last hearing on the first hearing date, I can remember some conversation about the proforma and if I didn't say this at that time I would be surprised because it is remarkable how often we do have to say this. The proforma is not a guideline. And the issues that are described by guidelines have to do with context and massing, the public realm and quality and permanence and so those are the criteria that we used to evaluate the proposal. And the proforma that you have needs to be able to respond to all of those guidelines. It's probably time to do a survey of where the Commissioners think they will land with their vote and if you have any comments.

Don: One talkable context will do.

Chair: Sure.

Don: One of the guidelines said.

Chair: and if you'd like to we can very quickly walk through what we think about, one by one, what we think about context and then public realm and then quality and permanence. Would you like to start?

Don: Well this is one of those buildings that's kind of looking to the future context rather than the existing context. The two buildings to the north are low rise office buildings and I think they were put up in the mid to late 80's or early 90's perhaps. My guess is their days are perhaps numbered and at some point it's going to be denser projects on those sites. I can't. Ben, is the FAR on those sites similar to this one?

Ben Nielson: Yes.

Don: So that they could, there could be similar height buildings. Probably makes a lot of sense that it would involve saturation at some point.

Ben Nielson: Actually, I should add with potential future zoning coming in 2018, they could be significantly taller.

Chair: Right.

Don: So, it doesn't fit today's context but it probably does the future context. So, I'm ok with the context.

Andrew: I agree with Don and does it do a great job of helping to define what the future context should be? I don't know. But I agree with what you stated.

Chair: Jessica?

Jessica: I'm having a really hard time with the context, but it ties into coherency and having unresolved massing in a neighborhood where the massing is really pretty simple. So I'm on the fence.

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

Applicant: Actually before you move on from the context, can I just ask for a clarification both for staff and for the development team. Is the contextual issue largely revolving around this little mass right here, or is it a broader scale issue?

Chair: So I'll say from my perspective, it's a very complicated issue. The massing of the building is performing a lot of gymnastics to make the proforma work and those gymnastics require a long laundry list of modifications. So typically to receive approval of those modifications, the massing of the building, the contextual response, public realm, as well as quality and permanency, you know, kind of every bucket of guidelines, the proposal would need to just hit it out of the park. And in this case, given what they are asking for to make this work, I don't feel that it did that level of guidelines compliance has been achieved.

Applicant: OK. Thank you. Commissioner Molinar do you..

Jessica: I generally agree with that.

Applicant: Ok

Jessica: and I guess for me, the L is not ideal because I don't think it does respond to the context properly, but it does benefit views from other areas in making the actual shape of the building not block as much of the bridge. So it really comes down to that extra piece that just is an outlier.

Chair: This is one issue of several so we'll come back to whether or not that's a deal breaker issue for any commissioner, for either of us, and whether or not that I would drive either of us to a no vote. Very quickly on public realm, how do you feel?

Andrew: Did we define that already. You said it was a split.

Chair: Well, only on context.

Andrew: yeah, context ok.

Chair: Response to context guidelines, yeah. How do you feel about public realm?

Andrew: I think they did a good job.

Chair: Don?

Don: Public realm, I guess being the plaza on the north and on the river side, and then there's materials also in the main entry. The main entry of the building by itself is quite good. This one wall to the south has always been a little troublesome, but it doesn't seem to be any good solutions to that. It's sort of how those garage walls are and I think we debated that quite some time ago whether this should be a more active side of the building or not. They chose to put the more active side on the north rather than the south, so the fact that it's just a parking lot now is fine with me and that's a good way to front that. In the future, there could be something a lot more dynamic happening to the south, but not now. And at that point, I guess there is no way to, once this is approved, there is no way to address it at that time. But with foliage that's about it.

Jessica: So for me most of the guidelines that I think this project handles very well or exceeds, not just meets, are the public realm guidelines. Integrate the river, provide convenient pedestrian linkages, which don't currently exist to the river. Links the river to the community rich pedestrian obstacles and absolutely provides stopping and viewing places. The plaza is fantastic. It's a great addition to this neighborhood and much needed. And the resolution at the greenway is much improved from the last hearing.

Chair: Yeah, I also think that you've just done an incredibly good job responding to public realm guidelines. The addition of the restaurant. Thank you. It's wonderful. It's a great location for it. The fact that it's on the waterside and its adjacent to the plaza, it's just, it's going to work wonderfully well and I'm just so glad that you made that decision early in the design process. It's really great. The changes to the southwest corner are strong and the lobby location, the frontage along the

greenway, it is all working very well. I also think that you've handled the flood plain issues along Naito very nicely considering the challenges inherent in making a kind of strong public realm good sidewalk, good passage area, you've done it very, very well. So thank you very much. And that leaves quality and permanence. Jessica, you want to start?

Jessica: I really don't have any issues with the materials that have been selected. I think I'm a little, not as supportive of wood soffits in canopies just because most of the ones in the Pearl have failed.

Don: oh yeah.

Jessica: A lot of them have.

Chair: By the water damage.

Jessica: Yeah, water damage. So then they get torn out and then they are replaced with just corrugated metal back, which if that's what it's going to be, then you should just plan for that rather than adding it in in the end. But aside from that, I don't have issues. Thanks.

Don: The selection of materials has always been very good. This brick metal panels lasts. They are all permanent materials. I don't have any issues. You know, I've wondered a little bit about the wood soffit also, but it's a little bit of a fetish going around the area right now, you know. Five years ago nobody was doing it and now they are, and in five years probably nobody will. If you choose to do it out of metal or something akin to that, I'd be highly supportive of that. It does seem a little bit out of place with slight detail you've got on this building so the rustic doesn't seem to fit in very well.

Chair: Ok. Andrew?

Andrew: I agree with the previous comments.

Chair: OK. Yeah. The materials are great. Would you consider a condition to change the material of the soffits?

Applicant: Sure. yeah.

Chair: Ok. So we are not voting today. Jessica and I have both expressed hesitancy about the proposal's response to context, but I think that we are the only two that feel strongly about that.

Don: The context or the massing?

Chair: The context and massing together. Yeah. So I'd like to survey commissioners to see how folks think they will be voting so that the applicant can leave with some certainty about where we're headed. Andrew?

Andrew: I would vote yes.

Chair: OK. Don?

Don: Yes, I would support it. I think it's come a long way, but still has a few issues. There's the little bump.

Chair: OK.

Andrew: Which can be fixed with some modifications for me, but...

Chair: Such as?

Andrew: No, I'm saying the modifications we've discussed already.

Chair: Oh ok.

Andrew: So, but I'd generally support the proposal.

Chair: So no further conditions beyond soffits, so far.

Andrew: Right.

Don: That's for me. You know, I think Jessica may have a condition on this little bump out at the bottom. I would support that if that has to go.

Andrew: Right there.

Don: Yeah.

Andrew: I mean we've been talking about that for a while. So, we... that's what I'm saying. All right.

Chair: Jessica?

Jessica: That would be my condition.

Chair: So a condition to remove the, I think it's the mid-tower.

Jessica: I hate to condition that because I feel like there must be a solution, but we haven't seen it yet and we've met several times and I feel like if there was a good solution you would see it. So without a solution that we can look at, I would say ...

Applicant: I'm going to interrupt. I would caution against making a condition that removes such a large chunk of the building

Jessica: Without seeing it again

Applicant: Yeah, we need to see it again. We need to see, give the development team another opportunity if they so desire to respond to that. But I would worry about

Jessica: Well, I would hope since we were not actually voting today and were not actually making conditions that that is what they would do.

Chair: They may be willing to bring back a study, ok. We will ask about that. So Jennifer Martin testified earlier. She has her had in the air, but in fact, I think that there is a limit on public testimony and that public testimony because we've closed public testimony is actually good and over.

Ben Nielson: If the record is still open, I think we can take additional testimony. It's at the discretion of the chair, but I would offer that if additional time is offered to one testifier, that it should be offered to all.

Chair: OK. So I will say to Glenn Trager, Kurt Sorenson and Jennifer Martin, if you are still in the room and if what you have to say is relevant to our current discussion about context and massing and it can be limited to a minute or less, please come forward.

Martin: I just have a quick comment about the 100 foot discussion. The 100 foot would still be, come with the requirement of the greenway setback and my personal opinion, I'd rather see a 100 foot building there, than a 175 foot building there with an L that takes out a good portion of the bridge. It competes with the bridge and it competes with every building in the Pearl by trying to have a very complex massing. It's not a building that is part of the context. It's trying to put a lot of stuff on this site and the shape is the result of that and I think the reason it looks too complex is because it is too complex and it needs to be simplified and if 100 foot, if a 100 foot building, I'd personally modeled a 100 foot building in sketch up to look at it from the views of the... and its much less intrusive because that greenway setback would still apply and so I think that greenway setback is really the important thing on that site.

Chair: Thank you. OK. Applicant please come forward again. So, Jessica because you will be coming back presumably for the official vote, Jessica has requested that you bring a study of the building without that program area. Are you willing to do that? Will you consider that?

Applicant: We certainly will consider it and have considered it a lot as you can imagine. Is it possible that I could ask a question now and kind of get some feedback from you all, a specific question.

Chair: Sure.

Applicant: So, first of all, the question of the proforma is, I understand the vantage point and obviously you understand the realities of what we're dealing with. There is also a piece of this that's about, we're not maxing it out. We're still well below where we could be if we maxed out all these things. So one of the areas that we have to

target. I believe we discussed last time. That represents, that portion of the building is on order of 10,000 square feet, I think, 9,000 square feet. What it ends up doing, again assuming were squeezing somewhere else out as opposed out of the finances, the piece that where we've had that before is on Naito Parkway so that up here at Naito gets up at least one floor to get closer to, to get closer to the FAR or the rentable amount required. This is really the only placed that we have to put that and I'm just curious if there's a, right so you can see were 8 stories there, we could go 10. Part of the reason we pulled that down and popped out in the back was starting from the DAR, we were talking about trying to increase the verticality, increase the toweriness of this, pulling that piece down not only is a little bit nicer to Naito in terms of the mass to the sidewalk, but it also allows that tower to feel more vertical. So I think this is probably what we're talking about and I'm just curious, you know, if we end up with a 9 or 10 story datum here which ends up kind of cutting that tower in half, if there's a reaction you all listed. How'd you see that?

Chair: I think I'd have to see it.

Don: Would that cut it exactly in half with that?

Applicant: You know, I think the furthest we ever took it because that element has bothered me from the beginning. The furthest we ever took it was 9, I think if we went to 10 it sure would look, visually it sure would look like half. It may not be exact, but it'd be close.

Chair: Ok, so that's, let's keep that on the table.

Applicant: Can I ask another sort of a procedural question. So, one of the things that we get tracked in here is, you know, redoing all the visual collateral and sending it to staff, and getting those set of staff comments and all of a sudden that two weeks goes to a month and a half, is this something that we can actually do as a study?

Chair: Yes, really quick. Really, really quick. The fewest materials possible to show us what the impact would be. Like one sheet.

Don: Or I thought the other one was revising the composition with the little bump out.

Applicant: Yeah, I'm saying

Jessica: That's what this is for.

Chair: That's the trade off.

Don: It can be integrated better.

Applicant: Oh I see. OK.

Chair: So. At this point you have two yes votes, one maybe vote depending on the outcome of that mid-tower piece. I am a no vote. So we have one commissioner who is not here today, Sam Rodriguez. He will likely be here at your return, so there's a wildcard at play. We should probably talk about the return date and how long you need to turn around the fresh studies.

Applicant: How long will you be here tonight?

Chair: Not long enough, sorry. And we won't be here next Thursday. So Ben do you have calendar.

Ben Nielson: I do have the calendar. So, the Thanksgiving holiday kind of throws a wrench into what we could otherwise make more straight forward, but if the development team can get some studies to me by next Wednesday, I think we could talk about having a November 30th return. A quick return. I think we have, let's see, who's here, we have four confirmed commissioners so far, Andrew Clark is a maybe.

Andrew: I won't be here, I'll be out of town.

Ben Nielson: Ok - so we'll have four commissioner Clark will be absent, but Commissioner Rodriguez will be here.

Don: What date is that? December 14th?

Ben Nielson: November 30th.

Don: oh.

Chair: You may want to consider a different date just so you have more certainty around the vote.

Ben Nielson: We also have three hearings currently scheduled for December.

Chair: OK

Ben Nielson: One of which is very full.

Chair: And that is the 7th?

Ben Nielson: That is the 7th.

Chair: Ok. So that would put you.

Ben Nielson: the 14th

Chair: The 14th are you here Andrew?

Andrew: I'm gone from the 29th to the, I'm just getting back that night.

Chair: That night.

Andrew: The 13th, sorry the 13th, so I will be here.

Chair: You're back on the 13th, you could be here on the 14th.

Andrew: I could possibly be here.

Chair: OK. It's in your hands. The schedule is in your hands.

Applicant: I think we'd prefer the 30th of November.

Chair: OK, great. We will put you at the front end of the agenda. Can we do that?

Ben Nielson: Yes.

Chair: OK. You are I believe the only type 3 on that day's agenda and so we will prioritize your vote. OK. Thank you.

Applicant: Thank you very much.

Fremont Place Design Review Hearing 11/30/17
Audio Length: 01:12:58

11-30-17 LU 16-278621 DZM GW

Chair: Type 3 which is LU 16-278621 DZM GW, The Fremont Apartments. This is a type 3 Hearing so I will begin by reading the procedure for Type 3.

Staff will show slides of the site and surrounding area and present a report that includes the applicant's proposal. It identifies the applicable approval criteria and includes information on letters received on the request. It also includes findings and a recommendation on the request. The applicant will then present their report and then we will have public testimony. Public testimony will begin with those in favor of the proposal and then those in opposition to the proposal. Each member of the public who chooses to testify will have 2 minutes to testify unless they are a representative of the neighborhood commission. Representatives of the neighborhood commission will have 3 minutes to testify. The applicant will then have an opportunity to rebut the testimony of opponents and public testimony will be closed. If any party requests an opportunity to submit additional evidence the record will be held open 7 days to allow time to submit that additional evidence. And we have some new language on the 777 Rule that I'm going to try out for the first time today so bear with me. And this is applicable should anyone want to hold the record open.

So prior to the conclusion of the evidentiary hearing, if a member of the public or party other than the applicant requests the record be held open the chair will state the following procedure as required by ORS 197.763 Section 6: Within the first 7, days new evidence or argument may be submitted by an applicant or any interested party. Within the second 7 days, responses to that new evidence may be submitted by an applicant or by any interested party. Within the last 7 days, the applicant may submit a final rebuttal in support of the application. The last 7 days may be waived by the applicant which must be stated at the initial evidentiary hearing. So that's a total of 21 days. Also known colloquially as the 777 Rule. So, the chair will announce the date and time certain of the 777 and the future hearing date time uncertain. During the hearing following the 777, the record will be closed and no new evidence may be submitted or discussed. So, if the record is held open, if new evidence is presented through the 777 Rule, when we reconvene, likely 28 days in the future, the record at that point will be closed and we will not hear new evidence.

So, after the record closed to all parties, whether it be today or at some point in the future, commission members will discuss and vote on the

request. In the case of tie vote on any motion, that motion will fail. If the commission's decision amends or overturns the bureau of development service's staff report, the adoption of new or revised findings will be required. At the time of its decision the commission will announce when the revised findings will be considered. Additional testimony will not be taken on that date but interested parties may attend.

And I believe that is the extent of the reading for the Type 3 Hearing. This is a continuation of the Fremont Apartments and Ben Nielson is staff assigned to this case and I believe has a brief presentation today.

Ben:

Good afternoon. I actually don't have a presentation per se, I just have a few things I want to walk over in this revised staff report that was handed out to you just now. The first thing I want to talk about is that the staff report has been revised based on commission comments and findings at the September 28 hearing as well as the November 16 hearing. And then it also has been revised to reflect the design revisions that the applicants will be showing briefly today and it's been revised to recommend approval with some conditions. And one other, I'll get to the conditions in a minute. I want to point out one other item that's been added to the proposal which is an additional modification.

Staff identified and modification or a development standard rather that was not yet met in the site plan and maybe I will actually bring up a site plan to show you so I can talk about this. Give me one second please. Okay, thank you for bearing with me there. What modification number 7 is referring to is this area right here in the southwest corner of the site at the parking garage driveway. Parking standards require there to be a 5' landscape setback to the L2 standard in that area. There is only 2' of landscaping proposed in this area as well as 3' tall concrete wall for a portion of that area. So, the applicants have added an additional modification. They're proposing to plant that strip with 3' tall evergreen shrubs as opposed to required trees and groundcover and shrubs that would be required by the L2 landscaping. Staff is recommending approval for that modification because it's a pretty minor element and for the reasons mentioned in the findings which are, it allows the building to be occupy more length of the street, better meeting guideline A7 and creating a more vibrant street scape which is guideline C8.

So, wanted to point that out. Going to the conditions of approval, recommended, those can be found on pages 52 and 53 of the staff report. Most of them are pretty minor in scope addressing detail type elements that were not quite called out in the drawings. Conditions A through C are the typical conditions that we recommend for every land use review. Condition D talks about requiring glazing at the ground floor on the west-end south elevations to be clear glass rather than fritted-glazing. That's glass that's looking into the fitness room. Storefront glazing at the FCC

room and fire riser room should be composed of translucent glass because these are back of house type spaces. Exposed fasteners with fiber cement panel system shall be prefinished by the manufacturer to match the color of the panels and then concealed fasteners used with the fiber cement panel system shall be attached entirely from the backside of the panel via clip or similar system. Proposed wall mounted bike racks shall be staggered vertically by a minimum of 6". Proposed retail and restaurant space at the northeast corner of the ground floor of the building shall remain in a retail sales and service use for the life of the building. Signage denoting public access to the greenway shall be provided at both ends of the greenway based on standards in the sign code. The northern most angled planter along the greenway trail, I'm going to point that out right now right here, at the northeast corner, shall not project beyond the western edge of the planter immediately to the north on the adjacent property so that's talking about this planter right here. It's basically pulling this angle in just a little bit to make it align better. And at least one long-term bike parking space shall be shown in each dwelling unit or otherwise accounted for within the building at the time of permit in order to earn their requested locker room bonus.

So those are the recommended conditions. The commission can decide to add additional at their own discretion for to edit these or delete these as well. So, with that, I'm going wrap up my discussion, open it for questions and see what happens.

Don: Could you clarify Item G, exposed fasteners used for the fiber cement panel system, etc.?

Ben: Yes, so for the Equitone Fiber Cement Panel System, the applicants are proposing to use an exposed fastener above the first two stories and staff is recommending that they use a pre-finished fastener that's provided by the manufacturer. I believe they make a riveted type of fastener. So, that's what that part means and then for the bottom two stories, they are proposing to use what they call in their drawings, a concealed fastener, but that's not very clearly defined and it's not shown in a detail. So, staff is suggesting or recommending rather that the fasteners be clipped on to the building from behind rather than using some sort of nail or screw that's then patched from the front. And that's because the Equitone panels are inter-grill colored panels and painting to match would be very difficult.

Chair: So Ben, this is, thank you for the staff report.

Ben: You're welcome.

Chair: This is a fair number of conditions. It doesn't look as though any of them are in anyway significantly burdensome or unusual.

Ben: Right.

Chair: With the exception of I which is the suggestion that the retail restaurant's base needs to remain as retail sales and service for the life the building and that seems to be an immense public benefit and so all of these conditions seem absolutely reasonable.

Ben: And that's tied I believe to one of the modification findings.

Chair: Yes, okay.

Ben: And was in the original staff report.

Chair: Okay, and have you had conversation with the applicant about the conditions and is the applicant on board with the conditions.

Ben: I have had conversation with them. I'll leave it up to them to state affirmative or not.

Chair: Okay. Is there anything else . . . Is there anything else in the staff report that is in yellow highlights that you would draw our attention to before we move to applicant's presentation?

Ben: Everything should really, except for the modification findings for Modification 7, everything should reflect conversations that the commission has had over the last two hearings.

Chair: Okay, great.

Ben: And of course, there's a large number of comments that have come in over the last few days.

Chair: Thank you for forwarding those.

Ben: Those are referenced in the staff report as well.

Chair: Yeah.

Ben: And as is a staff response to some of the concerns.

Chair: Okay. So, so for folks who are here to testify, I would image that there are a fair number of people in the audience who would like to testify on this case today. Please sign up if you haven't already and know that today's discussion is a continuation and so the commission, the applicant's staff, we have already discussed this project a couple of times and it may be that today is the day that we vote and at our last hearing, we did a straw poll so that we would know where we would stand coming into the room today and our expectation is, the vote is dependent on the conversation that will

happen following the applicants presentation because we requested some revisions be made to the massing of the building and today is the first time that we will discuss those revisions.

Ben: Before we wrap up I also want to make sure that I say it out loud, the hearing's clerks did hand out one sheet of printed testimony that came in after my staff report was pass that point and frankly.

Chair: As an email?

Ben: Yeah, that was within the last couple hours.

Chair: Okay. Great.

Ben: So I want to make sure you see that.

Chair: Thank you very much. And for folks who are here to testify, if you did send written testimony, know that Ben distributed it. Members of the commission have received all of the written testimony.

Ben: Yeah, I have . . .

Chair: And have read it in advance.

Ben: I'd like to just add, I haven't had a chance to reply to everyone who sent in testimony over the last few days, but I intend to acknowledge that receipt.

Chair: Okay, that's great. Okay, with all of that in mind, Jessica.

Jessica: So, in the letters that we received, I think a few of the letters stated that the commission doesn't have the authority to grant variances and modifications that are proposed at this point.

Ben: Right.

Jessica: Could you speak to that?

Ben: So, the commission, let me back up. Title 33 does give the design commission authority to grand modifications. It also gives you the authority to grant adjustments which there are none requested today. The modification approval criteria are found in Chapter 33.825, Section 040 of the Zoning Code and it basically follows the format that you'll find in the Findings section so there is an A-Better meets design guidelines, the resulting development will better meet the applicable design guidelines, those are your approval criteria. And then B-Purpose of the standard, on balance the proposal will be consistent with the purpose of the standard for which a modification is requested. So, all of that information should be found in the findings if you have particular questions about why this

modification deserves approval or not and it also, the findings also include the purpose statement to which that standard refers.

Jessica: And could you also, a few of the letters also mentioned the North Pearl District Plan.

Ben: Yes.

Jessica: As some of the criteria that rule or not.

Ben: So, I don't know, there may be some confusion among some of the community members. The North Pearl District Plan document itself does not represent, or doesn't constitute approval criteria for this project. It was adopted by city council but that report also included zoning code amendments to Chapter 33.510 that specified specific North Pearl subarea development standards so those are referenced in here. There is modification request to a couple of those and it also amended the River District Design Guidelines to include guidelines specific to this part of town.

Jessica: Okay.

Ben: So that's the nexus for getting to the approval criteria from the North Pearl District Plan.

Jessica: Thank you.

Chair: Thank you very much Ben. So, we only have 30 minutes for this agenda item on calendar today and so we are going to try and keep it as brief as possible. We'll turn it over to the applicant for a presentation that will hopefully be limited to just the few revisions that you have made since you were last in the hearings room.

Wybenga: It is indeed. Tim Wybenga from TVA Architects. I need to do something here. It gets you every time.

Chair: I'll take advantage of this to again query the commissioners on whether they have a conflict of interest by ex parte contact.

Rodriguez: No.

Chair: No, okay, thank you very much.

Wybenga: Thank you. As you mentioned, our intention is to kinda go through things that have changed, a brief recap of the things we talked about particularly realizing that Commissioner Rodriguez was not here the last time. So, I'll go through those slides and we'll go as quickly through the amendments . . .

Rodriguez: I actually listened to the presentations.

Wybenga: I'm sorry about that.

Rodriguez: No, no.

Wybenga: Thank you.

Rodriguez: No, I'm just trying to keep it as brief as possible.

Wybenga: Excellent. Okay, that's perfect. So, we'll go through this quickly. I don't mean to diminish any of these things, obviously welcome to all the questions and conversation we can have. So, the areas of concern, there are really two main areas. The first that is effective of a site plan was that fairly deep notch into the building adjacent to the studio units at the southeast corner in terms of mass the building, we really were down to one last item and it had to do with that kinda mid-tower extrusion that was happening that had been a source of some concern from early on. So, just kinda flipping through here seeing what the effect was of that piece on the prior submission. So, I'll go sort of straight to what our response items are. What you can see here in terms of that safety concern that I believe Commissioner Molinar brought forward. We've pulled this wall forward a little over 20 feet so we're still going to have a little back to house service deal and you can kinda see in the renderings as we go through. There's very little that can't be seen and if you look at the elevations we've actually incorporated a storefront door so there are eyes sort of in and out from the garage and just bring that condition into one that is much safer. One other small, oop, sorry, I have a mouse here, this thing is touchy, one other small item that we revised per staff comment that just came I think yesterday was a realization that we needed to have a lake rack adjacent to the main entry on Naito Parkway. So, I just wanted to point that out because it's a chance to the plan. Basically, it's a very minor thing but something we picked up based on our interactions with the staff. In terms of the concept for what we've done here as we expressed last time in removing that mid building mass on the north facade, we needed to find a place to displace the lost area and as I suggested towards the end of our previous hearing, that really comes out in terms of an additional story of height on the southeast southwest corner on addressing Naito Parkway. So, there are two elements here that you can kinda see in these diagrams. Both the addition of that 8th floor, we're still well beneath 100 foot height limit by rights for that piece and additionally, as that was not nearly enough to offset the loss of the other area, sorry, it's so touchy, we've extended a single masonry bay along that south facade that helps us make up some of that lost area and actually has, we think an added affect, of creating a little bit more asymmetry in that podium piece that is a benefit. It was a bit too much of a cube in the previous iteration. Just to look at that plan you can see on the left, that's the revised 8th floor

plan so essentially what happens here is the 8th floor, the red outline being the previous floor plan, it takes on the figure of the floor below and similarly, on the right hand that's the 9th floor plan and what you can see where we have extended the mass of the building slightly here, we've extended that leg and similarly on the top right of that plan that we've removed that mid-building mass, pulled it back so that more of these towers, more of these floor plans are the actual tower footprint. So that now starts on level 6. In terms of the impact on the view, we've obviously as you know, we've been through this many many times. I've been through it multiple times with the neighborhood association. We've done a lot of studies to consider the view from Fields Park. One of the reasons I had apprehension about moving displacing that mid-tower mass was fearing that we would have a negative effect on this view in particular which is one that we've studied more than others. We were pleasantly surprised to see the black outline then is the revised outline of that podium element and what's dashed in yellow there is the delta between the two so it's an incredibly nominal change to the view point from vantage point that we've discussed so many times. And in the end, I mean I think what we're focusing on here, as you recall the 100' height limit is what's indicated in that red box so rather than build to that limit, we're showing that we're actually still maintaining really more of the view than would be possible if we hadn't had all these modifications and addressed the massing as we did. So, going around the building we'll take a look at these aerial views. It's clearly streamlined the building a little bit. We're having an odd reaction in the office because now we sort of miss it and we struggled with it for a long time. But it's, I think the combination of losing that piece and the corner balcony elements that we sort of added prior to the last hearing really give a little bit more vertically and a little bit more of an elegance to the figure of this part of the building. So, moving around again you can see the effect of those corner balconies in terms of, you know, helping to breakdown the mass as we have on the other corners going around the building. And from the south aerial you can see that the projected mass there on the south façade it's still well back from the property line. It affects some of our internal units but doesn't affect negatively the view or any of the surroundings. And again you can kinda see the change in proportion that happens with that podium element. It becomes a bit more vertical which we think is a nice thing and the sort of draping of those long masonry elements. We think it's had a positive effect. And it can just kinda quickly going through the elevations as you recall that mid-building mass was part of our response to put some of the area in a place that did not affect, was not affected by the diagonal 45 degree being way set back but now that one's still a nonissue so we still have a minor incursion at the greenway itself and then at the top about 100' back. Just again looking quickly at the renderings, kinda see the effect of the loss of that piece. I'll just move through these quickly. That's that corner from the general view across Naito Parkway and then a

close up view of that condition which also shows the last modification which is the small green strip here. When driveway two hearings ago we pushed the door back that suddenly became driveway by definition. We didn't take it as such because we thought that was germane to surface parking lots. Seemed to be written but Ben clarified his perspective which is what leaves us with this condition. Again, it would be a fairly suburban landscape edge if we didn't have that change and it would cause us to constrict the public's space to the north. So just moving sort of clockwise around the building, a few little details of change. One is that we per the comments we received from the commission last time around, we've modified the materiality at the underside of the canopies so we now have a finished metal panel in lieu of the wood that was previously shown. You can kinda see that as we move around here. In general, we didn't have any outstanding comments and haven't made a whole lot more modifications to this piece. It can just kinda describes all the work that we've done on the past few hearings relative to the public space, the public realm, and the pedestrians scale of this project. So, moving toward the, again this is really, the update here is primarily the canopy finish. And again, I have included these thinking Commission Rodriguez may not have seen them but sounds like we've, assume you looked as well as listened. And then here at the end, we did not update this rendering but we've done is implied there, that's the plane of the wall now that was previously pushed far back into that recess. So, clearly that's much more visible and again, what's just out of view there is actually a storefront door that goes through to the garage. More opportunities for visibility in and out. And that is it. I apologize if that's too brief or too long.

Chair: So thank you very much. Are there questions from commissioners?

Jessica: One question, what is the white space on the podium roofs?

Wybenga: That is a, at this point, a diagrammatic indication of where we'll have occupied space.

Jessica: Okay.

Wybenga: So, with the change, I'll say in particular, the one towards the river with the change in the loss of the mid-tower mass, we've stretched that occupied space to fill that zone because we want to get people to the river. As a matter of egress, we won't be able to have that much occupiable area but that's the intention. So we have a combination of green roof and occupied space.

Jessica: Okay, so it will be a combination of those, it's not going to become roofing material?

Wybenga: No, not at all.

Jessica: Okay, just making sure. Okay, that's my only question.

Wybenga: I should say there is also a number of images where we have sort of a grid of boxes on some of these aerial views, those are planters for trees. They are not condensers or anything.

Chair: Okay, other questions? No. Okay. So commissioners, we will save our discussion for after public testimony. Now we will invite public testimony and we have a fairly lengthy list. I'll ask the applicants to step back and we'll invite members of the public up in groups of 2. Everyone will have two minutes. Please begin by stating your name and address and know that if you have sent written testimony, we have already read it. Okay. We will begin with ah, forgive me if I don't pronounce your name correctly but since you are going to pronounce it, you're going to state your name and address for the record, you'll be able to correct me. John Hollister and Larry Mazer. Okay, your mic should be on.

Hollister: Okay, my mic is on. I have a point of a . . .

Chair: Name and address please.

Hollister: My name is John Hollister and I live at NW 13th Avenue and I have a point of clarification before my time starts. On the 777, the we have 7 days to give you information, the next 7 days is to comment on that information and the third is for the applicant to respond to all those things.

Chair: Correct.

Hollister: Now in, so let's say I say something in the first 7 days, would a, hypothetically, would a neighborhood association be able to comment and have a position on what was said the first week in the second week?

Chair: Yes, I believe that that would be considered a response to the new evidence presented. I'm looking to Ben for clarification that that is the case.

Ben: I'm going to double-check with Tim, but I think the answer is, yes. The response to evidence submitted can be submitted by anybody.

Chair: Yes. Okay.

Hollister: And, so, if something is submitted in that second week and the going to the case of an appeal, the . . . as I understand it, appeal has to be done by someone who has given some sort of testimony in the proceedings?

Chair: Again, I'm looking to staff, but I believe this is the case. That neighborhood associations and people who have standing - so who have provided testimony - are in a position to file an appeal.

Ben: That's correct.

Hollister: So, if the neighborhood association basically within the first 14 days, gives some type of testimony with a position and . . . for example, if that one neighborhood association was against it, then they would be able to make an appeal.

Chair: Is it true that the neighborhood association must be on the record? I believe that the neighborhood association always has the right to appeal.

Applicant: I would say I think they would have standing. That's a good question. The way you ask it like that I hadn't really thought about it. Usually the neighborhood has been represented through the process. We haven't had a blind appeal.

Chair: Okay. So, maybe we could do a little bit of very quick research. And at the end of public testimony provide some clarification there.

Ben: I would like to add a point of clarification to Mr. Hollister's question. Which is that testimony submitted after the first seven days should only be responding to new evidence submitted, not to all evidence.

Chair: Not to all evidence. Right.

Hollister: So, explain that further to me.

Ben: So, during the first seven-day period, any new evidence may be submitted into the record on any issue. After that seven-day period is ended, the second seven-day period is really limited to responses to that evidence submitted during the seven . . .

Hollister: Got it. So, if I said . . . if I submit something in that first seven days and the neighborhood association wants to respond to that information that I submitted on that first seven days, that would be permissible.

Ben: Yes.

Hollister: Okay. Now, on that same thing with . . . I'm sorry, these clarifications are important to me.

Chair: If you don't ask the question, someone else will.

Hollister: Yes, exactly. The . . . with your statement of the neighborhood association can always do an appeal, whether it's on record or not, that's an important clarification for me.

Chair: And we're going to do a little bit of research and clarify that. Because it sounds as though we are not actually certain whether or not the

neighborhood association always has standing just by right of being a neighborhood association.

Hollister: Yeah. And, with that question, that would mean that at the end of the twenty-one days that the neighborhood association could still potentially do an appeal. And that's worth getting clarification on.

Chair: We're gonna clarify that.

Hollister: And the reason why I'm doing these little timing things is because with the holidays and such, some meetings have been cancelled.

Chair: It's tricky.

Hollister: And the next full meeting of the association that's near that is on the 14th . . .

Chair: Okay.

Hollister: . . . and we would not be able to get a letter until the 15th if there a position against and for the appeal process.

Chair: Okay.

Hollister: So, there we go. So, that's all my clarifications.

Chair: And we will provide clarification on the neighborhood association standing before . . . at the end of public testimony.

Hollister: Okay. So, just the . . . now I'm ready for my two minutes.

Chair: Okay. Clock begins now, please

Hollister: The first thing that I would like to do, just as a citizen, is to request that the record be kept open and, in addition, I would like to request that the record stay open and have a position, or have a opportunity for the affected neighborhood association to have a position. We had our last meeting on the planning and we were going to make a vote and we lost our quorum, and so we weren't able to make a vote. So, the next full board meeting is on the 14th and, since this has been . . . this part has been going on for a while. This is a very, very important project to the - our district, and I'd like to request that we have the opportunity to be able to have a position and potentially go forward with an appeal to any decision based upon the staff saying that they are recommending approval.

Chair: We will definitely hold the record open. I don't know that we have the ability to adjust the 7-7-7 Rule. I believe that that is State Code. But,

again, staff will provide some clarification on that. So, it may be necessary for you to do a little bit more legwork . . .

Hollister: Yep.

Chair: . . . and try and get a special meeting or get a letter out that night.

Hollister: Yep. And I believe my understanding is that it's State Code for the 7-7-7 to be a minimum. And, I believe that the Commission has the ability to make it longer if they so choose. But, you have minimums.

Chair: We are doing that research now.

Ben: That is correct.

Chair: Okay.

Hollister: And then, also, so my . . . the reasons why I want to do all this is I have concern about the massing . . . the going over the 200 feet and the good thing is there's a number of people that are a lot smarter than me that are going to be giving testimony on that and also some of the setbacks.

[chiming]

Chair: Okay.

Hollister: So, I'm done.

Chair: Okay. Great. Thank you very much. And now, Larry Mazer. And, there is a button on the microphone which you should be live now.

Mazer: Thank you very much. Do you all have this . . . okay. I went out and took some pictures of . . . Oh, I'm Larry Mazer, 1310 Northwest Naito, and I'm concerned about the width of the walkway from the building, the alignment path. You'll see on the first page a picture of the path in front of the Waterfront Pearl. And, that's 18 feet, 1 inch. If you turn the page, you'll see that that's the path in front of the south waterfront and that's also 18 feet, 1 inch. And, if you turn the page again, you'll see that's the path in front of the stores and restaurants along the south waterfront. That's 17 feet, 3 inches. But there's something very interesting about that path. Which is, as you'll notice, there's a bunch of people walking hand-in-hand, and so forth, but if you turn the page, you can see that before you get to that path the bicycles are diverted away from it. So, somebody has decided that 17 feet, 3 inches is not wide enough for pedestrians and bicycles. Now, the problem we have with this particular building here today, is that they want to build a path that's 12 feet wide. And, for the life of me, I don't see it. I don't see how pedestrians and bicycles are going to play nice with one another on a 12-foot wide path. If you turn the

page, this is the gold standard. This is the south waterfront. They literally have three separate paths. They divide up into a bicycle path, a sitter path, for lack of a better word, and then a pedestrian path. And, if you turn the page once more, my wife and I went out and we had a photograph taken - you can see that blue tape on the ground - and that shows a 13 and a half foot wide path because at the time I thought that it was 13 and a half feet wide, but if you look at the drawing, it looks like it's just a little over 12 feet wide. So, if you move that blue line a little closer to that young couple holding hands, you'll see that there's really not enough room for a bike to go by on the other side. Given that the Federal Government says that a bicycle usually rides between 2 and a half and 3 and a half feet from the edge of the roadway. [chiming] So, I don't see it. And, I'm sort of surprised that staff didn't bring that to anybody's attention.

Chair: Okay. Thank you very much. We will ask the applicant to very briefly address the width of the path when they return. After the close of public testimony. Nice research. Thank you, Mr. Mazer. Next, Kirk, whose last name begins van - vander - and the rest of it I can't read well. Vandershell?

Vandershell: Vandershell, yes.

Chair: Yes.

Vandershell: I would respectfully decline the opportunity to speak.

Chair: Thank you very much. Okay. We will move then to Kurt Sorenson. Does Kurt Sorenson wish to testify?

Sorenson: I submitted it in writing.

Chair: You did. Okay. Thank you very much. I remember reading that. And, I believe you were here at the last hearing date as well. Yes. Denise.

Ben: I would like to just jump in and note that his testimony was, once again, submitted. I don't know if this is new testimony or the same testimony as before. I haven't had a chance to read it myself.

Chair: Okay. Thank you very much. Denise Marshall and Patrick Marshall?

Marshall: My concerns have been addressed in regard to the pathway.

Chair: Okay. It sounds like Marshalls are both concerned about the width of the pathway? Okay, and choose not to testify. And, Glen Treagor? And Mark, whose last name begins with an "S."

Mark: Yes. I would [inaudible] [40:10].

Chair: Okay. Very well. Thank you very much. How about Richard Rogers?

Rogers: I have submitted some written testimony to the clerk.

Chair: You did. Thank you very much. Written testimony is submitted to the clerk and, Adam Havens. Great, Adam Havens is coming forward. Okay. Mr. Treagor.

Treagor: Yeah. My name is Glenn Treagor. I live at 1133 Northwest 11th Avenue in Portland. The Freemont Apartments is asking for six modifications. I think today it's . . . they had an additional one - seven - to their building with three being significant deviations to the building structure. These are increasing the façade length on the upper tower. Two encroaching on a 45-degree river sub-back and three increasing the depth of the building 28 feet while it's encroaching on the shoreline of the Willamette River. After sitting in five meetings on this project, I have not heard a valid reason why these modification make this a better project. The Freemont Apartments will be the first in three building sites to be developed in the Pearl Waterfront since the Waterfront Pearl. The Freemont Apartments will set the stage for this re-development, and therefore needs to follow City regulations which are based upon neighborhood and City land use planning efforts. Therefore, the Pearl Neighborhood Association needs to address these modifications so I, like John Hollister, am asking the Design Commission to keep the record open until the Pearl District Neighborhood Board can act on this project. Thank you.

Chair: Thank you very much.

Havens: Hello. My name is Adam Havens. I live 949 Northwest Overton Street. And, my main concerns are the viewpoints . . . protection of the viewpoints from the Fields Park. The City of Portland has invested a lot of money in, not only the boardwalk that extends from Jameson Park all the way to the Fields and it looks right down 10th Avenue, right at the Freemont Bridge. It is not currently considered a view accord or, for some reason, 12th Avenue looking at the bridge is. I have a copy here of the February 2016 Central City Scenic Resources Protection Plan and they've planned . . . their desire is for the views of the Willamette River bridges are a priority when the bridge is a primary feature of the view. Which I believe it is from Fields Park. I live there, I walk my dog there every single day, and from April 1st through November 1st, you see at least twenty to forty professional photographers doing wedding photos, graduation photos, all sorts of things out there. So, there's an economic impact that those views will take away right there. And, they do say later on that the view from the Fields Park is iconic. They say the economic benefits outweigh that. I agree with that to a point, but I don't think a 17-story tower is the proper way of going about that. You can still achieve economic benefit with a facility that's six to eight stories tall that doesn't

impact the view from the park. And, I think the City has invested too much money in orienting that park. They designed it around the view of that bridge. To me it would be . . . to put a tower right in the middle of that view would be like a putting a giant tower right in front of the Pittock Mansion or in front of Counsel Crest looking at Mount Hood. You're just throwing away the entire design and premise of the way the park was designed a laid out. So, that's my basic argument.

Chair: Thank you very much for the testimony. So, that is the end of public testimony. And, what I would like to do is, if either Ben or Tim have an answer to the question about the Pearl District Neighborhood Association's standing, address that now. Otherwise, we can give a little more time.

Ben: So, I don't know that we have an answer from our City Attorney, but we do have what's written in the staff report.

Chair: Okay.

Ben: And I'll read that out so everyone can hear it. Near the back it says: "Who Can Appeal. You may appeal the decision only if you write a letter which is received before the close of record for the hearing if you testify at the hearing, or if you are the property owner/applicant. Appeals must be filed within fourteen days of the decision."

Chair: Okay. So, the neighborhood association is not mentioned in that. It's fair to assume that the neighborhood association appeals as any other citizen would.

Ben: That's how this reads and we'll update you if we hear differently.

Chair: Okay, thank you very much, and you have put the question out to the city attorney?

Male: Yes.

Chair: Okay, thank you very much. I would like to invite the applicant forward and if you would please address whether this is your slide... if it's in your slides that's great, if we need to go somewhere else to find the information that's fine as well. Two things, just very briefly touch on the width of the waterfront path for the duration, for the length of that path and how it connects both at the north currently... or how it will connect at the north and how eventually it will connect at the south. Just so that the commission can understand the exact widths that are being discussed, and it's probably worth noting that you are tying into existing conditions at the north. And then also if you would return to the slide that shows the red box, the 100 feet across the entire site and kind of walk through the modifications that are requested and why the modifications are requested

to adjust the massing of the building. And I ask for that so that everyone in the room today can see that and understand.

Jessica: There's a really good diagram on page 24 that also expresses that. I think it would be good for people in the audience to see.

Applicant: So, would you like me to start with that?

Chair: Page 24 in today's packet?

Jessica: Yes.

Chair: Okay. Yeah. That's great.

Applicant: Trying to quickly get there.

Chair: The massing and sightline study?

Jessica-: Yeah.

Applicant: Oh, and are you... is it in the staff report or in the...

Jessica: In in the... it's our packet, it's appendix 24.

Applicant: Got it, sorry.

Jessica: There it is.

Applicant: Yep. I'll start with that one if it's okay, since we're on the topic. Basically we've, and we've gone through this several times which is why I didn't go through it today. We have been through this with the neighborhood association and I think we have three separate meetings, presentations.

Chair: I'm sorry, I'm going to interrupt. So the images are fairly small, people seem to be all seated and if you choose to come forward for a better view you are welcome to do that. Back to you.

Applicant: Thanks. I'll try to make them a little bit bigger. So, basically the long and short of this thing, there are many nuances that we work through with staff and with the design commission on how we believe that the adjustments and compromises that we've made to the design and planning of this building better meet the intent of the code. I think it's very well summarized here, which is that in looking in particular at the center image there, it's that. And again this is looking from Fields Park, so although that is not in any way a required view corridor or required view consideration we've started that from the beginning as a sort of good

neighbor approach to this. So in the middle view, what you see is that lighter green box is the 100 foot by right limit. So if...

Chair: So if you chose not to design the building with modifications, you could build that light green box by right? The development code supports that light green box as the building volume?

Applicant: That's correct.

Chair: Okay, dark green box?

Applicant: Dark green box is really the height gained through bonus, which is very well described in the code, and again I would say that's the intent of the reason these sections of the code are here are so that it can push us to do better things in order to gain that bonus. Much of that bonus... the bulk of that bonus in this situation is gained through the fact that this is housing. So that's housing bonus, in addition to green roof bonus, addressed the earlier question, that allows us to build out to that mass, which is clearly outlined in the code.

Chair: Okay, and then the image on this side is actually the proposed design which shows the erosion of that light green base box to increase the amount of view of the bridge from the park.

Applicant: That is correct.

Chair: This is the view from the park?

Applicant: That's correct.

Chair: Okay.

Applicant: And if I may, actually because we've noted that just about all of the letters that we've seen, the comments that we've seen had to do with... I'm sorry I'm not sure this is the right one... just about all the letters we'd seen had to do with views to the bridge, and again this is not a protected view in any way, but just touring around in person or in this case on Google Maps what you can see is the development and the pearl of the fact that this is a large scale and vibrant neighborhood means that throughout the district on virtually every street the view to that bridge is obstructed. It's obstructed by new development, it's obstructed by old development. It's a... the bridge is not an axial element. It's not a focal element of the district, and so you always get these tangential views to it which from an urban planning sense is actually a positive thing, right? At least that sort of serial opportunity to come across these things and not just have them directly in front of you, it draws people toward the river. And so, if you look at these views this is just about every development new and old in town regardless of height provides some obstruction to the bridge. So, and

to the point that I made the staff the other day, you know, the 20 foot tall existing warehouse from... on the adjacent site from the bike lane or from NATO parkway sidewalk completely obstructs the bridge. It's not a question of height.

Chair: So, moving on to the path.

Applicant: And I will quickly go back out... So on the path itself... sorry, went the wrong way. Cover your eyes. On the path itself our intention on the path... yeah, this is current, so... Our intention on the path the whole time is we have worked on the path based on the criteria that's set forth through Portland Parks and the codes, which is there's actually... I think there's a misconception here that a 25 foot greenway trail means 25 feet of paving. I would argue that 25 feet of paving is particularly unpleasant and we have a 25 foot dimension broken out here from the back of the sea wall. One thing that's worth noting is we've gone through this with staff, we elected to compromise and use the back of the existing sea wall as the start point to avoid surveying the Willamette. But in fact that 25 foot greenway would start 5, 10 plus feet downside of the wall so the required greenway would be effectively much smaller.

Chair: But the testimony that I heard today was largely centered around the paved area and how much width there is for pedestrians and bicycles.

Applicant: That's correct.

Chair: If it's appropriately wide for multiple uses.

Applicant: So the requirements for designing a greenway trail, for one thing regarding the existing conditions. The dimension between the really large tree wells and the edge of paving that currently exist is a little over 12 feet. That goes on this entire stretch. That was the starting point for us. The design criteria requests a sidewalk minimum of no less than 12 feet. We've decided to give this some ebb and flow, partly, as we've talked about before as an acknowledgement that it's currently the end of the trail, partly because the requirements for designing that green space incorporate more than just paving. So all of the trees that you see here are required to be in the greenway. We had initially had them on the river side, both in our feedback from the neighborhood in particular was, "move them to the inside, those take up some footprint." So what we've done is we have a few points here where the path pinches down at points of benches and those are things that we have added for pedestrian scale for places to pause, and for some of that sculptural interest that we were working towards.

Chair: So the development standards that you have used as your basis of design for the greenway path are published by which city bureau?

Applicant: Is that the parks department, Ben?

Ben: Parks does control the design of the greenway trail.

Chair: Okay, and so presumably there is no development proposal approved that involves greenway trail that does not meet the parks bureau's standards. The parks bureau reviews this as a part of their own internal review process.

Ben: That's not correct.

Chair: No? Okay.

Ben: Parks has not reviewed this proposal...

Chair: Okay.

Ben: ...at least as far as I'm aware.

Chair: Okay.

Ben: I could not get parks to comment on what the standard needed to be.

Chair: Okay.

Male: Just a quick question, did you say this is going to be the end of the trail?

Ben: Currently it is the end of the trail, so at the...

Male: Will it be in the future projected beyond?

Ben: Well...

Male: To the actual bridge?

Ben: Just, sorry no, actually the developer Lincoln Property Company has already extended to all the residential development on the north through an agreement with the adjacent property owner, so there was a section of trail here that only addressed the surface parking lot and the two office buildings and was discontinuous. With no requirement to do so the two owners have partnered together, they've extended beneath the bridge so there's a continuation there. At the south end is what I was talking about is the current end of the trail. The property to the south, which is a warehouse with a surface parking lot has a sort of bank that falls away and there is no continuation at that point, so what we've done at the south end through... in collaboration with staff is we've adjusted the geometry of the tail end of this thing to enable that future connection given the odd grade condition on the adjacent property, which, Ken, I think that's... I can't see

that that's required, but we've tried to do that in order to kind of set this up as a best possible case.

Chair: So parks bureau hasn't provided a response but it sounds as though the applicant in their design of this greenway trail did use the parks bureau's published standards.

Applicant: That's correct...

Chair: Thank you.

Applicant: I'd have to call up someone smarter than me, but yeah, there's...

Chair: Yeah. Okay. So also, one final question for you, as follow-up to public testimony. Will you very briefly quantify the number of meetings you've had with the Pearl District Neighborhood Association, and whether those meetings were with the general membership or the planning and transportation committee?

Applicant: We were invited to present for the planning and transportation committee three times. The third presentation, which was after one of our hearings here, in the middle of that meeting, we lost -- they lost their quorum.

Chair: Okay. So, you've been on their agenda, you've presented there. As far as I know, we have never received a letter of support or any public testimony from the neighborhood association.

Applicant: That's correct. That was our understanding. They weren't able to take action because they didn't have a quorum.

Chair: Okay. Thank you very much. So, now, Commissioners, the record has been held open so we won't be voting today, but I would like to give you the opportunity to comment very briefly, especially, Jessica, since you had some concerns coming out of the last hearing date, and Sam, because you were not hear at the last hearing date and have simply listened to the record and reviewed the packet. So final comments are now welcome, and then we will negotiate the record being held open.

Jessica: Okay, so, based on the revisions that you made, I think, for me at least, the building generally meets the guidelines. The massing much better relates to the context, which is typically, as we discussed last time, podium and then just a tower not so much stepping down. And I believe that we went over this last time, but there are several guidelines which are far exceeded and some which are just barely making it but are doing so. So without voting, that pretty much covers it.

Chair: Sam?

Rodriguez: Yeah, I wasn't here for the last hearing, but I did review the package and listened to the testimony and the hearing. I'm having a little bit of a phantom limb because I actually thought they did a good job in integrating that box, let's say, between the tower and the podium building. It was a problem in the previous hearings and I think they did a good job, but I also think the way it looks right now is good, too. I think the addition of that extra floor on the podium level, it doesn't affect very much the overall design and it does clean up the tower. I think I can get used to the whole thing without having the box. In terms of how it sits on the site and the views of the bridge, I think the presentation of those photos that you did, I think it's pretty good. I think it does show that, you know, there's no static view of this thing that needs to be preserved of the bridge. It's nice to have it, but it's nice to - like in any city, you see things and then you don't see them. And the reality is that this whole waterfront is going to get developed and there's going to be a lot more buildings. Some taller, some shorter. I mean, it's going to be all sorts of things and there are some rules about, you know, accessing the greenway and that you've met. Here I think handsomely with this plaza option and as the other projects get developed, that's the new context. So I think I understand the neighbors' concerns about, you know, trying to have better views, but we are a developing city and I think the density is important, and I'm a big believer in density, and frankly, I've got a building that's going to lose views with this thing, but so be it. It is what it is. So I'm supportive of this current design.

Chair: Okay thank you very much. Don any final thoughts.

Don: Not a lot. I wonder sometimes if they could have - if they didn't have to add another floor to that brick portion on the south end. Do you really need all those units?

Chair: Apparently so.

Don: Been a little more successful I think having that a little bit lower. But that little lump at the bottom of the tower was always a pretty awkward form. And the last iteration, actually, was the best one you've ever done on that. It was more harmonious. But it was always a bit of an uncomfortable juxtaposition of the different pieces. So, in regarding the width, you know, extra width probably would be good but I don't know how we get it because it's - you could go out over the river, is that what I heard before?

Ben: I'm sorry I didn't understand?

Don: Could you extend the pathway out over the river or would it have to go inland?

Ben: I would have to say – I'd say it would come out of the benches and the tree space. There's an existing seawall that kind of defines that edge.

Don: Oh this. This is a fixed edge?

Ben: Correct.

Don: So it can't come there it has to go there. And it gets a little uncomfortable on this commercial space if you push it too far in. then they lose, kind of, there sense of private space so. I'd like to see it a little wider also, that was always a bit of an issue. It was brought up, I think, in some of the first hearings we had. But at that time you had it down to ten feet at some point.

Ben: We did. Correct. Which is – we understood the initial parks criteria said the path had to be between ten and twelve feet as a minimum. Which is an odd thing that that's the way that reads.

Applicant: If I interject...

Don: I don't know if there's any room to move to get it a little wider. If there is I would encourage you to do that but...

Applicant: I just wanted to interject with a point about the greenway standards and the tree requirements.

Chair: Yes.

Applicant: The trees could also be planted, technically, below the seawall. Which, I think as the commission discussed previously would maybe obstruct views...

Chair: Yeah

Applicant: ...and that was seen as not to be a good thing.

Chair: We liked the trees inboard rather than outboard. Yes.

Applicant: Right. But I did want to put that out there again that that is a possibility.

Rodriguez: And let me ask you a question though, we talked about Parks is the one that really regiments how this gets – the pathway gets developed. When do they come into that process, I mean could they still get this rejected by Parks? I'm just asking the question.

Applicant: I don't know the answer to that.

Rodriguez: Okay.

Applicant: If their following the parks standard – Parks is not the one that will be developing the trail.

Rodriguez: Right.

Applicant: So, if their following the standard, I think there may be an easement requirement. But that’s – public access and maintenance requirement. But I don’t know what authority Parks has to review or deny a trail.

Rodriguez: And it meets the standard as far as you...?

Applicant: That’s correct.

Rodriguez: Okay. Well...

Chair: So maybe that review process is something we could clarify before we reconvene. Just...

Applicant: I’ll see what I can find out.

Chair: ...for everyone’s betterment and knowledge. Okay, so it sounds Don as though if we were to do a straw poll now you would likely be a favorable vote. I think that we would likely have three favorable votes.

Don: I think that’s the case. Again, this thing could be adjusted and we could go on for quite some time.

Chair: Yeah.

Don: But at some point we just have to make a decision and move on.

Chair: Okay. So, the record is being held open. I think the topic now is to decide if there is any reason to adjust the 777 rule. And I would like staff’s opinion on that. We have not heard from the neighborhood association.

Ben: So I think we got a point of clarification through our city attorney. The neighborhood either submits written comments during the first 7 days or a response of any kind during the second 7 day period. That would give them standing to appeal.

Chair: Okay, but that would then require that comments from the neighborhood association be received by the 14th and the meeting happens on the 14th.

Ben: The meetings on the 14th, right.

Chair: So, are we within our rights to extend it by 24 hours to give the neighborhood association the 15th presumably a day to turn around...

Ben: Yes.

Chair: ... written comments.

Ben: You are.

Chair: So do we do 877?

Male: [inaudible [1:04:47]] the last day.

Ben: Right. So, I think the way we would recommend approaching it is giving an 8 day comment period for the initial period, and then an 8 day period for responses to be received. And then...

Chair: 887?

Ben: ...at the applicants discretion they could waive their final rebuttal period to have a hearing to vote on the 21st.

Chair: Okay.

Ben: Otherwise we'd be looking into January

Chair: Okay so, let's ask the applicant what the applicant thinks about that. Our proposal is an 8 day period for new evidence, an 8 day period to respond to new evidence and then a waiver of that final 7 day period. And if you need a minute, if you'd like to step away from the microphones and have a conference you are welcome to. We can give you a couple minutes.

Applicant: No. We appreciate that. I guess our concern today is obviously we were really hoping to have a vote.

Chair: And we are not – we are not able to.

Applicant Is that – do you have legal responsibility not to – I guess that's where we're confused.

Chair: I believe that that's the case, that once the record has been requested held open...

Male: Yes. This is a continued hearing—Steve I'm sorry I didn't have a chance to talk to you before—this is the third time we're here, it's a continuation of the first hearing. We have to hold the record open.

Male 2: That's not true.

Applicant: Okay. So our understanding of that is that that's incorrect. So – I mean that's what we, I guess, we don't understand why that's an issue today. I guess our argument, our interpretation, our understanding is that you guys have the option to make that decision there ...

Chair: And I will perhaps represent the entire commission, perhaps not when I say this, I would like to hear from the neighborhood association. I would like to give the neighborhood association the opportunity to provide us with some testimony should they choose to. They may choose not to, and that's fine.

Applicant: Okay. I guess for us, on the record, again our frustration is that we've engaged the neighborhood association, we've been extremely transparent with this process, we've had – it's our third hearing with you guys, fourth hearing with you guys actually. And so, for us it's just, you know, it's disappointing. We were really trying hard to get where we wanted to be done today but ...

Chair: Yeah. I absolutely understand that. It doesn't look like we're going to go there so are you willing to accept 8 days, 8 days, and then a waiver?

Ben: We were going to ask that we waive our 7 days and we have a hearing on the 14th because it's imperative that we..

Chair: But that...

Ben: I understand that now

Chair: Yeah. I know you get it.

Ben: I think, if that's the case, I wouldn't – in order to hit the 21st we'd take an abbreviated final response period.

Chair: Okay.

Ben: That's probably a reasonable thing to do.

Chair: Okay so looking at our agenda on the 21st, we have a briefing from PBOT on the livable street strategy followed by one type three and one design advice request. Can we bring this in at the front end?

Male: Yeah. I'll let Ben walk through the sequencing of the dates because those are important to be read onto the record. Because we'll be receiving information on one date and posting it to the web, receiving information on another date and posting to the web. And I think I just heard the applicant agree that they want to waive their right for final rebuttal is that correct?

Ben: I think I'd prefer to say that we foreshorten it in order to allow us to make the 21st.

Male: I'm asking you to do that, do you want to come back on the 21st?

Ben: Absolutely.

Male: So, the applicants waiving the right for a final rebuttal and then we can come back on the 21st.

Ben: But what I'm saying is if you can extend the 8 day, can't you make the final one 2 days. Something so we have...

Chair: So, that you do have an opportunity to consider and respond?

Ben: As long as this is gonna be dragged out to that extent I think that that would be a reasonable thing.

Male: Okay so you want to respond to any new information that might come in..

Ben: Yeah and I can't see us needing more than 2 days to do that if we need to at all.

Male: Okay, that's fine.

Chair: So Ben and Tim are reviewing the calendar and will tell us the deadline for submitting new evidence and then will tell us the deadline for responding to that new evidence.

Male: Do you want to working days or two calendar days?

Ben: Are they Saturday Sunday?

Male: Yeah.

Ben: What are we looking at?

Male: It's your two days. Do you want to work the weekend?

Ben: That's fine. Why don't we make it the end of day the following Monday, that's fine. May I ask, what's the expectation of us? What are we supposed to do at this point? So, we're not being requested to provide any new information?

Chair: No you're not.

Ben: We're not being requested to make any revisions?

Chair: Nope. You aren't.

Ben: But we're being required to represent to the neighborhood association?

Chair: No.

Ben: Oh.

Chair: No. we are simply giving the neighborhood association the opportunity to provide testimony should they choose to.

Male: And if I might add, I think you've provided a lot of evidence already so I don't think you have any more evidence to provide. This would be new information.

Chair: You do not. Yeah

Male: The second period that Bens gonna recite the dates which are important will be an opportunity to respond to any new evidence that's presented by others.

Ben: Okay.

Male: You would not be allowed to provide any new evidence in response. But you can respond. You can look at the argument being presented and maybe reformat information you already have and respond in that way. And in your final rebuttal which is – probably end up on a Monday and ben will cite the numbers – you can kind of pack it into another final written testimony. And then that will present itself, we'll come back on the 21st for a close record hearing. The commission deliberates and votes.

Ben: Okay.

Applicant: Okay so I think rather than saying 8 days, 8 days and then a final hearing – because the second 8th day would fall on a Saturday – think what I would propose is that we allow the first comment period, which is to provide any new information as part of the record, to close at noon on Friday December 8th. The second period to respond to new information provided to close on Friday December 15th at noon as well.

Chair: Noon?

Applicant: Noon.

Chair: Friday December 15th. So, if we're going to receive any information from the neighborhood association it needs to be in Bens inbox by noon on Friday the 15th. Okay. Thank you very much.

Applicant: Thank you. And then the applicant has stated that they would waive a portion of their rebuttal period and provide information if needed or if so desired to staff by the end of business day on Monday December 18th at 5pm.

Chair: Okay, close of business on the 18th. And this hearing will then continue until Thursday...

Applicant: December 21st.

Chair: The 21st. and we will publish the time in the agenda that is posted online.

Applicant: Correct.

Chair: Okay. I believe that closes the considering of this case for today. Will be continued until the 21st

Applicant: And the record will be closed...

Chair: The record will be closed, there will be no new testimony

Applicant: As of noon of December 15th.

Chair: Great. Thank you very much. Thanks to everyone for attending. So we'll take a ten minute break and move on then to a design advice request for the Wells Fargo center.

Fremont Place Design Review Hearing 12/21/17
Audio Length: 00:18:48

12-21-17 LU 16-278621 DZM GW

Chair: Okay, here we go. Item number 2. LU16-278621 DZM GW. This is a continuation of the hearing for the Fremont Apartments. Do any Commissioners have a conflict of interest, or bias or ex parte contact to declare?

(Various "No")

Chair: No? Okay. And we have a slightly different line up of Commissioners here today than we had at the last date we met to hear this case. Don Vallaster was here then, he is gone today; and Andrew Clark is here. Andrew have you reviewed materials, are you prepared to vote today?

Clark: I have reviewed materials and I'm prepared to vote.

Chair: Awesome, okay, thank you very much. And before I hand it over to Benjamin, I would like to just very briefly review the procedure for a Type 3 Hearing. This is a continuation because at the last hearing, which I think was in late November,

Benjamin: November 30th.

Chair: November 30th. It was requested that the record be held open. There was additional evidence that was then submitted in the first seven (7) days following that request to hold the record open. And then all parties had a chance to respond to that evidence. The record remained opened for a second seven (7) days and then the Applicant had a chance to respond to everything that had been submitted to date. The record closed two (2) days ago, Ben?

Benjamin: The record closed to public testimony at Noon on Friday, December 15th.

Chair: Last Friday, the record has been closed since last Friday.

Benjamin: And then at 5:00pm on Monday for the Applicant's rebuttal.

Chair: Okay. And we received the rebuttal from the Applicant before 5:00 p.m. on Monday of this past week, so that would have been the 18th. The record is closed today and we will not be opening it, but Ben will make his report and recommendation and we will then ask for a vote.

Benjamin: Correct.

Chair: Alright. And the Commissioners will also have the opportunity to provide final comments, should they choose.

Benjamin: I was going to say, you're still welcome to have discussion among yourselves.

Chair: Okay, thank you very much. Okay. The floor is yours.

Benjamin: Okay. Thank you. I think you covered that pretty well. I have no new presentation to show you today. I trust you've all reviewed the new evidence that emailed to you over the last couple of weeks. Just to, I'll do a quick summary of what that evidence was. We received email testimony from Lawrence Maiser; email testimony from Ellen Drumheller; email testimony from David Deisert, on behalf of the Planning and Transportation Committee of the Pearl District Neighborhood Association; some additional email testimony from Larry Maiser; Greenway Multipath Dimensions and Adjustments Plan from the Applicant's; and with that a revised site plan, replacing Exhibit C.02. The following week, responses to new evidence, we received email testimony from George Gallster; we received design packets from the, or design packet sheets from the Applicant's adding sheets APP-44, APP-45, APP-46, and again resending the Greenway Multipath Dimensions and Adjustments sheet that was sent the prior week. That information addressed some of the greenway comments made during the first week of new evidence. The Applicant's also submitted a written response to evidence submitted the week prior. We also received a response from Portland Parks and Recreation talking about the Greenway Trail. And finally, we received a letter from Stanley Penkin, President of the Pearl District Neighborhood Association, amending the testimony that was submitted by David Deisert the week prior - changing the recommendation from basically testimony in favor with conditions to testimony in opposition. Finally, on Monday, we received a final rebuttal from the Applicant's and the record is closed. All that was reflected in the Staff Report sent to you yesterday, December 20th. I'm coming to you today with a couple corrections to that Staff Report, just to make sure everything is as close to accurate as possible. And I have two (2) copies that I can share among you if you want to look at this, but I think I can quickly go through it verbally. So, I'll tell you what's been revised since this Staff Report was mailed yesterday. I had to correct the date of the expiration of the review period. The date was one day off. It said May 25, 2018. The correct date is May 24, 2018. Exhibit H-40 was deleted. It was a duplicate exhibit. I clarified the dates on Exhibits H.12, H.16, and H.42. I corrected a date on Exhibit A.10 changing it from September 28th to September 7th, which is the correct date for that exhibit. I changed the exhibit number of Exhibit 3 to Exhibit, excuse me, Exhibit A.3 to Exhibit A.3b. And inserted Exhibit A.3a, which was a letter requesting to deem the application complete, which was received on May 24, 2017. And that should have been in the Staff Report all along. That's the extent of the revisions I've made. If you have any questions about anything that you received I'm happy to try to answer that. I also have copies of everything that we can display up on the screen, if necessary, for your discussion.

Chair: Thanks very much Ben. Do the Commissioners have questions?

Female: No.

Chair: Ben, in the notes that I brought with me today, I do not have a note that tells me how many units in this building. Do you know?

Benjamin: I believe the answer is 275.

Chair: Okay. So, Commissioners, the vote today is in favor of the proposal. There are many modifications requested so I'd like to very briefly walk through the modifications and be sure there is nothing here that any member of the Commission, any of the three of you are opposed to. Modification 1 is an increase in height to the height limit of, to allow the equipment and screening of the mechanical equipment to extend above 175 feet to, it is located closer than 15 feet to the roof edges on street facing façades and covers more than 10% of the roof area. A conversation that we've had in the past indicates that we are largely in favor of it, as designed, because it is a coherent rooftop strategy.

Clark: That's correct.

Livingston: That sounds good.

Chair: Okay. A relatively standard modification for bicycle parking to allow racks to be closer spacing than the development code states. The height of the building, Modification number 3, allows the height to exceed the maximum base height of 100 feet by 75 feet, so height is extended to 175 feet. This also allows the length of the façades above 100 feet to be extended to 120 feet in length. And the proposed façade length on east and west façades is proposed at 125 feet, 2 inches. And proposed façade length on north and south façades is 142 feet, 8 inches. I think we've discussed this at past hearings.

Livingston: Correct.

Chair: Okay. Required open area development standards require that there be no more than 50% of the plaza area in shade at noon on April 21st. Diagrams that we've seen at past hearings show that the development does not comply with this standard at noon, but does comply with this standard by 1:00 p.m. So, it's, okay. Setbacks for development from the Willamette River. This is Modification number 5. Portions of the building over 35 feet in height that extend into the setback area require the building to setback from the greenway by one foot for every one foot of height. We've seen diagrams that describe how this building interacts, how its massing interacts with the setbacks. This modification also allows building dimension to be 230 feet 9 inches in the east/west direction rather than the maximum allowed 200 feet; this is no change from what we've seen in the past. Modification number 6 is to pedestrian standards. Landscaping between the sidewalk and along NW Naito Parkway, covered with ground cover and other low plants. **[10:00:00]**. No issues there. No? Okay. And, number 7, parking area setbacks. This is landscaping between the south lot line and the driveway from Naito Parkway, and this was a new modification introduced at the last

hearing date. Okay. No surprises there. Alright. Are there any issues with any of the conditions as described?

Livingston: No.

Chair: Okay, so B through K are fine. Ben, I'd like to propose, this is for discussion with Commissioners, that there be one additional guideline that follows Portland Parks' request that the guardrail at the seawall be replaced. Have you had any discussion with the Applicant about that, is that acceptable?

Benjamin: Yeah, we did talk about that at a meeting with Portland Parks. It was not something that they were looking at doing for this design review, but something that they were willing to explore later. I don't want to speak for them as to what their schedule would be for looking at that, but, it has been discussed with Parks. Parks would certainly like to have that happen and it just depends, I think, on the feasibility. That's why the Applicant's weren't able to respond. They don't know exactly what the situation is on the seawall.

Chair: Okay.

Benjamin: Yeah.

Chair: Any thoughts from other Commissioner's on the seawall?

Male: How much leeway does Park have to negotiate that at a later date? Because the seawall, I mean the greenway doesn't have to be approved by Parks, right? Just the, they have to meet the standard?

Benjamin: They have to meet the standards, correct. The guardrail would also have to meet their standards. I don't happen to know offhand what those are, but there are several examples around the central city of newer guardrails.

Male: It seems to me that if they're trying to figure out the technical they should, Parks will be on top of that.

Benjamin: The specific issue that Commissioner Livingston is raising is that the guardrail is set several feet away from the edge of the seawall currently. And if it could be moved closer to the edge then there would be more space for the trail.

Clark: We did discuss that.

Male: Because at the end of the day it's a standard that we don't really control.

Chair: But, they are requesting quite a lot of modifications. And the wording is PBR Staff also requested and strongly encouraged that the Applicant's remove the existing seawall guardrail and install a new guardrail closer to the river on the seawall to add additional space on the greenway trail. Considering how much of the greenway trail is really getting narrowed down because of the design, it seems

pretty fair to ask them to move it over, particularly if the recommendation is coming from Portland Parks. Who is the body that we were looking to for the appropriate..

Livingston: For some guidance.

Chair: Yes.

Benjamin: I think if you're looking at setting a condition of approval, it would be reasonable to tie it potentially to Guideline B-1. Which is, excuse me here, reinforce and enhance the pedestrian system. And there is a section in the findings that I can read out loud for you. Right now it reads: "the greenway trail segment will be retained along the eastern side of the site. Planters and landscaping, benches, ground floor storefront windows and canopies will help provide a human scale along this trail." But you could also, we could also add a couple sentences to that that say something like, that "were the existing guardrail along the seawall to be moved closer to the river, additional space could be provided on the trail for pedestrians and recreational users, better reinforcing the pedestrian system."

Male: Can I ask one more, before we go, there's one more question.

Benjamin: Of course.

Male: I mean, I don't have a problem with that in principle, only they're looking for flexibility because there's technical issues that they might not be able to control. That's the part that I want to make sure that we don't lock them into something that they can't do, they need, I don't know.

Benjamin: That's right. Were the condition needed to be struck in the future, they'd have to come back to the Design Commission.

Male: So, is there, I mean, do you know of any, there's any technical issues why they might be resisting to do any or to acquiesce to that modification at this point? Or is it...

Benjamin: I imagine it's just a lack of knowledge of how the seawall is currently constructed, at this point.

Chair: Well, could we phrase it in a way that if it was feasible, if Public Parks, if Parks and Rec decided, determined that it was feasible, then it would be required, and if not, then it wouldn't be required.

Male: I think Tim would glare at us if we said that.

Clark: Then it doesn't feel like a condition, either.

Male: They need to be measurable.

Chair: But if they, but if that, if the guardrail stays there then it sets up for the adjacent projects to maintain this really deep setback. So, you're just getting more and more, it's just more space that's eaten up. In the long term.

Clark: So, Ben? Ben? There's been no exploration into this? By the Applicant?

Benjamin: There wasn't, really, enough time.

Chair: Right, it just.

Benjamin: We were really limited with the deadlines established getting new evidence in by Friday, Friday the 8th and then responses by Friday the 15th. I think they, I think they were discussing that they'd have to go in and, they'll probably know more about it once they start demoing the existing trail

Chair: Okay, so.

Clark: I would support Sam's reasoning on it, and I don't think I would condition it, just given the time, or the lack of time, and the lack of information.

Chair: So the Applicant's in the room, I know. Commission is on the record I think at this point is wanting that guardrail to be moved, but not thinking that it is an appropriate condition of approval, well it is not something that we can actually condition. But when you know more, and when you have closer relations with Portland Parks & Rec, please move the guardrail.

Benjamin: And I should add they were amenable to that. If it is feasible.

Chair: Okay. That will not be a condition. So, with that, we've been through the modifications, we've been through the conditions. It doesn't sound like we have anything else to add. Do you Commissioners have any final thoughts before we call for a vote? Motion, second, and then vote.

Male: I motion to approve as proposed by Staff.

Clark: Second.

Clerk: Commissioner Molinar?

Molinar: Aye.

Clerk: Commissioner Clark?

Clark: Aye.

Clerk: Commissioner Rodriguez?

Rodriguez: Aye.

Clerk: Chair Livingston?

Chair: No.

Chair: Okay, so the motion passes. There are likely members of the Pearl District Neighborhood Association in the room today. Should you choose to appeal it, if the appeal lands in the council chamber on a Wednesday there will be a Design Commissioner present to represent the majority opinion, and Design Commissioner present to represent the minority opinion. And I think that's it.

Benjamin: I'll just add, final findings of this decision will be issued, mailed out I should say, no later than January 5th, that's a Friday.

Female: Okay. Great, and if there should be further action, please stay in touch with Ben. Thank you.

Ending at 00:18:48 (end of tape).

EXHIBIT E



February 27, 2018

Portland City Council
1221 SW 4th Avenue, Room 130
Portland, Oregon 97204

Attention Council Clerk
via email: Karla.Moore-Love@portlandoregon.gov

Re: City Council Agenda Item 177, Appeal of DR Approval LU 16-278621 DZM GW

Dear Mayor Wheeler And Members Of The City Council,

Clearly you have heard and received a lot of testimony on this appeal, and we have done our best to address all relevant testimony presented at the hearing. There was one verbal testimony, though, that was a mischaracterization of my interactions with the Pearl District Neighborhood Association which I feel I need to address.

In that testimony, a gentleman indicated that I had been threatening and intimidating to the PDNA board in an email exchange that occurred on December 27th, 2017, in advance of the Board's vote on whether or not to appeal this Design Review decision to the City Council. As you can read on the attached email printout, my letter was anything but threatening, nor was it even argumentative—I purposely avoided any discussion of the design of the building, as by that point the design had been settled, reviewed, and approved by the Design Commission. What I did was make two simple points that are very similar to the points made by previous PDNA Board Members and Planning and Transportation Committee Chairs toward the end of the hearing:

1. That the Board's decision to override the opinions of their own Planning and Transportation Committee could undermine the credibility of that committee regarding the review of new development and would devalue the time, energy, and expertise contributed by the committee's members
2. That an appeal such as this, being pursued without merit and with willful disregard for all of the process before the Land Use and Transportation Committee that led to the project's approval, would likely cause future developers to skip the step of meeting with the neighborhood, thus weakening their voice on developments in their own neighborhood.

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Robert Thompson, FAIA | Tim Wybenga, LEED AP | Pamela Saftler, AIA, IIDA | Mandy Butler, AIA, LEED AP BD+C

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What is additionally evident in this email is that, even on the eve of the vote to appeal our Design Review approval, we were still attempting to maintain an open dialogue with the PDNA.

Thank you for your thoughtful consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Wybenga". The signature is fluid and cursive, with a large loop at the end of the last name.

Tim Wybenga
Principal
TVA Architects

Tim Wybenga

From: Tim Wybenga
Sent: Wednesday, December 27, 2017 9:41 AM
To: 'stanleypenkin@gmail.com'; 'board@pearldistrict.org'
Subject: PDNA Board Meeting | Fremont Place Apartments

Mr. Penkin and Members of the PDNA Board:

Following our hearing last Thursday afternoon on the Fremont Place Apartments, I was told by one of my colleagues that there was some discussion regarding your Board's meeting this evening, specifically that you were going to discuss and possibly vote on whether or not to appeal the Design Commission's approval for the project. That, of course, is your prerogative, but I would respectfully request that you consider two things, as a group, before taking that step.

First, I think that a vote to appeal, along with the previous decision to modify the letter that was previously written by your Transportation and Planning Committee, would serve to dramatically undercut the work of that committee. From what I have seen myself and from what I have been told by other design professionals, that committee is made up of a core group of people who understand the actual rules for planning and zoning in our city, understand core issues about urban design and planning, and are very involved advocates for the betterment of the Pearl District. That's not to say, by any means, that the group easily rubber stamps projects or is pro-developer. In fact, the two recent projects from our office that have been presented to and were affected by the input of this committee, Fremont Place and the Pearl Apartments, are both substantially better projects due to their input, feedback, and pushback. I can only imagine that the members of this committee spend substantial amounts of time each week keeping on top of issues that affect your neighborhood, preparing for meetings, and reviewing projects, among other things. To spend that much time only to have your decision overruled by a Board who has not been a part of this process, has not been party to the presentations and discussions along the way, and does not spend its energy focused on Planning and design issues would be quite frustrating to say the least. It seems that this would undermine the work of the PDNA Planning and Transportation Committee and its members, making their efforts volunteering on this committee arguably at least partially a waste of time.

This actually brings me to the second point that I would ask you to consider—how this type of appeal actually will serve to reduce your ability as a neighborhood to have a voice in upcoming development in the Pearl. It's important to note that meeting with your Planning and Transportation Committee was optional, for the Fremont Place project. At the recommendation of some of my peers, specifically those who had recently been involved with the Pearl Apartments project, I set up an evening presentation with the committee after I proposed the idea to my client, who was willing to go along with my suggestion as I told him it would potentially make the process go more smoothly with the City staff and Design Commission. We attended our first meeting with the committee, heard some very specific feedback, and we redesigned and refined numerous aspects of the project. I returned multiple times—four meetings total, in an attempt to make the project better and specifically to win the support of this group. Following our fourth meeting with the group, which included a lot of neighbor feedback and at least a very conditional letter of support for the project and the process, I actually called our client and told him, "it was worth it", truly believing that the project was better as a result and that it was the right thing to do to engage with the neighbors. However, between the revisions to the Planning and Transportation Committee's letter and potentially a vote to appeal the decision of the City Staff and the Design Commission, I think I'd have a much more difficult time convincing a future client that this effort and this process is 'worth it'. The result, I believe, of appealing a project like this, despite the developer having followed the prescribed path and despite the fact that we have had no opportunity to present the project to you directly, will be that future projects will skip the PDNA altogether, which will greatly lessen your voice on developments in your own neighborhood.

None of what's written above is about the merits of this particular project, but I would have been happy to discuss those with your group at any time as I believe strongly that there are many. This is about the process and the effectiveness of

your committees and your Board going forward and your ability to make projects better rather than to just try and slow them down with procedural maneuvers and appeals. I hope you'll take this into consideration as you determine whether or not to take any further action on this project, and I hope to have the opportunity to work with your Board and your Planning and Transportation Committee in the future..

Thank you for your time and consideration.

Tim Wybenga, LEED AP

Principal

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