



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **28TH DAY OF NOVEMBER, 2018** AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Wheeler, Presiding; Commissioners Eudaly, Fritz and Saltzman, 4.

Commissioner Eudaly arrived at 9:41 a.m.

OFFICERS IN ATTENDANCE: Susan Parsons, Acting Clerk of the Council; Lauren King, Deputy City Attorney; and Christopher Alvarez and John Paolazzi, Sergeants at Arms.

On a Y-4 roll call, the Consent Agenda was adopted.

		Disposition:
COMMUNICATIONS		
1200	Request of John Washington to address Council regarding Soul District Bizzness Association Rose Quarter (Communication)	PLACED ON FILE
1201	Request of Brad Perkins to address Council regarding economic development in the Rose Quarter (Communication)	PLACED ON FILE
1202	Request of Fawn Aberson to address Council regarding Rose Quarter economic development (Communication)	PLACED ON FILE
1203	Request of Kiel Johnson to address Council regarding a petition in favor of Transportation Bureau's 7th Avenue Greenway Project (Communication)	PLACED ON FILE
1204	Request of Olivia Oase to address Council on public safety concerns regarding homeless people (Communication)	PLACED ON FILE
TIMES CERTAIN		
1205	TIME CERTAIN: 10:00 AM – Appoint Kayla Wade to the Citizen Review Committee advisory board to the Independent Police Review, a division of the City Auditor's Office (Resolution introduced by Auditor Hull Caballero) 15 minutes requested (Y-4)	37399
CONSENT AGENDA – NO DISCUSSION		

November 28 – 29, 2018

Mayor Ted Wheeler

Office of City Attorney

1206	Authorize City Attorney to institute legal proceedings to recover damages to an emergency vehicle in the sum of \$17,246 and any other costs or relief authorized by law (Resolution) (Y-4)	37398
Office of Management and Finance		
*1207	Create a new represented classification of Electronics Technician, Assistant and establish an interim compensation rate for this classification (Ordinance) (Y-4)	189258
*1208	Pay bodily injury claim of Roberta Morris in the sum of \$5,300 involving the Portland Parks & Recreation Bureau (Ordinance) (Y-4)	189259
*1209	Pay property damage claim of Brian Foresta in the sum of \$16,500 involving the Portland Bureau of Transportation (Ordinance) (Y-4)	189260
REGULAR AGENDA		
Mayor Ted Wheeler		
1210	Appoint Andrew Smith to the Portland Historic Landmarks Commission as Architect for a term to expire November 20, 2022 (Previous Agenda 1191) Motion to accept report: Moved by Saltzman and seconded by Fritz. (Y-4)	CONFIRMED
Bureau of Planning & Sustainability		
1211	Repeal Code for Single-use Plastic Checkout Bags and Polystyrene Foam Food Containers and replace with Code Prohibitions and Restrictions on Single-use Plastic (Second Reading 1196; replace Code Chapter 17.103; repeal Code Sections 17.102.300-400) Motion to accept substitute exhibit A: Moved by Wheeler and seconded by Saltzman. (Y-4)	PASSED TO SECOND READING AS AMENDED DECEMBER 05, 2018 AT 9:30 AM
Office of Management and Finance		
1212	Amend the Heavy Vehicle Use Tax Code to remove the four-year revenue target (Second Reading Agenda 1154; amend Code Section 7.02.500) (Y-3 Wheeler, Saltzman, Fish. N-1 Fritz)	189261
1213	Authorize limited tax revenue bonds to provide up to \$4.6 million to finance technology for the reconstructed Portland Building (Second Reading Agenda 1198) (Y-4)	189262

November 28 – 29, 2018

<p style="text-align: center;">Commissioner Amanda Fritz</p> <p style="text-align: center;">Water Bureau</p> <p>1214 Authorize a contract with the lowest responsible bidder and provide payment for the construction of the North Jantzen West of North Pavilion Avenue Water Main Improvement Project at an estimated cost of \$1,010,000 (Ordinance) 10 minutes requested</p>	<p style="text-align: center;">PASSED TO SECOND READING DECEMBER 05, 2018 AT 9:30 AM</p>
---	---

At 10:50 a.m., Council recessed.

<p style="text-align: center;">DUE TO LACK OF AGENDA THERE WAS NO 2:00 PM MEETING WEDNESDAY, NOVEMBER 28, 2018</p>	
---	--

November 28 – 29, 2018

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **29TH DAY OF NOVEMBER, 2018** AT 2:00 P.M.

THOSE PRESENT WERE: Commissioner Saltzman, Presiding; Commissioners Eudaly, and Fritz, 3. Mayor Wheeler arrived at 2:35 p.m. and presided, 4.

OFFICERS IN ATTENDANCE: Susan Parsons, Acting Clerk of the Council; Lauren King, Deputy City Attorney; and Mike Harris, Sergeant at Arms.

		Disposition:
1215	Appeal of Northwest District Neighborhood Association and Tony Schwartz against Historic Landmarks Commission's decision to approve Block 162 Apartments, a five-story plus residential development, at 1727 NW Hoyt St (Hearing introduced by Mayor Wheeler; LU 18-187493 HRM AD) 3 hours requested Motion to tentatively deny the appeals, and uphold the Historic Landmarks Commission's decision to approve Block 162 Apartments Historic Review With modifications and adjustment: Moved by Saltzman and seconded by Eudaly. (Y-4)	TENTATIVELY DENY THE APPEALS AND UPHOLD HISTORIC LANDMARKS COMMISSION DECISION; PREPARE FINDINGS FOR DECEMBER 19, 2018 AT 10:00 AM TIME CERTAIN

At 5:20 p.m., Council adjourned.

MARY HULL CABALLERO
Auditor of the City of Portland



By Susan Parsons
Acting Clerk of the Council

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

This file was produced through the closed captioning process for the televised City Council broadcast and should not be considered a verbatim transcript.

Key: *** means unidentified speaker.**

November 28, 2018 9:30 a.m.

Wheeler: Alright good morning everyone this is the November 28, 2018 morning session of the Portland city council, welcome everyone. Sue, please call the roll.

Eudaly: **Fritz:** Here. **Fish:** **Saltzman:** Here.

Wheeler: Here, good morning.

Lauren King, Deputy City Attorney: Good morning. Welcome to the Portland city council. The city council represents all Portlanders and meets to do the city's business. The presiding officer preserves order and decorum during the city council meetings so everybody can feel welcome, comfortable, respected and safe. To participate in council meetings, you may sign up in advance with the council clerk's office for communications to briefly speak about any subject. You may also sign up for public testimony on resolutions or first readings of ordinances. Your testimony should address the matter being considered at the time. When testifying please state your name for the record, your address is not necessary. Please disclose if you are a lobbyist, if you are representing an organization please identify it. The presiding officer determines the length of testimony. Individuals generally have three minutes to testify unless otherwise stated. When you have 30 seconds left, a yellow light goes on. When your time is done a red Light goes on. If you are in the audience and would like to show your support for something said, please feel free to do a thumbs up, if you want to express you do not support something feel free to do a thumb's down. Disruptive conduct such as shouting or interrupting testimony or council deliberations will not be allowed. If there are disruptions a warning will be given that further disruption may result in the person being ejected for the remainder of the meeting. After being ejected a person who fails to leave the meeting is subject to arrest for trespass. Thank you for helping your fellow Portlanders feel welcome, comfortable, respected and safe.

Wheeler: Thank you very much. Communications is first up.

Item 1200.

Wheeler: Is Mr. Washington here? Maybe he will come in before we get through communications. Next item, please.

Item 1201.

Wheeler: Good morning, sir.

Brad Perkins: Good morning. Mayor, commissioners. How are you doing?

Wheeler: Excellent.

Perkins: Good. Okay. I will preface what I am going to say with two words. Climate change and that's what we are talking about here in regards to the Sullivans gulch corridor trail and also the rose Quarter development for high-speed rail. In 2012, July 29 to be exact, the city council voted in favor of proceeding on with the conceptual plan for the Sullivan trail. Right after that -- we had thought that we hit a home run, but right after that when I say we, I mean 16 different neighborhoods and three different business associations who worked really hard to get to that point. We thought that we hit a home run, but right after that, the city lost our project manager, Paul smith, who was working on this. Since then nothing has happened in support of the trail. We had proposed to the city to raise \$2.5 million private money to make this happen. You are seeing what's happening

November 28 – 29, 2018

on the corridor today along I-84 is being jammed up with housing but none of it affordable, okay. It's all market rate and this could have been a great catalyst for affordable housing to put this trail in. Now let me remind you this trail was, you know, thought about and put together by the community, okay. What happened since, though, is that the city department heads have made the dream loop a top priority. Have made the bike share a top priority. But what we are trying to do is make not a merry go round of the green loop but a connector of the people coming north, south, from the east into downtown, and other various places. Now we have the 7th street bridge over I-84, and the problem is that once that is built there is no way to have a decent Sullivan's Gulch trail as planned. We are going to be running -- not we, but the city, when I say we, I don't mean the Sullivan Gulch trail committee, but the city is wanting to run bicyclists over MLK Boulevard and Grand Avenue via Lloyd. The intent was to run it underneath the two bridges. 7th has become a more important link rather than 9th. You are going to have a major problem with minority community if you choose to go ahead with closing down 7th street. There is a better way. Let's think next time for a budget to include this project manager. Nick Falbo would be a great person to have, who already works for the parks department, or excuse me, the PBOT. Get the parks department to split the cost of \$120,000 position with PBOT, and also there needs to be a committee. What happened to the idea of having real committees that are involved and give feedback to the city and vice versa. That's where the democratic process, that's where it's all about, okay. And the same thing for the Rose Quarter. When we talk about baseball, that decision was not made by a group. It was not made by the community that explored the idea of how transportation can work, how affordable housing can work with it. So it's down the road, I guess. Right now we are talking about -- there is a study going on by WSP to do a high-speed rail corridor between Portland and Vancouver B.C. At the conference up there on October 10, there was nobody there from Oregon. What we had were people from Washington and British Columbia that put together this Cascadia innovation corridor idea, and they want to come down to Portland, okay. High-speed rail is coming to Portland, but we have to be prepared for it. We have to -- even the governor was caught off guard when she was asked about this idea of the corridor.

Wheeler: Brad, can I ask you a couple of questions? Your time has expired but you raised a whole host of interesting issues, and I will give you my commitment that I will research the Sullivan Gulch trail concept. I am not as familiar with it as I would like to be, and I know you mentioned it previously, so I will make that commitment. I am curious about that, and I have this well written letter to the editor with regard to high-speed rail. I understand that there is a conversation going on at the state level regarding high-speed rail. Are you talking about something different?

Perkins: Not in Oregon, no. As a matter of fact here in Portland, they are going to review the plans that were put together over six years, four years too long, which is the future of the past rail service in the state of Oregon. Their recommendation, the committee that was formed six years ago, their recommendation, which was supported by FRA, federal rail administration, was to hey, let's put it on the existing U.P. tracks. What's so hard about that? The problem is, 140 years old and this bureaucracy, and that owns it, that runs their own show. So that is what is occurring now, and I have nothing, no problem with U.P., you know, doing what they need to do as far as the business. They should run freight up and down it but there needs to be a new corridor.

Wheeler: You don't see any impetus in the legislature this session?

Perkins: We need to get the governor on track on this because it's going to be pushed from Governor Inslee who is going to be running for president.

Wheeler: And he committed to this, Inslee has commented to not running for president, but he's committed to high-speed rail.

November 28 – 29, 2018

Perkins: He's very committed. As a matter of fact he was the one, the main pusher in the legislature up in Washington to get the \$750,000 for this study that was going on right now, and British Columbia threw in the other, was it \$400, so a \$1.2 million study.

Wheeler: I do remember.

Perkins: Microsoft was also involved with that conference. They put that whole show together. And they do want to come down to Portland, and we would love to have a conference down here. We would be interested in helping to make that happen down here.

Wheeler: Very good. I appreciate it. Thank you.

Perkins: Thank you for your time.

Wheeler: Next individual please, sue.

Item 1202.

Wheeler: Good morning.

Fawn Aberson: Good morning. Council. This is really just an exercise of me on public speaking.

Wheeler: And Fawn I'm sorry would you mind stating your name record its required.

Aberson: I am fawn aberson, I'm the outreach coordinator for the sull district business association and also a small business owner of Flossin media, and I am here because one of my board of directors who you just heard from, brad perkins, says it's a good idea for us to do more public speaking and get in front of you all, so I am exercising that right to do so. I will be much briefer than him. First of all I wanted to thank commissioner Saltzman and mayor wheeler for attending the beatrice morrow grand opening because that's a huge collective impact partnership of the sull district business association, and it did lift a lot of minority-based organizations and businesses in your presence there, and I know the other two commissioners thank you for acknowledging it as being important. I know you were unable to make it. I thought that that's a huge, huge victory for our district and a huge, huge victory for minority-based organizations. Quite frankly, pcric, who I know has been around since the 1990's and is one of the only African-american home ownership organizations of its kind and I have seen them do some incredible things over the last several years, and much, in part, to the championship of some of what you guys have done. I support what brad is doing, also, with sullivan's gulch trail and the high-speed rail and the sull district business association is really paying attention to that. What we have discovered is that minority owned businesses and people in the community often are left out of the conversation and the train has far advanced, so to speak, the train, before folks are aware of some of the infrastructure stuff, and the infrastructure does come through pbot. The infrastructure does come through odot and if we are not, as a community-based organization, paying to decisions at that level, the ground level, the rose quarter vision level, then we are left completely out of the conversation. We are just after-thoughts, so the sull district is doing everything it can to stay in that conversation and have relevant conversations, so we support people like brad perkin, and we support you know, pcric's, so there is not a stand alone here. We are all a part of after big collective impact, and I just encourage you guys to remember that because I know on ancillary conversations, sometimes organizations who are just getting their infrastructure or getting their opportunity to have really big contracts and be a part of really big discussions, the rose quarter vision is a huge discussion, and you might think, what is somebody like me, how dare I sit here and be a part of that discussion, but through the infrastructure of the sull district and through the conversations, it's been really cool to be invited to that table. I think that more people need to be involved in the governance process, and when organizations like pcric are given the green light to be in charge of something, that they be allowed to remain in charge and be given more rope and more birth, and same with the sull district and same brad's conversation about the Cascadia high-speed rail. So that's my first exercise in speaking to you all. Thank you for listening to me.

November 28 – 29, 2018

Wheeler: Well done. Excellent comments. We appreciate you being here. Thank you for taking the time to come in. Next individual, please, sue.

Item 1203.

Wheeler: Good morning.

Parsons: Go ahead.

Kiel Johnson: Thank you commissioners forgiving me the opportunity to speak here today. My name is Kiel Johnson and I live on northeast 7th and Fremont. I am here today to ask for your support for the 7th avenue greenway and to present you with a letter of over 900 other people who have signed our petition. In three weeks, my wife, Kate, and our first child will be born. Her name will be lulu. What worries us is that our street outside is currently designed for cars over people. This makes the decision of when we will feel comfortable letting lulu go outside by herself or walk to school much harder. I want my child to have the freedom to enjoy and learn about the community without it the danger of being hit by an automobile. In the history of Portland greenways, there's never been so much support for a project that would make it harder to drive. Letters of support from the 7th avenue greenway have been voted and approved by the northeast coalition of neighborhoods and individually by the Lloyd, Irvington, Elliott and Sabin neighborhood associations. If you go down 7th today, you will see 30 handmade signs expressing support. This summer pbob hosted two open houses, at the second open house they heard from many of the long-term black residents who have had to witness their neighborhood gentrify and did not feel the trade-offs in safety is not worth of loss of automobiles. Public comment was supposed to be wrapped up and a decision made in august, but now there is no end date or clear process for making a decision. For people advocating for safer streets, this lack of structure makes it difficult to know how to be effective. After the open house, my wife and I decided to do all that we could to advance a thoughtful, community discussion where everyone could be heard. Over the course of a week we knocked on every door from Alberta to Thompson and invited businesses, churches, and residents to community ice cream social. Over 50 people showed up, and we went through seven pints of ice cream. I also got a chance to meet with and have a great conversation with ronnie herndonson from albina head start. When you hear that something will make your neighborhood better comes from a neighbor, it's a much different experience than having the city tell you that. Last week several of my neighbors had to call the police because of drag racing happening on 7th. Today we have an opportunity to make the streets safer for lulu and all other future generations. You rarely get to please all the people all the time, but sometimes, you get to do the most good for the most number of people. This is one of those times. I ask you to support the 7th avenue greenway and help lulu be able to safely discover her new community. Thank you very much.

Wheeler: Thank you, and congratulations to you and your wife. That's exciting. Thank you.

Johnson: Thank you, yeah.

Eudaly: And thanks for all your efforts. I can't overemphasize how much community outreach and engagement is to transportation decisions, and from us, but the fact that it's happening in the community is just really added benefit. I am a cyclist, I am enthusiastic about this project, but we do have some more outreach to do, and you just -- you just -- you just stole one of my catch phrases, although I think it's somebody else's quote. Yeah. That's one of the many important lessons that I have learned on the city council. You absolutely can't make everyone happy all the time, but we are here to do the most good for the most people. So I really appreciate this, and I promise that we are in current conversations and pursuing it.

Johnson: Thank you very much.

Wheeler: If I could add the core -- corollary, which is that ice cream always helps.

Eudaly: Why didn't you come all the way down to deku cause you missed my house.

November 28 – 29, 2018

Wheeler: Thank you very much. We appreciate your testimony. Thank you. Next individual, please, sue.

Item 1204.

Parsons: Is Olivia here?

Wheeler: Very good and did John Washington show up? Mr. Washington? I don't see him here. Very good.

Maggi: Can I sit in?

Wheeler: No, you may not. We will take up the consent agenda next, sue. Has anybody pulled any items off the consent?

Parsons: I have had no pulls.

Wheeler: Please call the roll.

Fritz: Aye. **Eudaly:** Aye. **Saltzman:** Aye.

Wheeler: Aye. The consent agenda is adopted. [gavel pounded] and we have a bit of space here before the first time certain, so let's please go to the regular agenda. I understand Mr. Smith is here for the appointment to the Portland historic landmarks commission. Please call 1210.

Item 1210.

Wheeler: Colleagues, Andrew has over 20 years of architectural experience including managing the development of new infill and rehabilitation projects. He has experience creating financial packages to establish feasibility, and he understands the financial challenges that sometimes I would even say often accompanies these projects. He has experience serving as a volunteer in the community, training people to perform post disaster building evaluations. He understands the challenges of accommodating density and assuring affordable housing as well as ensuring proper stewardship of our historic resources and he's looking forward to engaging with fellow commissioners and others to address these important issues. A quote from Andrew that caught my attention quote, "there is a balance that needs to be found between preservation and progress, they are not mutually exclusive". I think that that is a very timely and important quote. So at this point, we will hear from the landmarks commission and Andrew Smith. Welcome and thank you very much for being here. We appreciate it.

Hillary Adam, Bureau of Development Services: Hilary Adam, bds, I just came up to help introduce Andrew he's an architect at Hennebery Eddy and just got an email this morning that they were just given the firm award, which is the best firm of the year for the Pacific and Northwest region. So I just wanted to announce that.

Wheeler: That's outstanding. Congratulations. Great news.

Adam: Do you have any questions for Andrew?

Wheeler: Andrew, given how busy your firm is and now with this new honor, your firm will be busier than it was before. What is your reason for wanting to do this? What compels you to participate in this with understanding that the salary is terrible. [laughter]

Andrew Smith: Well, you know, I have gotten quite a bit of experience and a passion for historic resources. I've been working with historic buildings and within historic districts for my entire career, and probably haven't done enough civic engagement as I could have throughout that time. So I saw this opening on the landmarks commission as an opportunity to bring that experience and really contribute something to the city in which I live.

Wheeler: I appreciate that. Colleagues, any further questions? Legal counsel, I note this was a previous agenda item. I don't have the previous agenda item in my packet. I assume that this is a report. I just wanted to make sure, I'll entertain a motion.

Saltzman: I move to adopt the report.

Fritz: Second.

November 28 – 29, 2018

Wheeler: I have a motion from commissioner Saltzman and a second from commissioner Fritz. Please call the roll.

Eudaly: Thank you for your willingness to serve and congratulations on the appointment. I vote aye.

Fritz: The landmarks commission is never without it controversy, so I hope that you are ready for that. And having gone from being a community activist myself to being on the planning commission, a long time ago, I do wish you the best with that transition because it can be a bit of a, an eye opener to be on the other side of the mic, so thank you for your willingness to serve. Aye.

Saltzman: Yes, Mr. Smith, I am sure that you will get your fill of civic engagement through the landmark commission. Thank you for your willingness to serve and I am happy to vote aye.

Wheeler: Mr. Smith, the only advice that I will give you since you are old hat, no matter how tough things get, never mumble anything. Second on a serious note, and Hilary, thank you for being here, as well, we have heard a lot already early in this agenda about community engagement, community involvement, community activism in the role of people in the community to help shape the community in which we live and this is, I think, one of the more important issues during our central city planning process, we had to resolve several important conflicts between the historic landmark aspects and the preservation aspects with the real pressures that our city is facing around growth, accommodation, and the need for workforce and lower income housing. All these things come into conflict, and there's never an easy answer and there is no clear line to draw. So we do rely on you and your colleagues on the commission to be able to help us best evaluate these complex issues. It's not easy. I just want to say that I am grateful that there is people of your caliber that are willing to step forward and assist us in this manner. There is a lot of things that you could do with your time, but I want to acknowledge and thank you for choosing to do this. I vote aye. The appointment is approved. The report is adopted. Thank you. [gavel pounded] appreciate it and I need to stall for two more minutes.

Fritz: Second readings?

Wheeler: Let's do that. Is Amy here? Can we move to 1211 Amy? Are you ready for that?

Amy: I am ready. My colleagues are running a bit late.

Wheeler: Let's skip that now. Let's go to second reading 1212.

Item 1212.

Wheeler: Commissioner Eudaly.

Eudaly: Thank you, mayor. Before we take the vote I wanted to go final opportunity to address some of the concerns that we have heard about why we are amending the code rather than amending the tax. We know moving promptly to consider options for adjusting the heavy vehicle use tax and to consult our advisory committee as we learn about the factors affecting revenue we collect. This is a new tax, unique in its attempt to collect the revenue based on the wear and tear on the city streets so we don't have other examples for comparison. The 2016 tax year was the first year of the heavy vehicle use tax. It takes 18 months or month to collect the tax because freight companies pay based on their fiscal years, some start in October and some in July and some apply for extensions and some file for appeals if they don't feel that they should be subject to the tax. We were not aware of the magnitude of the potential short-fall and therefore the required increase in tax rate until late summer early fall 2018 when collections for tax year 2016 had largely concluded. This further delayed stakeholder engagement, which the city felt was necessary, given the magnitude of the proposed tax rate adjustment. In response to this information, commissioner Saltzman's office asked pbot and the office of management and finances reviewed, revenue division to consider adjusting the rate or bring to council a way to remove the requirement that the city adjust the rate. He also insisted that we include input

November 28 – 29, 2018

from our advisory committee, so that's what we've been doing for the last six months. Freight stakeholders were concerned hb-2017 which passed the legislature mid 2017 will increase the state mile taxes by 25% starting in 2018, which is almost over, so I am not sure if that was true. This is a new acronym. Hvut, heavy vehicle use tax, okay, there we go. Is pegged that rate so the amount individual companies will pay in hvut to the city of Portland will rise because of the legislature's actions. I want to thank the staff and committees that have been working on this issue, including Michael tatae? And the pbot fixing our street manager, ty berry from the pbot financial services team and scott Karter from the omf tax division, all the members of the fixing our streets oversight committee and all the members of the Portland freight committee. I believe more than ample exploration of possible solutions has been done, and I support the direction as recommended. There are staff here, obviously, but I am a little confused since this is the second reading. Did anyone have any questions first off?

Fritz: I have one question. What's the next step? Presumably this is going to pass, but it does not fulfill what was promised to the voters, so are we going to take another look at methodology and see how to make sure the heavy vehicles pay their fair share?

Scott Karter, Revenue Division: I am not sure how to answer that question.

Fritz: Could you identify yourself, please?

Karter: I am Scott Karter with the revenue division. I am not sure what steps would be taken in the future to ensure that there's the.

Fritz: Let me rephrase that, would you be willing to ask the committee to work on this issue so by the time we renew the tax in 2020 there is a way to make sure the heavy vehicles pay their fair share?

Karter: Revenue division would be happy to be involved and use the resources available to us. I think that initiative would probably be directed by pbot. I would think.

Tyler Berry, Portland Bureau of Transportation: Ty berry, transportation bureau. This has been an eye-opening experience in terms of reviewing our original expectations about what came in with the tax. It is something that we continually review. To your question, yes. It is something that we will look to improve this process for the future.

Fritz: Thank you.

Wheeler: Any further questions? Commissioner Eudaly. Anything else? Very good. This is the second reading of an ordinance. We already had a presentation. We took testimony, please call the roll.

Eudaly: Thanks for being here and thanks again to everyone who worked on this item. I vote aye.

Fritz: In 2016, Commissioner Steve novick worked hard to pass this and it did not pass by very much and there was a voter's pamphlet statement, arguing in favor, titled lets pay our fair share and it was a q and a and one of the questions was will this tax heavy trucks? And the answer was that the city would, the measure includes a requirement that the city convene a committee to look at how to get heavy trucks to pay their fair share, and this voters pamphlet statement was signed not only by five members of the council at the time, mayor Charlie hales, commissioner nick Fish, commissioner Amanda Fritz, Steve novick and commissioner Saltzman, but also by state treasurer ted wheeler. So there will continue to be a majority of the council in 2019 that made a promise to the voters, and so I acknowledge that this has been a very challenging process and a very difficult puzzle to solve as to how to get heavy vehicles to pay their fair share, if we wanted to pass the renewal of this tax, which I believe that we have to, because even with the money coming in from the gas tax, we are not able to keep up with the wear and tear on the roads despite the very good efforts of the bureau of transportation and all the work that you do. We are not going to be able to pass it unless we make sure that the vehicles causing the most damage are paying their fair share. So with that I appreciate the willingness to look again

November 28 – 29, 2018

at the methodology. We have to fix this and so changing the goal of how much to get from the heavy vehicles before we have a fix doesn't seem prudent to me. So respectfully I vote no.

Saltzman: Well, I just want to -- I appreciate the work that the bureau of transportation and the revenue division have done, in trying to attain the \$10 million goal over four years, and just to point out that this is -- the tax still remains in place. The heavy vehicle use tax is still there. We are simply acknowledging that it will not yield \$10 million over four years without it a dramatic increase in the rate to the heavy vehicle truck community. So I am happy to support this and vote aye.

Wheeler: First of all I would like to thank commissioner Eudaly for bringing forward this technical amendment to the city code. This comes as a recommendation from the fix our streets oversight committee and I believe that it's a sensible compromise to reach the goals that the voters adopted with regard to this tax. This, in fact, is the committee that's referred to in the voter's pamphlet and in large measure, they are the ones who we have, we have asked to help us to define what constitutes a fair share and this is their recommendation to the city council. Last year I worked with the city council on build Portland, which is another way that the city is stepping forward to maintain our city and care for our roads and our bridges, and I believe that in a combined way efforts like these can help Portland be successful, where other cities continue to struggle because frankly our city comes together to solve the problems and I want to acknowledge what commissioner Fritz said in her respectful vote in opposition. I don't believe the work is done here. I think that there is more work to do here, and assuming we do want to go forward with the re-up we better have a very clear understanding and a clear answer for the voters in this community if we want them to support this kind of thing in the future. So I do believe that this technical amendment is entirely appropriate. I thank the committee for recommending it. I vote aye. The ordinance is adopted. Thank you. We are now back on track according to the large novelty clock in the back of the room. We will go back to item - - I am on the wrong page. If we could please go to item 1205.

Item 1205.

Wheeler: Director Severe you're up. Thank you for being here.

Constantin Severe, Director, Independent Police Review: Good morning members of council my name is Constantin Severe, director of the independent police review and it is my honor to present to you Kayla Wade as an applicant for service for three years on the citizen review committee. As you can see from her bio she's an incredibly qualified candidate, also someone who hits a lot of the goals that we strive for when we try to recruit individuals who serve on the crc. As you folks know the crc has a very important task in providing police accountability to the city. Crc hears a number of misconduct cases through the appeal function as well as making policy recommendations to this council, the police commissioner, and the city auditor, and Miss Wade's background both in her collegiate career and post-college shows and demonstrates an ability and a willingness to serve her community and as a bonus she's a native Oregonian, which there are not too many of us. Miss Wade, do you have something that you want to add?

Kayla Wade: Yeah. I prefer to, I prepared a brief statement. I want to say a healthy police force is an extension of its community. It's growing and improving alongside the citizens it serves by welcoming opportunities for open dialogue and constructive feedback, and I am extremely honored to have the opportunity to contribute to this communicative process by serving as a member of the citizen review committee and I'm dedicated to doing so with the utmost integrity and objectivity and look forward to engaging with both the Portland police bureau and the city of Portland as well as my fellow citizens as our community continues to evolve, and I want to sincerely thank the city council for considering me for this appointment.

November 28 – 29, 2018

Severe: One thing, and I would be remiss if I did not thank our outreach coordinator, Irene Konev, who is responsible for bringing us Miss Wade. At one point the citizen review committee had, I believe, at the time when it was nine members, had eight males on the committee, and through her efforts Ms. Konev to bring -- reaching out to more diverse communities, we've been able to, I think, as time has gone along, broadened the diversity on the committee, and actually improve the quality of the applicant's brought before the CRC because as you know the CRC and the function, there is a lot of difficulty in what the CRC has to deal with, and I am just really pleased that Miss Wade is willing to take this on for three years.

Wheeler: Colleagues, any questions or thoughts? Could I just ask one question? I was really impressed with the questionnaire that you filled out as you applied for this position. I was particularly struck by some of the volunteer work that you did at Dartmouth. Could you talk a bit about that and how that intersects with the work on the CRC? I thought that that was really interesting and I think that the public at large might be interested in that.

Wade: Yeah. One of the main reasons that I wanted to apply to this committee was because it really closely related to one particular volunteer, commitment that I had at Dartmouth, which was serving on the presidential steering committee, which was a committee comprised of students, faculty, staff, and alumni that was appointed by the president of the college to specifically look at high-risk issues affecting our campus, specifically high-risk drinking, issues of sexual assault and issues of exclusivity that were kind of affecting our campus in a negative way, so it was a group of, I believe, 12 members that were met on a weekly basis and worked really hard to look at evidence-based practices and met with experts across the country, and that our -- at other comparable schools to try to come up with specific and appropriate recommendations to the board of trustees to kind of move the campus forward and work towards building a better community there and that taught me a lot about maintaining objectivity and working with a wide array of people in order to work towards the greater good for our community, and I am really excited to take that experience and apply it to building a better community in my home state and in Portland.

Wheeler: Thank you. I appreciate that and I see a lot of intersects here just in terms of the types of issues, the serious nature of the issues, the controversy that can sometimes swirl around the kinds of issues that you mentioned in your testimony as well as your application, so I think that it will be a good fit, and I am appreciative that you are willing to step forward. Colleagues, anything further? This has been followed, is there any testimony?

Parsons: We had three people signed up.

Wheeler: Thank you very much.

Wheeler: Good morning.

Dan Handelman: Good morning Mayor and Commissioner, I am Dan Handelman with the Portland Cop Watch, and this seems like the same thing that we say every time that there is a nominee for the citizen review committee. We don't have any objection to the nomination of Miss Wade. She seems like she would be a good addition to the group, but, we have said repeatedly in the last several times we come before you, that the top age on the CRC at the time, the last time was 57 years old. The person who was 57, Michael Luna, just ended his term. So now there is not going to be a single member of the CRC over the age of 45. And this ordinance requires that this body reflect the diversity of the community, and I looked at some demographic information, and there should be at least three of the 11 members over the age of 50 according to the demographics. So this has been brought to the IP's attention and to your attention, and I am not saying that you should not appoint this person but I think that the next round of recruiting should be very deliberate about making sure that there is an age diversity on this panel. In fact, today none of the other

November 28 – 29, 2018

members of the crc except for Mr. Luna could go to the police review board hearing occurring today because they all have day jobs. And so sometimes it is helpful. And we used to come before the city council and complain that everybody was retirees and now the pendulum has swung too far the other way.

Fritz: Thank you for acknowledging that.

Handelman: On that matter the director mentioned there used to be only one or two women on the crc and now there will be seven out of the 11 members. It's great, you know, we need more equality and more women in these kinds of positions, but just again, that's a bit off balance from the reflection of the community. So I noticed that today's agenda item is being introduced by mayor wheeler instead of the auditor, I am not sure if there is any significance to that. We have been noticing that.

Fritz: It's a scrivener's error that was corrected.

Wheeler: It is the auditor. That was a mistake.

Handelman: Okay. I just want to bring up in terms of -- we have so few opportunities to talk about the ipr, crc structure, the auditor doesn't bring the ipr's annual reports before the council any more, we asked for that repeatedly. She's stopped going to crc meetings, the auditor, and she did not come to the October meeting even after a request because they asked for her to come to discuss the standard of review which they want to change. The ori group report that was heard earlier this year, I know mayor Wheeler I know it's your policy not to take testimony or reports but she could have requested that. It feels like there is some kind of disconnect between the auditor and the crc and the community. We talk -- if it's a problem that she doesn't like having the police in her portfolio, we talked about adding a change to the charter, so ipr is fully independent so it's not under any of your offices or her office. That's just something to think about for the future. I just want to make sure that all those issues are thought about whenever you have a chance to talk about ipr and crc.

Wheeler: And those dan are great comments and I know director severe is still here somewhere. I agree with you. I think it's very, very important that older adults be reflected in the committees and that I feel all the work, and we as a council to being an age friendly committee, and that includes not only economic and social engagement, but it also includes civic engagement, so I think that you are right to admonish us all to look for people intentionally who can help to fill that demographic void. I appreciate that. Just as an interesting aside, at the request, I believe, it was of crc, I meet with the chair and the co-chair on a regular basis and I find that interaction very, very helpful. So I appreciate you raising some of these issues. Good morning.

Maggie: Good morning. So I guess my concerns would be as stated on my form, is what her qualifications were and also if she is going against the police department on a certain decision say that would be unpopular or not liked by the police department, how would she hold up under that pressure? To make a finding in the favor of a community member who maybe was not treated well by the police department. How does she think that she would hold up under pressure from the police department if she is -- I don't know if she is, has been in the police department and she is not anymore or whether she has never been affiliated with the police department, or so that's, that's a question for anybody who is on an independent police review because a lot of times you have them skewing towards the police department unfairly. I want to say in regards to homeless people, disabled People, elderly people, people who are unfairly barred or exited from the very low standard shelters that we have in Portland you know, oftentimes they don't want to go into shelter because the shelters are so bad, but we have got a lot of people out in wheelchairs, and walkers and canes who are out, you know, and exposed to the elements, and either can't or don't want to get in shelter because the shelters are so bad, and they will be harassed by the police. There is a lot of police harassment, also, on the max, in certain areas there

November 28 – 29, 2018

is some dragnet areas down by -- like the, the bus depots and the greyhound and over by the couch and davis where they have the dining sisters of the road, and they will harass people down there, so I am wondering how she's going to deal with people who are homeless and are through no fault of their own, through a lot of, you know, poor service problems that we're having, in Portland for the homeless, how she's going to deal with that when those people are dealt with unfairly. That will be my question.

Wheeler: Very good and was there a third individual?

Parsons: He's speaking on another item.

Fritz: Just to respond to maggie's concerning, if there is in the record the responses to the questions and all candidates are asked, about their experiences with the police, whether they have worked or volunteered in the criminal justice system, which the answer was no, and have you ever participated in an organization that advocates a position regarding the police or criminal justice system. The answer was no, so I appreciate your questions. They have been answered.

Maggie: Okay.

Handelman: May I address one more thing I forgot to bring up? I understand that you mentioned that, or somebody mentioned, it was a director mentioned that the crc brings recommendations about policy changes to council. My understanding is that they tried to put their deadly force work group report on the council agenda earlier this month, and the auditor pulled it. So that's another example of something going on where there is a disconnect between the auditor and the crc, so just hoping that that's something you pay attention to.

Wheeler: Thank you both and appreciate it. Please call the roll.

Eudaly: I just wanted to share with our community members today and the public that the citizen review committee was a little bit about the citizen review committee. It was established in 2001 to help improve the police accountability, promote higher standards of police services, and increase the public confidence. Volunteer crc members are appointed by city council and they perform four primary functions, gather community concerns about the police services, help the ipr director develop policy recommendations to address the patterns of problems with police services and conduct, review and advise ipr and ia on the complaint handling process and hear appeals from the complainants and the officers and publicly report the findings. I want to thank Mr. Dan handelman, mayors, and commissioners come and go, but he remains and he is a wealth of information, and a one-man accountability mechanism for council, and I deeply appreciate his contribution of service and I often agree with him. I am going to say today, as far as the makeup of the committee, given -- oh, there you are. Given the historic makeup of many of our committees which does trend older and whiter and maler, I am not deeply concerned with the fact that this committee doesn't, but I will keep an eye on that because it really is ideal to have representative groups. It's only 11 people, so how representative we can get is a challenge. I want to thank director severe and irene and especially kayla wade. You have amazing experience and perspective to bring to this committee, and I am really excited to see what you and the whole committee is able to do together. I vote aye. And I do want to mention this is a full work day a week. This is no small commitment these people are making. It's seven to nine hours a week. A lot of us don't volunteer seven to nine hours a month or a year. So I want to thank everyone who is able to do that. It's really, it's really impressive. Okay. I am done.

Fritz: Thank you, miss wade, for being willing to serve, and thank you for coming back to Oregon and Portland after your spectacular academic career at Dartmouth and your service there. I note that you work for an Oregon state senator, you've been a neighborhood association. You have a small business. It's just a very impressive resume, and your willingness to serve is excellent. Thank you Irene Konev for doing the outreach

November 28 – 29, 2018

and director severe. I share Mr. handelman's concerns about getting the reports and the annual reports, the deadly force, change of policy recommendations coming to council, and I hope that we can have some more conversations about that and figure out a mechanism to make sure they do come to the council as required. I acknowledge that yes, it's a nice problem to have, to have too many young people and too many women on a committee. I do acknowledge you pointed out when we had too many old people and too many male people so you are an equal opportunity pointer out. Thank you for your constructive and evidence-based comments. Which are very welcome, and part of the accountability system. We continue to have a problem with public trust in our police, and the independent police review, and the citizens' review committee has to be a central part of that. We have to get the reports back to council, back to the public in a timely manner so that it's not six months, a year, even longer before we find out what happened on the next date and was when any accountable for actions taken that may not have been in line with the policy, were there any policy changes recommended if it was in line with the policy but things did not work out so that is your life experiences, your academic career, your business career, are going to be very helpful in helping all of the council as well as the auditor to find the right way forward to that, and thank you for your willingness to serve.
Aye.

Saltzman: Thank you, miss wade, I was impressed with your answers to the questions on the questionnaire. They were very well written and a lot of candor. So yeah, we are happy to have you, and I appreciate your willingness to put in the hours to do this very tough job. I also wanted to thank director severe for his leadership of ipr over the last many years and I want to especially thank Irene Konev for making doing her job too well in giving a diverse membership of the citizen review committee, but I think that that's great as my colleagues have said. And last I want to thank dan handelman for all of his advocacy, and I think as commissioner Eudaly said we come and go up here, but we can count on a consistent representative of cop watch to be here, dan handelman, and while I may not always agree with you Dan, I respect that you come prepared and you always raise thought provoking concerns about a lot of things that we do, so I appreciate that, as well. Pleased to vote aye.

Wheeler: Well, I could give the long speech or the short speech so I will give the short one today. First my only regret is that dan is too young to actually serve as an older guy. So he's out of the running. Number two with regard to miss wade, she will do great. You will do great. I really appreciate you bringing your skill set to this and stepping up, and I have every confidence you will approach this in the same way that she has approached her previous experiences, which is by looking at the evidence, looking at the data, and using your good judgment and as long as you do that, as I say, you will do great. And third but not least I want to point out that we have had this conversation today both about ipr and crc, and it is very important that I think we as a council continue to acknowledge policing in this city is not an autocracy, in fact there is citizen oversight and citizen engagement. We will, in a matter of hours, be having the very first meeting of pcccp, which is yet another group of qualified, highly engaged, experienced residents of the community who are coming together to provide yet another type of look at the policies and directives of the police bureau. And so all three of these bodies working separately and independently, I think, can only be is a good thing for our police bureau in terms of building the strength of the bureau and building the trust between the police and the community that the police serves. So Kayla, thank you very much for stepping forward. I am very, very personally grateful to you. Thank you. I vote aye. The resolution is adopted and the appointment is confirmed. Thank you. Congratulations.

Wade: Thank you.

November 28 – 29, 2018

Wheeler: We will move on to item 1211, and I know that Amy is here somewhere. There she is. And everybody you need is here? Is that correct? Very good. Come up. 1211.

Item 1211.

Wheeler: Colleagues this is supposed to be a second reading today as you're aware you've been informed that rather than doing the second reading and taking the final vote today I would like to offer an amendment, you might remember the presentation from representatives from my staff including Amy and others in the bureau of planning and sustainability two weeks ago that we had on this particular item. If adopted this ordinance would implement a buy request and ask first model in the city of Portland for single use plastic items which would include straws, stirrers, utensils and condiment packaging. Today I would like to propose an amendment that would include plastic straws, stirrers, utensils and condiment packaging to both the ask first and by request directives of the policy. Previously the buy request dine-in part of the ordinance had only straws and stirrers, and the first ask part only focused on utensils and plastic condiment packets. Following the first reading of the ordinance my staff and the bureau of planning and sustainability leads worked with and listened to various stakeholders in the community from the business community, from the advocacy community, and determined that straws should be included in this policy directive for dine-out and delivery services. The only criticism of the policies that it doesn't go far enough quickly enough. Including all identified plastic service-ware in both parts of the ordinance will hopefully alleviate these concerns. I move, therefore, to amend the definition of plastic service-ware, electronic orders and fast food found in city code 17.103.300 under definitions for restrictions on single use plastic service-ware. In addition the identified plastic service-ware, straws, stirrers and utensils and condiment packaging will be included for both the buy request and the ask first aspects of this policy. This will ensure these additional materials are targeted in dine-in, fast food, takeout and delivery scenarios and it will help the policy to achieve its goal in reducing plastic and single use disposable waste in the city of Portland. Can I get a second, please?

Saltzman: Second.

Wheeler: We have a motion and second. Discussion.

Fritz: Do you have it written out anywhere, please? Could you pass it? Do you have copies?

Amy: I have a copy.

Saltzman: I was curious, how does this affect like the cafeterias? And I can't really think of too many cafeterias off hand but I know like standard insurance has a cafeteria.

Pete Chism-Winfield, Bureau of Planning and Sustainability: So Pete Chism-Winfield bps commissioner Saltzman that's a good question. We actually have engaged with a couple of institutional organizations that have cafeterias including ohsu and pps. So they have cafeterias. There are a variety of types of cafeterias which would be involved in this, and so we are looking to make sure that they have the opportunity to -- and they are able to engage in this reduction of single use plastics and actually pps said to me this morning that Aaron, the sustainability manager said that whether or not this passes they are going to be doing this anyway. So they are very much engaged in, and ready to go.

Fritz: In comparing this with the last one, there is a change that's not highlighted, which is what was requested in 103. 310b because we had the person who testified about utensils so that's now changed but not highlighted in this. So it's consistent, I believe, with what the mayor just said. Taking out utensils and condiment packaging changed the -- that section to just plastic service-ware which was defined earlier as everything. Correct?

Chism-Winfield: Just for clarification, the plastic service-ware, which includes in the definition of plastic service ware utensils is included and utensils is also defined in there to be more specific around forks, spoons and knives and chopsticks. Per the conversation that we had on the 14th.

November 28 – 29, 2018

Fritz: So what your motion is to substitute this new exhibit a.

Chism-Winfield: That's correct.

Fritz: Which is -- I suggest a friendly amendment to have this substitute because what you said is not what this is.

Wheeler: Can I get a legal counsel interpretation, I'm happy to do a substitute?

Lauren King, Deputy City Attorney: I apologize. This is the first time just now that I am seeing the language and I am having a hard time, I think, having a concern as commissioner Fritz is having tracking what the amendment exactly is. I understand the policy intent, so I just want to make sure that I am clear on what the actual legislative changes are. What commissioner Fritz just handed me is a new definition, and correct me if I am misunderstanding, a new set of definitions for all of 17.103.300, that are being introduced today. And --

Chism-Winfield: There are some additions to that definition, yes and one of the additions would be the utensils at the end of the definition.

King: So a strike and replace previously to include this whole new highlighted section?

Fritz: Yes. And 17.103.310b also is changed and that's not highlighted.

King: And that's new. So it's, so what I have here is a substitute exhibit, and we are just moving to substitute the entire exhibit because that reflects the policy as commissioner wheeler described?

Wheeler: I have no objections unless staff has objections.

Chism-Winfield: So -- the removal of the utensils was not intended to remove that from section b. It was actually intended to be incorporated into service-ware. Either way I think that it's acceptable.

Fritz: I am trying to make it so that we can pass this and pass it next week and instead of doing the specific wording, which explains what we are doing, just substitute the new exhibit a which will be available for public review and it does what the mayor just said.

King: Would you like to have a look at what this is and make sure that it's consistent with what -- with the amendment? I don't know where this came From.

Amy: The new changes were accepted. Yeah. Could i?

Chism-Winfield: Thank seems acceptable.

Amy: Yeah.

*****: Okay.

King: So then it would be just a motion to substitute.

Wheeler: Motion to substitute.

Amy: Yep.

Wheeler: Very good.

Fritz: Second.

Wheeler: Very good. Any further questions or conversations?

Saltzman: Just one more question.

Wheeler: Commissioner Saltzman.

Saltzman: I heard you mention chopsticks, aren't they made out of wood?

Chism-Winfield: Well, I think that most are made out of wood, but some are made out of plastic, and most of the chopsticks made out of plastic are assumed to be reusable, but, you know, we just figured that became a single use item or if it is, we want to make sure that's in the definition of utensils. I don't think it's common.

Saltzman: So wooden chopsticks are okay.

Chism-Winfield: This is only about plastic items.

Fritz: My favorite ty place has the plastic chopsticks, which are reusable, in case you don't have to ask your server to get the chopsticks and that would no longer be okay?

Chism-Winfield: It would be -- I would interpret that as being reusable and not a single use. That would be fine.

November 28 – 29, 2018

Fritz: So as long as I can get my chopsticks back.

Chism-Winfield: Fair.

Wheeler: I think the noodles are safe for another Day. We will take a vote on the substitute, please call the roll.

Eudaly: Aye. **Fritz:** Aye. **Saltzman:** Aye.

Wheeler: Aye. The substitute is adopted. This is a, the equivalent of a first reading and moves to second reading as substituted. Thank you.

Parsons: We did have someone who wanted to testify, I believe, on the amendment.

Fritz: Which we have too.

Wheeler: We do have to do that, and I apologize. Please come on up.

Fritz: We just unvoted.

Wheeler: We unvoted, who said time travel is not possible. Welcome. Thank you.

Ryan Cruse: Thank you. Members of the council, my name is Ryan cruse and I am actually a staff for the Surfrider foundation, I had the pleasure of sitting here about ten years ago in a bad monster costume. I was a volunteer with the Portland chapter.

Fritz: Oh, that was you.

Cruse: I am honored to be back here and I am here speaking on behalf of our Portland chapter who could not be here today because they were all volunteers and they are working their day jobs. So I am honored to do that and I have a prepared statement that I would like to read. So the Portland chapter Surfrider foundation fully supports the amendments and the policy intent to the single use plastic service-ware policy, these amendments bring the ordinance into alignment with the original policy that came out of the plastic reduction working group and is closer to the policy requested at the start of the process. Fully including fast food, takeout and delivery in this ordinance is imperative to reaching the waste reduction and environmental protection goals in addition to transitioning more than 120 businesses away from the single use plastic straws. Our Portland chapter holds cleanups throughout the city of Portland. We find straws at each of those cleanups, many coming from fast food and takeout restaurants so this is you know, this is why this is, this amendment is very important to us. Our ditch the straw pdx businesses have seen substantial cost savings, positive customer feedback and reductions in the amount of service-ware used, and so scaling these reductions up to the 6,000 food service businesses, this ordinance could literally prevent millions of single use plastic items from entering the stream, which we are very excited about. This policy as amended would be the first comprehensive ask first policy, and that includes fast food for a city of this size, so that's great that we are all, you know, working together to break ground here. And we would like to thank the city council for the directive on this issue, staff and fellow work group members for developing the policy and the businesses and volunteers participating in the ditch the straw program showing that a policy such as this can have positive fiscal and environmental impacts and the Portland chapter, of course, looks forward to continuing to work with the city on this issue.

Wheeler: Excellent. Thank you.

Fritz: I was going to say thank you for not swamping me with single use emails on this issue.

Cruse: You are welcome.

Wheeler: That's great. Legal counsel just to clean this up should we retake the vote or do we need to since he testified?

King: I don't think you do.

Wheeler: Very good. My apologies. Thank you very much for your testimony. Thanks for being here. So we have moved that to second reading. Next item will be 1213.

Item 1213.

November 28 – 29, 2018

Wheeler: This is a second read, we have taken testimony and heard a presentation, and any further discussions on this item? Please call the roll.

Eudaly: Aye. **Fritz:** Aye. **Saltzman:** Aye.

Wheeler: Aye. The ordinance is adopted. Thank you. Last item is item 1214.

Item 1214.

Wheeler: Commissioner Fritz.

Fritz: Thank you mayor first I want to thank you for attending the legislative town hall meeting with dozens of interested people, equally engaging and thank Teresa Elliott, the chief engineer for doing these projects which we don't get a lot of active engagement from the community except if it doesn't go well, so it will go well. This action will authorize the contracts to reconstruct a water main in the jantzen beach area. Although the water is flowing through the main is safe for the pipes, it needs to be replaced to keep our workers safe and Teresa Elliot the chief engineer for the water bureau will provide more background information.

Teresa Elliott, Portland Water Bureau: Thank you commissioner and mayors and other commissioners. I am Teresa Elliott, chief engineer, Portland water bureau and I am here asking for your authorization to solicit the bids and to authorize the payment for a construction contract using the city's formal competitive low-bid process. This project is on jantzen beach, an area that we annexed in the 80s, and doesn't meet the city standards, and the waterlines are much older material that we don't use in the system any longer. And we are planning to replace basically five fire hydrants that are not meeting current codes or flow pressure, nine services and approximately 2,000 feet of asbestos pipe. We will be bringing the fire services and domestic services up to current code, also. Construction is anticipated to be done this summer, we will be advertising this spring and construction will be following this fall with completion in 2020. We have got it in the current budget for this fiscal year and will be asking for additional funding in the fiscal year 19-20 budget, as well. As commissioner Fritz mentioned we are estimating the contract to be when \$1,010,000 and we have a high confidence level, at 90% design right now. My biggest risk is whether or not there is going to be enough contractors to bid for the work. Otherwise I don't anticipate any big controversies on the project. I am free to take questions for you.

Wheeler: Any questions? Any public testimony on this item?

Parsons: Lightning would like to speak.

Wheeler: Very good. Thank you for your presentation. Good morning.

Lightning: Good morning. My name is lightning I represent lightning super creativity xx1 pdx. I don't have any problem on the bidding process. I don't have any problem with you replacing the line. I have a big problem with you not offering disclaimers on anyone that had any water that was going through this line. My position is on this asbestos concrete pipe that you acquired and now you are at full liability and responsibility as the new owner, is that in my opinion I would like to have the epa coming in immediately on this to test for any asbestos fibers on this line, I would like to have all data in the last five years on this line. I would like everybody who is drinking water from this line to have a letter sent to them to contact their doctors and to be aware that the line that was currently in supplying you water is an asbestos concrete pipe. Again, you have a right to understand what the fibers are, as far as on the testing, you have a right to know if this line in any way was jeopardized. Is not in good operating condition. You have a right to understand the effects of drinking water through a line which is asbestos concrete. You have every right to know that. You should know that. The city needs to make you aware of this and understand this line is being replaced because it is a human health hazard at this time. It should not have been remained when you took this over. It should have been removed immediately, and again, to the epa, I am asking you to come in, I am asking you to make sure updated and current tests are done, and I am asking you to make sure that everyone involved drinking

November 28 – 29, 2018

any water from this line is made aware of the situation and to contact their doctors. Exposure asbestos via drinking water may result in cancer of the esophagus, stomach, and the intestines. Again, we need to have mortality rate data. Is there a higher percentage in the jantzen beach area around the boat owners there, houseboat owners? I want to have data. I want to have this data from your doctors. You need to understand this line should have never been put in there. This line is against public safety standards and I want to have reports on the asbestos fibers and what the amount, that was coming through this line is. And what it's been in the last five years. And I want to know what the standards for the city on allowing anybody to drink out of an asbestos line such as this, what is your standard? What you think is safe for the public, especially if you are a young baby, a mother that has a young baby and hasn't had a disclaimer provided to her. I want to know what the city has done for these poor victims in my opinion of what happened here.

Wheeler: Thank you.

Lightning: Did you disclaim anything to these poor victims?

Fritz: If you stop talking we can get when.

Lightning: I would like to hear your answer, commissioner Fritz.

Fritz: I would like you to.

Lightning: I would like to hear your answer being an ex medical professional.

Wheeler: That's why we have the staffers, let's come on up and get some answers. Hello again.

Elliot: I am Teresa Elliott still. Some of the information that lightning is asking for I would have to go back and get I don't have that data here. I can tell you that when the line was put in it met the current standards. It does not meet the current standards today. As far as data, I don't know if we have that data or not and we can find out. What else.

Fritz: My understanding is that the water has been tested as safe, it's when the workers are working on the pipes that the main risk is to the workers and that's one of the reasons that just as we had the discussion about lead, the standard has changed.

Elliot: That is my understanding is that when asbestos pipe is dry, and being worked on doing pipe cutting or removing, that's when there is a hazard, and it's a worker hazard. I have not heard of the drinking water standard. The drinking water standard that was raised by lightning. I would have to check that.

Wheeler: I will have to go to Italy in person by the way to see that.

Elliot: I would like to that, too. If the commissioner would approve the travel.

Wheeler: Thank you for the explanation.

Eudaly: I might be the only Italian on council so I might get first dibs on that.

Wheeler: Very well. That seems entirely fair. Thank you for the clarification. I think that he raised interesting questions and I appreciate your answers to those. So this is a first reading of a non-emergency ordinance. It moves to second reading. [gavel pounded]

Wheeler: We are adjourned, we do not have an afternoon session. We will be reconvening at 2:00p.m. on Thursday for a land use hearing.

At 10:50 a.m. council recessed

November 28 – 29, 2018
Closed Caption File of Portland City Council Meeting

This file was produced through the closed captioning process for the televised City Council broadcast and should not be considered a verbatim transcript.

Key: ***** means unidentified speaker.

November 29, 2018 2:00 PM

Saltzman: The 2:00 p.m. city council meeting on November 29th. Sue do you want to call the roll?

Eudaly: Here. **Fritz:** Here. **Fish:** **Saltzman:** Here. **Wheeler:**

Saltzman: Okay, we will start with our standard city attorney greeting.

Lauren King, Deputy City Attorney: Have a lot to say today. Welcome to Portland city council. City council represents all Portlanders and meets do the city's business. Presiding officer preserves order and decorum during city council meetings so everyone can feel welcome, comfortable, respected and safe. To participate in city council meetings you may sign up in advance with the council clerks office for communications to briefly speak about any subject. You may also sign up for public testimony on resolutions or first readings of ordinances. Your testimony should address the matter being considered at the time. When testifying please state your name for the record. Your address is not necessary. Please disclose if you're a lobbyist. If you are representing an organization please identify it. The presiding officer determines length of testimony. Individuals generally have three minutes to testify unless otherwise stated. When you have 30 seconds left a yellow light goes on, when your time is done a red light goes on. If you are in the audience and would like to show support for something that is said please feel free to do thumbs up. If you want to express you do not support something please feel free to do thumbs down. Disruptive conduct such as shouting or interrupting testimony or council deliberations will not be allowed. If there are disruptions a warning will be given that further disruption may result in the person being ejected for the remainder of the meeting. After being ejected a person who fails to leave the meeting is subject to arrest for trespass. Thank you for helping your fellow Portlanders feel welcome, comfortable, respected and safe, ok now the land use.

Saltzman: Ok thank you, Sue first we'll read the item and then I'll turn it back over to you.

Item 15.

Saltzman: Okay our city attorney will make some opening remarks

King: Thank you. This is an on the record hearing. This means you must limit your testimony to material and issues in the record. We will begin with the staff report by the bureau of development services staff for approximately ten minutes. Following the staff report city council will hear from interested persons in the following order. We have two appellants today so it's a little bit of a different order. The appellant 1 will go first and will have ten minutes. Appellant 2 will then go and have ten minutes. Supporters of the appellants will then have three minutes each and then the principal opponent, the applicant here will have 30 minutes and other opponents will have three minutes each. Then appellant 1 will get a rebuttal for five minutes, appellant 2 will get a rebuttal for five minutes and then we'll move to council discussion. Again, I would like to announce several guidelines for those who will be addressing council today. Again this is an on the record hearing. This hearing is to decide only if the landmarks commission made the correct decision based on the evidence that was presented to it. This means that you must limit your remarks to arguments based on the record compiled by the landmarks commission. You may refer to evidence that was previously submitted to the landmarks commission. You may not submit new evidence today that was not submitted to the landmarks

November 28 – 29, 2018

commission and if your argument includes new evidence or issues you may be interrupted and reminded you must limit your testimony to the record. The council will not consider the new information and it will be rejected in the city councils final decision. Objections to new evidence, if you believe a person who addressed the city council today improperly presented new evidence or presented a legal argument that relies on evidence that is not in the record you may object to that argument. Objections to new issues. Finally under state law only issues that were raised before the landmarks commission may be raised in this appeal to city council. If you believe another person has raised issues today that were not raised before the landmarks commission you may object to the councils consideration of that issue. The applicant must identify any constitutional challenges to the conditions of approval. Additionally if the applicant fails to raise constitutional or other issues relating to proposed conditions of approval with enough specificity to allow the council to respond the applicant will be precluded from bringing damages in circuit court, that's it.

Saltzman: That's it? Ok great. Do any members of council wish to declare a conflict of interest? No council members have a conflict of interest. Do any members of council have ex parte contacts to declare or information gathered outside of this hearing to disclose?

Fritz: I have a specific not ex parte contact to disclose. I met with historic landmarks commissioner Wendy Chung on April 5th of this year. We did not discuss the specifics of this case.

Saltzman: Okay. Does anyone in council chambers wish to ask commissioner Fritz about this contact with commissioner Wendy Chung? Have any members of council made any visits to the site involved in this matter?

Fritz: I must have walked past it at least once or twice but I did not specifically for purposes of this.

Saltzman: Ok, no site visits involved by council members and now we'll begin the staff report for ten minutes.

Grace Jeffreys, Bureau of Development Services: Good afternoon, commissioners my name is grace Jeffreys, I'm city planner with the bureau of development services.

Saltzman: Sue could you set the clock for ten minutes, please?

Jeffreys: Today I'll be providing basic context for this proposal for block 126 apartments at 1727 northwest Hoyt and summarizing the final findings and decision of approval by the historic landmarks commission. My presentation includes a run through of the context, then more in depth review of the proposal and finally a quick description of the appeals. First the context. So, the subject site is located in northwest Portland in the northwest plan district and alphabet historic district. The site is zoned rh, which is short for high density residential because the site lies within alphabet historic district it has a historic resource protection overlay. Directly on the site lies the Buck-Prager building indicated in solid red, which is considered a contributing resource to the district. Historic resources close by include to the north and south of the site across northwest Hoyt and Irving are individually listed landmark structures that's indicated by the brown dots. To the west of the site across northwest 18th are contributing resources indicated by blue shading, noncontributing development is indicated in yellow. So zoning allowances for this site include a base floor area ratio or far of maximum of 4-1. For proposals meeting inclusionary housing requirements a far of up to 5-1 is allowed. The proposal is under that at 3.6-1. The maximum allowed height is 75 feet and the proposal is also well under that at 58 feet. Just as a note this proposal is also subject to inclusionary housing requirements under code chapter 33.245, inclusionary housing. This chapter requires new buildings with 20 or more dwelling units and alterations to existing buildings that add 20 or more dwelling units to afford affordable dwelling units at the prescribed rates. Adjacent to the site the northeast corner of the block is zoned eg1 which is general employment. It has a different zoning allowance than the rh zone. A modification is requested to landscaping setback for the

November 28 – 29, 2018

proposed loading space adjacent to this property. I'll speak more about this modification in a later slide, but just so you know the zoning allowances for this site include an FAR of 3-1 and height of 45 feet. There's also required site setbacks which vary from five to 14 feet depending on size of the building wall and there's required landscape buffers at side lot lines of five feet of L3 if the wall is less than 50 feet high and 10 feet of L3 then the wall is over 16 feet in height. This land use review consists of three parts each with its own approval criteria. For the historic resource review the approval criteria are the community design guidelines and the historic alphabet district community guidelines addendum which is located in appendix I of the community side guidelines. These documents are separate from the zoning code but referred to in zoning section 33.846.060 e1 c. For the two requested modifications the approval criteria are found in code section 33.846.070 modifications considered during historic resource review and further requested adjustment the approval criteria section 33.805.040. Here's a brief overview of the site, the total site area is 20,000 square feet. There's an existing building, the Buck-Prager on the site. There's also an existing one-story structure to the north of it which will be demolished. Two surface parking areas, one on the north end and one on the south end of the lot. It has three street frontages, it has a 200 feet frontage on northwest 18th and half block frontage of 100 feet on Hoyt and on Irving. I'm going to take you through the context really quick just to get a feel for what is there on site now, this is a view of the southwest end of the site from the corner of northwest 18th and Hoyt. You can see the painted brick front of the Buck-Prager building facing northwest 18th and its exposed red brick side facing the existing surface parking lot to the south. This is a view from northwest Hoyt showing that side elevation of the Buck-Prager beyond surface parking and to the right you can see adjacent residents east along northwest Hoyt. This is a view of individual listed landmark houses across northwest Hoyt from the site which are part of the Trenkmann houses group. Here's the view north on northwest 18th showing the first Norwegian-Danish church across from north 18th from the site which is considered a contributing resource. This is a view of the northwest end of the site from the corner of northwest 18th and Irving. You can see the existing one story wood framed multi-dwelling building which will be demolished to the north of the Buck-Prager building. This also shows the existing surface parking lot at the north end of the site. This is a view of the individual listed landmark houses across northwest Irving from the site which are part of the Couch family investment development. This is a view of the individually listed landmark houses across and down northwest Irving from the site, the Campbell townhouses. This is a view west on Irving showing the existing one story commercial structure to the east of the site which as noted earlier is zoned eg1. Now I'll give a brief overview of the proposal. First a bit of land use history there was a previous land use decision by city council for the site. In 2014 city council denied a type 4 demolition review for demolition of the Buck-Prager building, the existing contributing resource on the site. The top drawing shows that proposal with an overlay with the current proposal shown with a red dotted line. Project history for this current proposal three voluntary design advice request meetings were held with the historic landmarks commission. The applicant was very responsive to feedback, undertook numerous changes to the proposal including revisions to massing, height and design refinements to better respond to Buck-Prager as well as the surrounding neighborhood on the district character. So the proposed development includes three structures. There is five plus story north building, that's the building in red brick. There's the Buck-Prager renovation that's the building that's in a light cream color and then to its right is the four story south addition to the buck-Prager. This structure is considered an addition because there are internal connections to the Buck-Prager so those two buildings to the right will work together there are openings between them and they function as one building so it's considered an addition whereas the north building has no connections to this building so it's considered

November 28 – 29, 2018

new development. Additional reviews include a modification of the bike parking spaces. This a common supportive modification that reduces required spacing between long term bike parks space from two feet to one foot six inches and to provide nonlockable bike racks within the dwelling units. Second modification is to omit the required five feet of L2 landscape screening buffer required between the loading space and the adjacent eg1 property off northwest Irving. It's important to note this is only for the work required landscape set back at the loading space shown in the red arrow on the dotted line so just a short part of that frontage. The new buildings themselves meet the required side set back minimums, so they're placed the right distance away and landscape is providing the remaining length of the property line. The top image shows the concrete sidewalk while the neighboring one story commercial building adjacent to the proposed loading area. This is a blowup of that area just to show that there's actually a required five foot pedestrian pathway as well as the nine foot required loading space throughout that area, so it's a very tight area. There's additional non-required landscape noted close by along the frontage on Irving. Also adjustment requested to the number of loading spaces from two standard b spaces on the site to one standard b space. The code asks for residential development 100 units or less requires one type b loading space because there's 100 units in the north building shown in orange the loading space is propose to serve that population. The adjustment was requested to not provide on-site loading space for the 48 units in the Buck-Prager and the south addition shown in blue because this proposal is for senior housing studio apartments. Pbot found that these types of units have a much lower turnover rate and being studios not as much to move in and out. Also pbot's view of on-site type b loading spaces has been involving and their experience has been that most are not being used for loading but as trash and recycling has curb cut to wheel out the dumpsters. The curb cut for a type b space is ten feet wide with six feet wide commercial wings. This results in a 22 foot curb space that is permanently lost for private use. Pbot would rather have control over how the curb zone is managed and by allowing an on street loading space they can assign the hours so its available to residents and visitors during peak times, that was supported by bds and pbot. The Portland landmarks commission voted 5-1 to approve this land use review. Now onto the appeal the landmark commission's decision of approval with conditions was appealed by two parties bot appellants cite six guidelines as not being met and five procedural issues. Guidelines all speak to the proposal's response to its surrounding context. In the final findings and decision summery the historic landmarks commission found the proposed development would retain and preserve the Buck-Prager a contributing resource in the alphabet historic district and resulting multiple building frontage wide fine green scale to the block which is a desired characteristic of historic development in the district and the red arrow points to buck-prager. Now that there's five procedural issues raised by the appellant I have a response to each of those. It looks like I might run out of time. Maybe.

Saltzman: Go ahead.

Jeffreys: Okay. I might go over my time. The application was declared complete when guideline p1 had not been addressed. So bds response is that deeming an application complete does not mean a closed record it means that enough information has been provided on the drawings to begin a full review of application. Further information can and usually is submitted after an application is deemed complete there's approximately a 51 day period after completeness to a type 3 hearing and it would be an unworkable process if further information was not allowed after application was deemed complete. The second procedural issue, the hierarchy of regulations was not followed. Bds's response is that the city's hierarchy of regulations gives guidance where regulations conflict. In this case however the landmarks commission found no conflict between the historic overlay zone and the base allowances existed. Three, an incomplete history of the site was provided.

November 28 – 29, 2018

Bds's response is this review regarding the type 4 demolition review this review was mentioned in the final findings. The design advice request summary notes and the staff presentation to the landmarks commission. In depth findings of that review were not replicated in these final findings because unlike that review this was for demolition of the buck-prager. However this proposal keeps that structure.

Saltzman: Could you put back the screen with the appeal conditions?

Jeffreys: Sorry?

Saltzman: Can you move back, yes.

Jeffreys: Is that one okay?

*****: Next one.

Jeffreys: Would you like the image of the appeal?

Saltzman: No, I think you inadvertently went to the questions screen before you ran through you..

Jeffreys: That is good? Sorry about that. Thank you. So I'm still on number 3, regarding the adjacent historic structures there are no directly adjacent structures to this proposal however there are as I pointed out numerous contributing landmark structures across the streets. These are noted under the analysis in the final findings and in the staff presentation to the landmarks commission. They are also referred to under specific findings such as under the historic alphabet district number two differentiate new from old. Number four, public comments addressing approval criteria were not acknowledged or evaluated. Bds's response is that the neighborhood review section of the final findings lists the letters received prior to issue of the staff report. In response to the letters which reference the guidelines rather than repeat detailed findings again in this section of the report the findings were cross referenced instead. Staff response also notes the following items are not relevant to approval criteria, that includes the type of the housing, the amount of parking and density. Number five, harassment of one historic landmarks commissioner adversely affected the proceedings. Bds's response is that at the historic resource review hearings commissioners confirmed that they were able to make a fair and impartial decision. No concerns were voiced by the commission about being able to discuss the proposal freely and no mention was made about the inability to apply the applicable approval criteria. So, your alternatives facing you, you can deny the appeal and uphold the historic landmarks commission to approve the land use review. You can deny the appeal, uphold the commission decision to approve with additional conditions of approval, the land use review. You can grant the appeal and overturn the historic landmark commission's decision to approve the land use review thereby denying the proposal and that concludes my presentation. Do you have questions for me?

Saltzman: Questions?

Fritz: Thank you for your presentation that makes it much clearer than just reading the hearings officer's decision and the evidence in the record. Regarding the loading spaces, on page 21 of the decision, it says the purpose of the standard for two loading spaces a minimum is required to ensure adequate areas for loading of large uses and developments and then the findings say that development such as this affordable senior housing consisting of studio apartments tend to have minimal apartment turnover and less need for unloading larger furniture but we don't have any conditions of approval saying it's going to be affordable senior housing.

Jeffreys: Right. That is something that staff added. This was an affordable project put forward, so those findings would stand whether or not the term affordable is in there because pbot's findings really spoke about the size of the units not the type of housing. They are are very small senior units whether it's a small a or a big a they are very small so they are affordable or they are affordable in terms of being supplemented by the housing bureau. So affordable is more along the lines of their small units, residents who live in

November 28 – 29, 2018

those type of units don't have a lot of belongings because they are small. So move in and move out pbot found really wasn't, they felt by putting that type b loading space actually was more detrimental as I read through their findings. They found it took away more curb space.

Fritz: But then where will the apartments have their recycling and trash?

Jeffreys: Recycling and trash are within the building itself. Every floor in the building has a trash room and so on trash day I would think the building management would then move that trash out to the street. They are required by zoning code to have trash and recycling within the building.

Fritz: Ok, and then on the bicycle rack modification, if these apartments are going to be for seniors isn't that going to be difficult for them to be lifting the bikes up and down to have a staggered bike parking?

Jeffreys: I don't have the drawings in front of me, however, this is for the in unit, the in unit rack. Most units have in-unit racks so there's an elevator that would take people up to their units.

Fritz: There's a rack and they're supposed to be two feet apart and they are going to be one foot six inch. Do we have somebody from pbot here today?

Jeffreys: I don't believe we do. However it's a pretty common modification that we make --

Fritz: I know I've seen it on multiple occasions and every time I'm like why do we have a standard of two feet if we're going to make it one foot six inches every single time.

Jeffreys: That's a great point.

Fritz: In this particular instance if these apartments are going to be mostly used by seniors it's even more difficult for those folks to be able to lift their bikes up to get it on the rack.

Jeffreys: Right. Our zoning code allows vertical racks, so this is just the spacing between racks, so when they put vertical racks, they are allowed to have vertical racks our zoning code allows it. The space is really just what we ask instead of having the two racks equal they have to stagger them, but they are allowed to do vertical racks at the two foot spacing but they have to be staggered so the handlebars don't hit each other.

Fritz: Perhaps I could have a conversation with the applicant about why they chose to have racks that are going to be more difficult to use rather than racks at the standard width and fewer of them.

Jeffreys: Right.

Fritz: Thank you.

Jeffreys: Okay.

Eudaly: I have a quick question. I just want to make sure I'm clear, you mentioned a commercial building adjacent to this development that has eg1 zoning. Could you explain what ed1 is and what the far and height limits on that are?

Jeffreys: Eg1 is general employment 1 and sorry I'll find that. The far for that northeast block of that site is 3-1 and the height is 45 feet.

Eudaly: And where is it in relation to the?

Jeffreys: Here's a picture of it. That's the face that goes away from this.

Eudaly: So it's on --

Jeffreys: It's on the corner of Irving and 17th.

Eudaly: 17th.

Jeffreys: Yes. I know I have a diagram here. I apologize. [speaking simultaneously] do you see how the eg1 zone cuts into the site? That's where that one-story existing building is located it could be redeveloped or it could stay the way it is.

Eudaly: Solves my question cause I was a little confused about the modification with the greenery.

Jeffreys: The landscape adjacent to it.

Eudaly: Could I see that photo again?

November 28 – 29, 2018

Jeffreys: That's the area, the loading space is shown in orangish yellow and the red dotted line kind of swoops around that area. So, the zoning code requires a five foot landscape setback in that zone between this and the adjacent property.

Eudaly: Oh, the adjacent property. Okay.

Jeffreys: Here's a blowup of that, what happens in that zone. In that zone is that nine foot loading space and then there's a required five foot pedestrian hard path to access the back of the building.

Eudaly: Okay.

Jeffreys: It's a tight area. The remaining property line, the length of it, does have landscaping, but it's just this little top corner.

Eudaly: I was disoriented when you were going through this slide. Now I totally get it. Thank you.

Jeffreys: I apologize.

Fritz: I had the same question. So thank you for asking it.

Saltzman: If there's no further questions we'll hear from appellant one, which will be the northwest district association. When you're speaking give us your name and then you have a combined ten minutes and I believe there's a clock right in front of you there.

*******:** Sorry, I'm out of practice.

Greg Theisen: Commissioners, I'm Greg Theisen, co-chair of the northwest district association planning committee. Affordable housing and historic preservation are not mutually exclusive we're here to tell you we support high density housing throughout northwest Portland. City council is responsible for supporting affordable housing and protecting historic resources, which is the dilemma of the case you have in front of you here today and we believe you can balance these goals and that by doing so will ensure integrity, livability and the continued special character of Portland. And in the context of the housing crisis, that is ten years in the making, nwda is proud to have supported the over 35 new housing units that have been built in the neighborhood since 2010. This is more housing units than any other neighborhood by far including our neighbors to the east in the pearl district. From Everett and 14th, Glisan and 19th, Johnson and 19th to slab town we worked to preserve historic resources and allow high density housing.

JoZell Johnson: Today we're going to give you

Saltzman: Could you give us your name please.

Johnson: Oh sorry JoZell Johnson, I'm a direct neighbor and also part of the nwda, secretary. Today we're going to look at the overview of what we're telling you about our neighborhood, the criteria, the errors and the conditions. First I want to talk to you about our neighborhood. It's a unique neighborhood because it's the first area in Portland that actually rental houses and investments houses were made so the fancy mansions on 19th came and gone but the couch additions that they invested in actually remain. As you look at the pages here, each of the blue lots is an historic lot. The red houses are individually listed or contributing to the alphabet district. If we walk down our neighborhood much of what was in the 1800s at the end of the last century still remain. We have the couch additions, the only brick townhouses in Portland, which are the Campbell townhomes, looking down 18th to the south we again see things that we would have seen in our historic area. The picture on the lower left is actually the lane of laying of the cornerstone to the blue church. Those are the trenkmann houses that you see actually directly in front of the units. What we also have there is the Morrison investment homes that wrap around that are directly adjacent to the property. So one of the things we want to be real clear, historically the northwest has been the most dense residential neighborhood not only in Portland but in all of Oregon. We are the largest concentration of individually listed properties in these six blocks, and this proposal would present overly large buildings that go right through the middle of this historic area.

November 28 – 29, 2018

Jessica Richmond: I'm Jessica Richmond, I'm a member of the northwest district association. I have owned and lived in a condo a block from the site for more than 30 years. I'm also a city planner and retired a few years ago as some of you remember after working nearly 30 years for the city and writing many of the regulations you administer. We request you deny this proposal because approval criteria are not met. I'm going to go through, oops wrong direction sorry. I'm going to go through some approval criteria very quickly. Historic alphabet district guideline two differentiate from all the text of the guidelines in front of you. This is not met because the new structures are way out of scale with nearby buildings and have other incompatible features listed on the slide. The findings do not even mention the 13 adjacent structures that are individually listed on the national register and called out in the context statement for this district as shown on your screens. Historic alphabet district guideline three, hierarchy of compatibility. The guidelines on your screen calls first for compatibility with the original resource, in this case the Buck-Prager building, second with adjacent properties and finally with the rest the district. It's not clear whether new development has to meet this hierarchy, however, that doesn't matter because based on the definitions in the zoning code adding a building to a site where there is already development in this case the Buck-Prager building is considered an exterior alteration. The findings erred in considering it new development, but it was not clear in the findings or the hearing that that is why they were not addressing compatibility with the Buck-Prager and the immediate neighborhood because at no time until the recent letter from the applicant did anyone say we think the north building is new development. The zoning code, of course, is part of the record and these definitions are from the record. The north building is an exterior alteration and failed to meet the hierarchy, regardless as shown on this slide, neither structure meets the approval criteria and the hierarchy is not even addressed for the north building.

Wheeler: Thank you, could I interrupt for one moment please? And you may stop the clock I just want to thank commissioner Saltzman for running the start of the hearing. I'm going to assume the responsibilities of the presiding officer at this point. I would like to state for the record that I have neither any conflicts of interest to declare nor do I have any ex parte contacts that I want to give anyone who is present the opportunity to ask me any questions about that if they have any. Seeing none, thank you. Sorry for the interruption.

Richmond: Okay. Again, the south addition and the new addition, more information about the issues of compatibility and so on. Community design guideline p1, again the text is in front of you, and this approval criterion is not met. You have an excerpt from the desired characteristics statement in front of you and this design clearly does not comply with the desired characteristics and tradition of the area. This slide shows you more about the eastern edge and the existing urban pattern in that area. Development that responds to the desired characteristics and traditions would be less massive, more to scale of the surrounding buildings and the Buck-Prager itself set back as existing development is and would pick up more design queues from the many historic homes adjacent to the site. Community design guideline p2 calls for designs that reinforce the area's historic significance. This quote from the background statement help explain what the guideline means. The guideline is not met by sandwiching the Buck-Prager building between two overly large buildings or by placing those large buildings in the middle of a nearly intact cluster of historic homes. In relation to this criterion, your previous findings just three years ago were for a demolition review but also addressed in detail what the council thought would be appropriate on that site, which is why we thought they should be included in the staff report and in the commission's decision. Those findings noted the many historic buildings that surround the site, stated that then proposed four to six story building was not acceptable for many reasons including being severely out of scale, that's a quote. We think these findings apply even more so to this proposal, however, they were not even

November 28 – 29, 2018

considered as part of this review. Community design guideline d6, architectural integrity, again you have the text in front of you. Again, this criterion is not met and it's the reverse of respecting the character of the existing building with new structures totally overpowering the Buck-Prager and adjacent historic homes. Again what I just said about good development applies here. The south addition has a host of problems listed on this slide. Community design guideline d7 blending into the neighborhood, again the text is in front of you, and again the criterion is not met for a host of reasons primarily the large scale height, lack of setbacks and many details. This table shows some of the details as to why the guideline is not met by this proposal. There were a number of procedural errors that grace addressed or that grace responded to. We know there's time for additional information, however failure to address a guideline entirely we think is a reason that an application should be determined incomplete. We request that you deny this proposal, but if you do approve it, we ask that you attach a condition requiring that they do what they say that they are going to do, build housing affordable to 60% of median family income. A quick response to commissioner Fritz's questions, this approval without this condition would not require that the housing be at any particular rent level and would also not require that the units be studios. They could build two bedrooms within the shell that's approved. Is there a nexus for this condition? Not directly in the approval criteria but certainly in the way this proposal has been presented, discussed, reviewed and considered, discussion of affordable housing has pervaded all aspects of this case and even in the wording of the approval and even in just the few minutes of discussion this council has had. While the affordability.

Wheeler: If I could interrupt for a moment, technically your time is up.

Richmond: May I request another 60 seconds.

Wheeler: What we typically do is allow you to continue and then have the principal opponent have an equal add-on.

Richmond: Of course. Thank you. While the affordability should not be considered it's difficult to ignore that aspect of the proposal even for us, especially given the current housing situation in Portland. We found it difficult to be as critical of this design as we would for market rate housing and we don't expect you to ignore that aspect either even though we all should, however once a design is approved, any developer or landowner can come in and build this design and it can be market rate, two bedrooms, et cetera, to assure that the housing is indeed affordable we are asking for that condition of approval, and again, it's based on what they have said that they would do. You may want to ask the applicant if they would accept the condition voluntarily as again it's just what they are saying they will do and if they are not willing their reasons would be of interest. In conclusion, because the immediate neighborhood is a unique slice of Portland, because the approval criteria are not met and because procedural errors were made, we request that you deny this proposal. Thank you. We would be glad to answer any questions you may have.

Wheeler: Commissioner Saltzman.

Saltzman: I had a question Jessica. This site as they said at the outside is going to be subject to the inclusionary housing requirements.

Richmond: Yes.

Saltzman: So and your asking for a condition that says all of it would be 60% affordable?

Richmond: Right. The inclusionary housing would require that 20% of the units be at 80% of median family income, but we think that their proposal that all of them be at 60% of mfi has colored all of us, all of our perceptions of this project and has made us less harsh in our judgment of it because we know that the need for affordable housing is so dire, but we are concerned that if, for example, they were unable to get funding because they have not yet secured funding, if they weren't able to get funding, that approval would be sitting there

November 28 – 29, 2018

and another developer could come along and say, oh, wait, we got this approval, let's build this for market rate. That's our concern and the nexus.

Saltzman: We'll hear from the applicant at some point, but even if that -- the scenario you just described were to occur, the parcel would still be subject to inclusionary housing if it were to transfer to a new owner.

Richmond: Right, then we would get a much smaller number of units at higher rents and 80% of the units would be at market rate and if the initial proposal was for simply market rate proposal, then we believe that we might have been harsher in our evaluation. The landmarks commission might have been and this council might be because it is such a persuasive and dire need.

Saltzman: Thank you.

Wheeler: Commissioner Eudaly, did you have a question?

Eudaly: I don't think so. I guess I'm always a little concerned with asking questions that might introduce new information to the record. So, I err on the side of not asking questions or would you reprimand me.

Richmond: You could whisper it to the city attorney.

King: Go ahead and ask.

Eudaly: Full disclosure I lived in this neighborhood across the street from Jessica for 18 years so I'm very familiar with it.

Richmond: We miss you.

Eudaly: Aw, thanks. Never owned property, have no interest, financial interest in the area and don't make it back to northwest Portland very often these days. I'm an east-sider now. The historic district is much larger than this specific area we're talking about, and there are newer developments like the one that you live in -- how many stories is that? Three or four?

Richmond: There's a grade change. It's multiple levels. So, it ranges from two to four stories.

Eudaly: Then there was a redevelopment on the southeast corner of 19th and Hoyt. How many apartments is that.

Richmond: That is six stories. At the time Mr. Joselyn, who was in charge of the design section of bds, erroneously told the landmarks commission that they did not have authority to reduce the height or floor area even though that was not true, and he later changed his mind on other cases, and I clarified the code to make it super crystal clear instead of just crystal clear that they had the authority, but because the landmarks commission agreed with him or listened to their staff, they approved the building at that size. Also noting that there was a park across the street that helped to mitigate it.

King: So, council, we did receive an objection from the applicant and staff have both identified that all this information you're getting now is new evidence and was not before the landmarks commission.

Richmond: The issue about park 19 was discussed at the landmarks commission as was.

Eudaly: In the context of this?

Richmond: Yes. I specifically talked about Mr. Joselyn's advice to the commission.

Eudaly: I'll stop asking the questions, but it's been a while since I have seen this area and I was trying to put this development into the larger context because, yes, the adjacent blocks have small scale single family residences, but the fact is there are also large multifamily developments quite nearby. Thank you.

Wheeler: Very good. Thank you.

Richmond: Thank you and thank you for the additional time.

Wheeler: No worries. Next up, appellant number 2 I understand that is Tony Schwartz.

Thank you for being here and if you can keep it as close to the ten-minute time frame as

November 28 – 29, 2018

possible I would appreciate it. Any extra I will add on to the additional two minutes and 30 seconds that the principal opponent will have.

Tony Schwartz: Thank you, mayor my name is Tony Schwartz. I appreciate the opportunity to be here today. Commissioners, I am an appellant and I would assert this case is ultimately about fairness. It's about equal justice under the law, no more and no less. The law must be applied equally, uniformly without passion or prejudice.

Fritz: I'm going to have you stop for a second because the clock isn't running yet.

Schwartz: I'm sorry.

Wheeler: Where is sue? There she is, working on the technology. One moment. Sorry, Mr. Schwartz.

Schwartz: No, that's fine. Thank you.

Fritz: We were listening to that first part so you got an extra 20 seconds.

Schwartz: I was about to say the time didn't start. Thank you, commissioners Fritz. I wanted to say the rule of law -- I would like to start by saying about the case is about fairness and the time has now started. As now deceased developer and preservationist Art Demuro stated after the final vote on the Blanchett house we need to be blind to the applicant and the mission. The rule of law requires that commission, city council, judges, reviewing bodies apply the law consistently without favor and are blind to the applicant's relatively worth or goodness. Otherwise the law will be used to reward some, suppress and harm others, and contribute to an increasing distaste and distrust with our system of government. I suggest that in this case the political wing surrounding housing and the applicants goodness or worth overwhelm the Portland historic landmarks commission and has the power to overwhelm the city council. I hear today for the first time from staff that the affordability that the applicant has been proposing is not essentially below market rates, they are affordable in the sense that they are cheaper than normal. We had never heard that in the three dars or land use application, that's the first time I heard that. I will tell you the burden of proof is on the applicant to show with substantial evidence that each and every element of the applicable approval criteria will be satisfied or has been satisfied. I think some background is important in this matter. This site has been addressed by this body before. In 2014 the landowners and the applicant requested for demolition of the Buck-Prager building and the replacement building on that site of four to six stories. There was a substantial amount of time and energy that went into opposing the demolition of the Buck-Prager and opposing replacement of the four to six story saying it was out of character and overwhelming within this unique site that it has 13 individually listed landmark homes. This city council after the landmarks commission agreed to not demolish the buck-prager this city council also agreed and in its findings it spent substantial amount of time saying the four to six story replacement building was severely out of character. I use those words because those were this body's words and I what want to go through it not only for you folks but also the folks in the room and who may view the record. On page 23 the findings state the proposed replacement building would not enhance the character of the neighborhood as it is wholly incompatible with regard to its proposed scale, massing forming character. On page 25, this body stated, council also noted that the existing building is appropriately scaled for the historic district and the proposal to demolish did not include a compatible replacement building particularly with regard to adjacent landmarks. On page 25, I'm sorry, I think we went to page 25 to quick that was page 24. On page 25 where we are now the existing historic building the existing noncontributing resource are considered small scale developments. The proposed replacements buildings are rather large scale development, four to six stories tall. A smaller scale and more appropriately scaled development would potentially include two, two and a half story rowhouse type development which takes queues from the neighboring landmark buildings again, the council noted that the rh base zone was not necessarily an entitlement and multi-dwelling

November 28 – 29, 2018

developments while generally desirable if located within historic district must be compatible with the surrounding historic resources. On page 27 this body stated, the compatibility to propose replacement building should be considered primarily with regard to compatibility with the landmark structures rather than other nearby buildings of lesser significant. The proposed building is not integrated with the existing urban fabric and is not set back from the street it does not feature intricate architectural detailing and most significantly it is much taller and more massive than the modest landmark residential structures in the immediate vicinity. Finally, on page 30 in its conclusions, this body stated, while the existing historic building is an appropriate scale for the adjacent properties, i.e the buck-prager, the proposed replacement building is severely out of at the scale and character and will significantly attract the historic character of nearby landmarks. That proposed replacement building was four to six stories. This building that is being proposed is four to five and a half stories. In particular you can look at the site, you can look at the drawings, look at the north building, the north building starts at 58 feet to 60 feet. On northwest Irving, it's a 58 to 60 foot square. The replacement building in 2015 that this body said was too big started at four stories and stepped back to five stories and then stepped back to six stories. The building now on the north side of the site likely has a larger far than the proposed replacement building that you denied in 2015. I would tell you that many people spent enormous amounts of time, enormous amounts of time in 1999, 2000 setting up the alphabet historic district. Many of those same people were involved in 2015 and are involved today. That's why I'm here to tell you that in our opinion in my opinion that it is unfair, it is unfair to all of those people, it's unfair to the district, it's unfair to the city to once again try to push through a four to five and a half story building when this body said essentially that kind of building is too big. Affordability was draped all over this program. I always assumed that they were trying to promote zero to 60 mfi. Every single unit in this building is a studio, every single one, of course it's going to be affordable in the sense that it's cheaper than a one bedroom or a two bedroom and of course we need housing but I don't want to get into that argument because right now we're talking about the criteria, but make no mistake about it, there's not a single person that doesn't want development on that site, not a single person that's happy the Buck-Prager will be seismically upgraded and rehabilitated and not a single person that doesn't want truly affordable housing there or affordable in the sense that its cheaper than normal. There's more background, this is all in the record, this commission at least two folks were here in 2016 when joe zhender promoted right zoning the north side of glisan in the alphabet historic district from 4-1 to 2-1. So there wouldn't be an incongruent between base zoning and overlay zoning. This body declined that request. Essentially in my opinion punting the zoning conflict. So the punt went back to landmarks in 2017 with this current program there were multiple dars where the commissioners wrestled with the idea of the guidelines, the program size and mass, with the base zoning and the need for affordability. Multiple commissioners were concerned at the very last dar that the north building in particular was too large, that it was overwhelming, three commissioners specifically said that. Yet in the final vote it was 5-1 I don't know what happened but I would suggest the political winds of housing and affordability overwhelmed the commission. That's why in the final findings there is replete references of affordability. Affordability is not a criterion, it's not a criterion. I would argue finally on that point that if this body approves this current program its decision would be arbitrary and capricious given its 2015 findings. At its 2015 findings were designed to guide neighborhood associations, neighbors, developers, landlords. That what the law is designed to do, to set guidelines and guide posts for development, for behavior. I would argue that on a second topic just briefly for the record, that the north building itself did not receive the appropriate analysis required under historic alphabet guideline number 3 which is entitled hierarchy of compatibility. This was a main point of my personal appeal besides

November 28 – 29, 2018

the fairness, but I would argue and put on the record there's plain error at this point in the applicant's presentation because there was always an assumption and I went along with it until just last night, that the north building was new development, not an exterior alteration. I looked at the Portland city code, the zoning code 33, last night and I have come to the conclusion if the Northfield building is an existing alteration, not new development, and therefore should have gone through a more extensive analysis with the hierarchy of compatibility and specifically comparing the north building and its size to the northwest Irving landmark structures that are adjacent and contiguous to the north building. I put that on the record I didn't realize that until last night but I would argue there's plain error. I would as an applicant, I mean as an appellant open this body to go to the site. Walk around the site. It's 1.3 miles from this city hall. Commissioner Eudaly lived there, has some memory of it. Look at the landmarks. Envision the 60 foot building on the north side. I think you will come to the conclusion that it is too large. Those are designed for work force apartments right now which as this body knows is an amorphous term it most likely means market rate studio. This body said in 2015 market rate apartments in a replacement building was not good enough. I ask you to deny the program or otherwise work with all the parties so we can get this program or a slightly different program into development as quickly as possible. Thank you.

Wheeler: Thank you.

King: Members of the council, the applicant did object to the argument that the north building is exterior alterations, not a new development that was not made before the landmarks commission. City staff can speak to that argument a little bit more, but if council has question, but it's a new argument.

Wheeler: Very good. Next up are supporters of the appellants. How many people do we have signed up today? Sue both supporters of the appellant and other opponents?

Parsons: First supporters we have seven signed up and for opponents there are 14 signed up.

Wheeler: Why don't we do this. Let's try to keep our testimony at two minutes each for all sides of this and it's best if you can speak your mind in two minutes anyway. It's not easy, so think long and hard about what you want to see and what your key points are, you don't necessarily need to repeat points that other folks have already made because they will be in the record and they will be here for consideration so it's always good if you can make new points but that's up to you. It's best if I don't have to play microphone police. So when you see the red light go off if you could please wrap up your remarks I would appreciate it. Call the first three, please Sue.

Wheeler: Thank you for being here. Good afternoon.

Michael James: I'll start my name is Michael James, I'm a 20-year resident of Portland I live two blocks from this project and I'm delighted to have an opportunity to speak to you. I testified before the landmarks commission, I have been to meetings, I'm not a member of northwest district association however I'm here today because I strongly hope as I testified and as I wrote all of you in an email that you will hold back on approving this. The landmarks commission, how they approved it I don't know. They certainly disregarded their criteria in terms of scope and compatibility and I really hope you will come out and walk this block. This is a treasure of Portland and what is proposed there in terms of scale and compatibility is just, it's a monstrosity. I support affordable housing and the other part of my argument is I believe I'm allowed to say this I think this is a bait and switch. We need affordable housing and this site would be great for affordable housing but there are no deed restrictions and there are no conditions here that would require these people to do anything other than say we're going to give you affordable housing. They are going to give you market rate bait and switch and I as a taxpayer who believes that every neighborhood has a responsibility to provide affordable housing let's make sure we can get it there. It

November 28 – 29, 2018

would be nice if it didn't look like a women's prison but I think it could be great and I hope you'll stand firm and apply the law and reject this proposal and reject and let them rework it so it could be pleasant and have affordable housing in it. Thank you.

Fritz: You have 30 seconds left. I wasn't able to read your email because we're not allowed to read things outside of the record. For anyone else who has sent me information, I usually try to read things ahead of time but for this I haven't. Is there anything else that was in your email that you wanted to make sure council is aware of?

James: I primarily had the two arguments because having attended a number of meetings I never really understood that they were going to push the affordable housing and when the landmark commission approved this I was flabbergasted because the testimony was so strong that they were totally not meeting any of the criteria for this building.

Fritz: Thank you.

James: Please come see it, come walk in our neighborhood it's beautiful.

Wheeler: Thank you. Good afternoon.

Jill Warren: Good afternoon, Mr. Mayor, commissioners my name is Jill Warren and I own the ten units of rental property across the street in the historic church and parish. When we bought our building we received a 59 page document from the department of interior standards and guidelines for rehabilitating historic buildings and I printed out copies for you to review. Their very restrictive covenants one is limiting any new excavations adjacent to historic foundations to avoid undermining the structural stability of the building or adjacent buildings. When park 19 was pile driving for new construction a block away the pounding loosened the pipes in my building on Hoyt causing leaks. I had to hire a plumber to tighten them up. My historic church is across the street on 18th avenue and I'm concerned about the damage to the stained glass windows that were brought over on a ship in the late 1800s by Norwegian immigrants or other structural damage my historic buildings are fragile. We testified in front of the historic landmarks commission several times and they have concurred with us time and again until it was announced that the new construction would be used for affordable housing. Nowhere in the standards for rehabilitation grants exceptions to the covenants based on who tenants are. The standards are so restrictive I'm not allowed to make major changes to my buildings due to their historic status and historic rentals are the last bastion of affordable housing in that area. My top rent for two bedroom is 1650 a month. Park 19, their top rent is 4500 a month. So we're caretakers of these historic landmarks and we need to maintain their value. Massive new construction would dwarf surrounding buildings and compromise the neighborhood. I see tour groups taking pictures and admiring the architecture massive new construction would dilute the historic value and it's gone it's gone. Thank you for your time.

Wheeler: Thank you appreciate it. Good afternoon.

Vicki Skryha: Good afternoon my name is Vicki Skryha I live across the street in one of the trekman homes.

Wheeler: One moment I'm not sure one of the mics is working and we'll restart the clock for you.

Skryha: Did I lose my ten seconds?

Wheeler: Not at all.

Skryha: My name is Vicki Skryha I live across the street in one of the trekman homes. I want you to know I'm an ardent supporter of affordable housing have been so for 40 years. I've worked in the field, I have been a affordable housing consultant to housing and homeless services manager at the state and a director of permanent supportive housing evaluation projects and talked to a lot of , part of my job, talked to a lot of people that live in housing. I'm asking you to reverse the hlc decision and deny the proposed design. I commented extensively in my comments on the record and you've heard what some of the main points are, why this design does not meet the criteria. I wanted to talk about how

November 28 – 29, 2018

expensive it is to build affordable housing these days. When I was a housing consultant and worked on several complexes that still exist today in Portland I had a straightforward no frills approach where I tried to roll up my sleeves, look at the requirements, make sure that before I moved a project forward that it met all the requirements. I guess I feel not very good that this project has taken so long, that there's been so many meetings with teams of lawyers where neighbors have been accused as nimby when we really support a affordable housing project and would love to see one that is at an appropriate scale. On the record, there's been shared two projects that nha previously did, one the oak ridge project in lake Oswego that has 45 subsidized spacious one bedroom apartments on a 29,000 square foot lot. Then there's the alma gardens project in Hillsboro that has another 45 spacious one bedroom apartments on a 31,000 square foot lot. Just in comparison this has 147 units all scrunched down on a 20,000 square foot lot. I think we could stop wasting a lot of time, be much more straightforward, get those units on the ground if all the criteria are met. If its not in this project misword there's going to be continued obstacles because the federal funding subsidies that might be applied for require adherence to federal standards like Jill mentioned and what was approved under the criteria are not inconsistent with those federal standards. Thank you.

Wheeler: Thank you. Good afternoon. If you would like to go ahead and start, sir, you may.

Daniel Anderson: Sure. Mr. Mayor, commissioners, I'm Daniel Anderson I live two blocks from the project site. I have lived in this neighborhood since 1981 both as a renter and as an owner. I support the development of scale compatible bonafide affordable housing in my immediate neighborhood. The proposal before you is unlikely to deliver either of these outcomes because of this the city council should reverse the landmarks decision and deny this proposal. Should do this for two reasons, first the development fails to meet multiple mandatory review criteria in the community design guidelines and in the alphabet historic district addenda. Secondly, the proposal and the record while making repeated references to the project as being affordable housing includes no protections to ensure that that result -- the result will be anything other than full frontal market rate rental housing. The council should take steps to immunize itself and the public from being party to a bait and switch scenario wherein the council is baited to overlook dubious design and massing aspects of the proposal because the proposal might supply affordable housing. In today's development cost environment delivering affordable housing depends on access to significant public subventions. Despite multiple applications for these by the developer these subventions have yet to be forthcoming for this project because the project's history of difficulty in securing the necessary public subventions there's a good chance that the projects will be switched to the type of market rate work force housing which the market is already supplying in quantity in this neighborhood. In short we would get incompatible building which fails to deliver affordable housing, a worst of both worlds outcome. The council could immunize itself and the public against such a bait and switch outcome by requiring the applicant as a condition of approval to enter into a recorded long term affordable housing restrictive use agreement priority issuance of a building permit. Such agreements are a common feature in the world of affordable housing where they serve to align promises and outcomes, thank you.

Wheeler: Thank you. Good afternoon.

Richard U'ren: My name is Richard U'ren my wife and I have lived on the corner of 18th and Irving for 24 years. Thank you for giving us this opportunity to testify. About this issue here and in fact there are several issues. The most prominent one is the decision of the historic landmarks commission to approve of this housing proposal, we think this was a flawed decision. Several of the approval criteria of this project were not met. They are summarized nicely in the northwest district association's letter of appeal. Both proposed

November 28 – 29, 2018

buildings are incompatible in size and design with the historic context of the surrounding neighborhood which on just two streets, Hoyt and Irving, contains 13 houses on the national historic register. We have two additional concerns. We worry that the units built under the appellation of affordable housing will not remain that way. There's nothing in my knowledge that would prevent the owners from converting it to market rate housing down the line as you so eloquently articulated. Our second concern is the impact of the inordinate size of the project and its parking element on the neighborhood and community. Can I comment briefly on this or not?

King: Unless someone objects you can -- I don't know what --

U'ren: You've heard that our neighborhood is probably the densest in the state. It's often impossible to get parking during the day. This is a problem for those of us who live there, of course, but it will be an even bigger problem for those who move into the apartments. It is unrealistic to think that seniors and others will ditch their cars for bikes and scooters. We should remember that seniors have care-givers, families and friends who will come to see them and have to park. Already repairmen have refused to work on our houses because of the difficulty finding parking. We worry that size of this project and the associated parking issue will make the neighborhood and the community a much more difficult place to live and work.

Wheeler: Thank you.

U'ren: Thank you.

Wheeler: Good afternoon.

Jessica Richmond: Jessica Richmond speaking for myself, long time nearby resident, long time city planner for Portland. Three quick remarks. First the discussion about bait and switch I want to be very clear that although many of us are concerned about market rate housing being built here instead of affordable, we're not concerned about nha doing that, we know they are not in the business of market rate housing. It's just if they are not able to get funding and another developer comes in, we're not casting aspersions on them. Second I wanted to also emphasize that many of us including Vicki have been advocates for affordable housing for many years. For myself I'm coming up on my 45th year of housing advocacy including when I worked for the city working on the project strategies for fair housing that became a national model for siting special needs housing and it's still the outstanding model in this country and is one of the things I'm proudest in stopping my life. Finally, this doesn't relate specifically to the criteria but to the purpose of the historic districts. I'm hearing a lot and you are that Portland's changing, it's not Portland any more, we're losing our special character. The historic districts are the one area where that character is preserved and in this particular tiny little bit of northwest you can still see what it was like many years ago. So, to keep that special character we ask that you deny this proposal or ask for significant revisions. Thank you.

Wheeler: Thank you. Good afternoon, sir.

Allen Buller: Good afternoon ladies and gentleman my name is Allen Buller and I also live adjacent to this proposed development. I just would like to essentially support what I feel are the failure based upon the massing of this project and also the design compatibility as well as no guarantee that this will be affordable housing because a number of people have commented on the bait and switch aspect of this thing I would just like to comment briefly and I want to totally support all of those who commented in a positive way about their support for affordable housing. We have never said that. As a matter of fact it's curious that this is the third proposal on this site and the first one that has that as a catch phrase in terms of trying to attempt to get this approved. So I would caution -- I know that Nick Fish had extensive questions for one of the co-applicants during the initial testimony in January of 2015. Unfortunately I don't have the specific line but I'm sure it's a matter of record, and during that time he questioned the applicant's repeatedly about their ability to get to 60% in

November 28 – 29, 2018

terms of the income requirements here, and they repeatedly said they could not do that. So now suddenly they can do that I would question that miracle that happened between then and now. The final thing I would say is that just a few more seconds, in a few more -- in the context of 97209, the zip code where this is, I want to reiterate this is the most dense zip code by population in the state of Oregon. It's also like within the zip codes within the city of Portland it's 30th out of 32nd in median income so clearly there's affordable housing here, there's below market -- people that don't have the same income, and also I would mention there's a 12.2% vacancy rate. I can send these references to each of you if you want to verify that, but there's a 12.2% vacancy rate in 97209. I would suggest that some form of support for affordable housing in terms of assisting those rent assistance would be appropriate while we search for a credible solution to this problem and I would love to see something there.

Wheeler: Thank you for your testimony. Commissioner Fritz?

Fritz: I have a question for the city attorney. Was these council's discussion and decision in 2015 discussed at the landmarks commission?

King: That's a question for staff I cannot speak to that.

Fritz: I'll ask you later then.

Hilary Adam, Bureau of Development Services: Hilary Adam, bds. The council discussion was not part of the landmarks discussion for this case, but the council decision for the 2014 demolition review that was added to the record. So the findings for that are in the record.

Fritz: Thank you.

Eudaly: I also have a question and I believe I know the answer but was there any increased benefits as far as far or height or any of these modifications tied to an affordability requirement or promised?

Adam: I don't believe so.

Eudaly: Thank you. I'm getting the sense from the testimony that there's a belief that this project is being allowed to go forward when it wouldn't otherwise be because of the promise of -- [speaking simultaneously]

Adam: It's actually under the maximum far.

Eudaly: Thank you.

Fritz: I think the concern is that the design criteria and the historic landmarks criteria have -- the question is have they been ignored because it's been promised. That was kind of part of my questions for the modification for the loading dock, and your good question about the landscaping as to whether that plays in.

Wheeler: If I can muse aloud on this same thing we have no way of knowing intent, obviously, other than looking at the criteria themselves in determining whether or not we believe that this is consistent with the criteria, the design criteria.

Eudaly: I mean -- can we have any kind of conversation at this point or should we move forward and save it for the end?

King: It might be worth saving council discussion until you hear from the applicant.

Wheeler: Very good. Next up the principal opponent. You have 30 minutes plus two minutes and three seconds should you choose to take it. Again, name for the record. Could I ask legal counsel a question while we're getting the presentation set up? The principal opponent time frame, is that established based on the time of the staff report plus the total appellant testimony? Is that how we're coming to the 30 minutes?

King: It's the 30 minutes typically the principal opponent or the applicant here would get 15 minutes but with two appellants they got extra time.

Wheeler: Okay.

King: I don't know if they intend to use it all.

Wheeler: Is that agreed upon or just the standard?

November 28 – 29, 2018

King: It's the standard that the city has consistently applied and then what ultimately what we notice the parties it's what's set out today. This is what everyone has been noticed and came today knowing would be the time.

Wheeler: Okay I was just curious, thank you. I appreciate that. Is it good to go, sue? Is it working?

Parsons: It's not quite what we want but I think it's what our system will allow here.

Fritz: Is there a teenager in the house?

Wheeler: I was going to say -- [laughter] We need a digital native in the room. [laughter]

Cozette Tran-Caffee: Can you come do it again? I forgot how to strike it.

Wheeler: Sue if you want why don't you move it up to 32 minutes. There was the appellants took a little extra time.

Tran-Caffee: Thank you and good afternoon my name is Cozette Tran-Caffee I'm with the law firm of lane power and we're a land use counsel for the applicant northwest housing alternative. We submitted a detailed written response to the legal issues raised in the appeals and I'll be available to answer any questions you have on those but because this review is really focused on the project design our design professional and applicant are going to handle the bulk of the presentation today. First you'll hear from Trell Anderson, he's the executive director of northwest housing alternatives he'll give a brief background on the organization and an introduction to the project. Then Michelle black with Carleton hart architects will explain the research that went into the project, that went into getting to know the historic alphabet district and she'll walk you through the design process as well and then Michelle and I will address the specific legal issues raised in the appeal and the additional issues raised today as well.

Trell Anderson: Thank you, good afternoon mayor Wheeler, council members, My name is Trell Anderson I'm the executive director of northwest housing alternatives, we're an affordable housing developer of 1800 units across the state. We introduced this project initially as affordable housing because we wanted to provide transparency to our intentions at the site. Yet our landmarks process has focused on the design and compatibility. The ideal is to provide affordable housing in a high opportunity area that would provide access to transit, shopping, jobs, education, healthy foods and services, all while reducing the need and expense of a car. These are also the policy goals of the city of Portland. We appreciate all of the comments here today in support of affordable housing. Northwest housing alternatives has experience with adaptive reuse and upgrade of historic properties such as what we have proposed here. We're neighbors with two historic properties in the alphabet district, the Rosalind and Victorian apartments and one asset in the piedmont neighborhood called Rosemont. Our point is that we're not new to this and we're committed to historic preservation. This project is complicated and the fact is not taken lightly. We understand the process and we invested the time and resources to submit a compatible and compliant development proposal. The team undertook an extensive amount of research and outreach that influenced the design before you today. The design process was developed and refined -- the design itself was developed and refined over course of essentially two years and included numerous meetings with bds staff and stakeholders, three meetings with the neighborhood, three dars and one historic resource review before being approved by the historic landmarks commission. By listening to stakeholders we made changes, additions, and amendments. We also made concessions. One example is that we first brought forward a six story building for the north building, but after feedback, listening and consideration, we made changes including the elimination of a full story and the loss of 14 to 17 total units as much as 10% to accommodate. Arriving here today it's taken time, effort and expense to get here, but the team's diligence resulted in bds staff citing that all approval codes and guidelines have been met and the historic landmarks commission agreed to vote to support the project. We thank you for your time

November 28 – 29, 2018

and consideration this afternoon. I would be happy to answer any questions about nha, and we have our experts team members that will lead us through the rest of the proposal. **Michelle Black:** I'm Michelle black from Carleton Hart architecture and I'm going to walk through some of the context research as well as the design. So we're in the historic alphabet district and to look at and see what the thesis of the historic alphabet district is, we looked to the state statement of significance and I'm going to read this out loud. The districts multifamily dwellings are noteworthy for their appearance in an area that retains buildings from its early development period, grand single family homes sit next to first class apartment buildings in a physical representation of the sociocultural transition experienced by one of Portland's oldest neighborhoods. This is taken from the historic alphabet district community design guidelines addendum and this really tells us what is important with this neighborhood, why this neighborhood was designated a historic district and what the characteristics are that we should be trying to abide by. So this is the immediate context, the neighbors speak about this the context, on the map the site in red is us and just to go quickly, you have seen many of these images before but this really speaks to just from these photos taken from our site this speaks to what the neighborhood is. You see single family homes, you see low rise multifamily, you see commercial, you see a church and beyond the associated oil building and the, here you see multifamily. There is a mix of architectural styles, a mix of sizes, a mix of scale as well as just how these buildings are sited, so residential buildings typical are setback from the sidewalk whereas commercial buildings and larger multifamily are sited right up to the sidewalk, this is the diversity of the neighborhood. When you take a little step out as commissioner Eudaly was talking about, there is a vast variety of architectural styles, sizes, types in this neighborhood and this is just showing another cluster of buildings found throughout the district. The ones that have the dash lines around them, are some of the buildings that we used in really referencing for our building designs. So height has been talked about a lot. This is a map of the district and it has been color-coded for heights, gives you a sense of where we are in the district so we're this red rectangle on the east side and you don't need to get into the specifics really, but from the lightest blue which is a one story building up into that very dark midnight blue which is a six plus story building and the heights of those are written on them. You see again what this looks like in the district, there are short buildings next to tall buildings, there's 12 story buildings and one story buildings this is the diversity of the neighborhood.

Fritz: And I'm assuming that is in the record, that map?

Black: It is. And just as much as the height variation is seen across the neighborhood, it is really this proximity of tall next to short that is so prevalent in the neighborhood. As one example on the top left here, this is the Everett apartment building next to a residence both of these are contributing buildings to the neighborhood, this is a 57-foot tall multifamily next to a 26-foot tall house. This is what the neighborhood looks like, so just as much as there's height variation the proximity of all these buildings is close, it is the dense neighborhood that all the neighbors have spoken about and multifamily buildings are prevalent in the neighborhood. We see this, these buildings adhere to classic urban design principles by creating -- they build right up to the sidewalk, there is very little setback. If anything, there is a small landscape buffer along some of these, but these buildings really hold an urban edge and then there have been new buildings that have been approved in the district of size. Each of these has been approved since the district has been designated historic district and so getting to the building design. So as you saw from staff, we have our building design is based off of building three separate looking structures, though the south addition is an addition to the contributing Buck-Prager building it is made to look as a stand-alone building. Really that intent was trying to get the Buck-Prager building to exist as its own so it still has a prominence that it does today. So the design of this was looking

November 28 – 29, 2018

at surrounding buildings through the district and really looking at the fine grained details of the district as you walk down the street and you experience these different types of buildings, different scales, different details. So getting to the renovation and upgrades to the Buck-Prager building itself, we're relying heavily on historic photographs that tell us what this building originally looked like. Thankfully the facade is in relatively good shape and has not been altered too much over time, it has lost this decorative eyebrow piece and canopy and the lower ground floor windows have been filled up. So we plan to restore all of that replace the replacement windows with more historic character wood windows, remaking and reinstalling the eyebrow, remaking the canopy and, of course, there is significant seismic and fire life safety upgrades that will have to be made to this building but the intent is to keep it of the character that it once was. And the south addition so this is a tricky design problem that to make an addition that looks like its own building yet has enough of a relationship to its contributing building that its attaching to. So very careful analysis was done with this building and this was one that we did have a lot of feedback from the landmarks commission and went back and forth with some of the design suggestions that they gave and so really looking at how the makeup of the Buck-Prager facade can be taken through to the south building, carrying across the horizontal lines, holding to this base -- there is a brick top to both of these and there's a smooth coat base so carrying that through and then also there is this very specific rhythm four-foot rhythm of solid versus openings that carries across the symmetrical facade and continuing that in the south addition as well and the key to making the Buck-Prager still its own structure and of its own historic integrity is this change of color. So allowing the south building to kind of take a more muted stance with the darker colors and here is a rendering looking at the south building the Buck-Prager and the north building beyond. You will see along Hoyt street there is a notch along the center of that facade just so again breaking up the massing of that facade, changing the materiality of that just to give smaller masses along the more residential street and then this site is showing you the design influences of the north building. These are each contributing buildings within the district and really looking at what is a characteristic multi-family mid-rise building in the district, we started to see some constant themes. This idea of a base, middle cap or order to the building, oriel windows on several of these a rusticated base where that is detail of the base, trying to break up bigger facades with change in materials and change of color and then for our oriel windows, we looked at the Campbell town homes that have these unique squares and the oriel base to them and the change from a wood oriel to the brick facade.

Saltzman: That oriel like the bird?

Black: Yes, because it doesn't come all the way down to the ground, so its suspended there. So looking at the here's a rendering of the north building, again this so this change in material from brick to wood, having these very detailed bandings, the stronger cornice and the bandings at several places across the facade, this notch was added as part of our, again, discussions with landmark commission and then a deeper inset at the top to really start to create this space between these volumes, the larger inset along the 18th avenue side at the front entrance to give some different experience along the pedestrian path there. So now we're going to address approval criteria. So this project is -- has two different sets of approval criteria, three from the historic alphabet district guidelines, 1, 2 and 3 and then we have 16 from the community design guidelines that we must meet and bds staff recommended approval and the landmarks commission granted approval saying we met all of them and these are the sixth guidelines that are referenced in the appeals and we will address each of them.

Tran-Caffee: Do you want to talk about affordability first?

Black: So I am going to read the guideline, this is historic alphabet district guideline number 2 states differentiate new from old, new addition exterior alterations or related new

November 28 – 29, 2018

construction will retain the historic materials that characterize the property to the extent practicable. Replacement materials should be reasonable facsimiles of the historic materials they replace and the design of new construction will be compatible with the historic qualities of the district as identified in the historic context statement. So a project complicated like ours where we have a new building and an existing historic structure and in addition, you have to start to piece meal these out. So the top portion here is going to reference the Buck-Prager and south addition cause its talking about additions and existing structures, the middle talking about replacement materials is really applying to the Buck-Prager and the final talking about design a new construction is related to the north building and I have just gone through the design with you briefly. So the guideline is being met by first of all the south addition is taking design cues from the buck-prager, the Buck-Prager itself is being restored to its historic character and then the north building is utilizing design ideas from other buildings in the district.

Wheeler: Could I ask you a question just for my own clarification, so when you say the guidelines are met by and then you list this is the historic landmark commission's opinion or is this your opinion or who's opinion is this when you say the guidelines are met by.

Black: I can say that this is my opinion but these were presented as part of a much lengthier list of how we are meeting the guidelines and they felt we met the guideline whether it was specific to this or not.

Tran-Caffee: So for the most part, the decision references, incorporates by reference the materials that the applicant submitted in its application.

Wheeler: Thank you.

Black: But just as far as the wording is not like specific from their findings if that's the question --

Wheeler: Yeah, I just wanted to make sure I understood whose views were being represented here.

Black: Thanks for clarifying.

Tran-Caffee: So as you heard one of the main objections under this guideline is related to the size of the new buildings which the appellant have argued grossly overwhelmed the Buck-Prager. Under this particular guideline which are I'll use the term guideline and criterion interchangeably because here the guidelines are the criteria just to clarify that, this objection is misplaced under this guideline which focuses on the historic materials and the design detailing and not the size or the scale of the buildings. Their second main objection is the south addition just isn't sufficiently related to the Buck-Prager, but as Michelle sort of talked you through in some detail just a minute ago there, the south addition really does respond pretty closely to the Buck-Prager and is designed carefully to reference that building but not copy it exactly. Third, and this is a theme that sort of repeats itself through all of the appeals is the appellants want this guideline to focus on just this subset of nearby houses but the correct frame of reference under the criterion is the historic alphabet district as a whole.

Black: So historic alphabet district guideline number three speaks to hierarchy and that reads exterior talks about the alterations and additions will be designed to be compatible, primarily with the original resource secondarily with the adjacent properties and finally if located within a historic or conservation district with the rest of the district were practical and compatibly pursued on all three levels and then the second part of that is new development will seek to incorporate design themes characteristic of similar buildings in the historic alphabet district -- [indiscernible] -- so similarly to the last guideline, this could apply to our project in a piecemeal way if you will. The first would be where its talking about exterior alterations and additions applied to the south addition where you meet the hierarchy of compatibility giving compatibility whereas the second portion talking about new development applies to our north building that says we're seeking to incorporate

November 28 – 29, 2018

design themes characteristics of similar buildings in the historic district. So as far as how we're meeting this again, I showed you how the design of this building is responding to the buck-prager and then the north building taking design cues from other buildings in the historic alphabet district.

Tran-Caffee: I will start with the north building here because of some of the arguments raised earlier by the appellants. The ones that we've discussed already are just, discussed whether a different hierarchy whether the three-tiered hierarchy applies to new development and I think it is pretty clear in the wording of the guideline that for new development it's only compatibility with similar buildings in the historic alphabet district and now you've heard a new argument that the north building should really be considered and exterior alteration and rather than undo development, so I just if you bear with me I want to read. scores respond to the -- [overlapping speakers] concern discern.

Fritz: That's a new document so I don't think you need to address it.

Tran-Caffee: Huh?

Fritz: Isn't that a new argument so you don't need to address it?

Tran-Caffee: Well lets.

Fritz: If you would like to anyway.

Tran-Caffee: So under the code the definition of new development.

Wheeler: Where's our legal counsel? Could we get an opinion on that before we move on?

Eudaly: Well they didn't object so they to respond.

Wheeler: I just want to -- we're back to the arguments around hierarchy and I just want to make sure that we're not going down a road that we should not be going down. Could you repeat the issue for just for legal counsel?

Tran-Caffee: This is whether the north building should be considered an exterior alteration or new development under the code definitions and we raised the objection that was a new argument but I also wanted to address it substantively.

King: So, my understanding from staff is that the argument that is that.

Wheeler: Is your microphone on?

King: Thank you. My understanding from staff is that this argument was not raised before the landmarks commission, it is a new argument. However, the notice which identifies that applicants are only allowed to raise new issues does not specifically exclude them from raising new argument. So although technically, and that is what we stated at the beginning of the hearing and traditionally what we require, our notice did not provide that fair warning so we are allowing the parties to raise that objection. We're alerting to council however to the extent council does want to consider it and thinks it is fair to consider it, I think that staff are prepared to respond to the argument today for the applicant.

Wheeler: Ok, that is fine, I just wanted a clarification because this is an appeals process and so the idea of bringing new ideas to the table isn't necessarily something I feel 100 percent comfortable with except in this case, it sounds like both parties or all parties are in agreement that it is okay and willing to have this discussion.

Tran-Caffee: To the extent council wants to disregard the new argument, we would be supportive of that as well but because it has been raised, I would like to address it.

Fritz: You are worried that we can't forget it?

Tran-Caffee: Yes. So I want to read it will be very brief the definition of new development under the code and that is development of a site that was previously unapproved or that has had previously existing buildings demolished and that is exactly what is going to happen on the site where the north building will be built right now its a surface parking lot and a 1-story residential structure. The structure will be raised and the buck building will be built there so it clearly falls under that definition of new development and not exterior alteration or addition. So the point there is just because it is new development, it only has

November 28 – 29, 2018

to be compatible with similar buildings in the district as a whole and Michelle showed you several examples of other mid-rise multifamily buildings that the north building responds to from a design standpoint and then with respect to the south addition, we really need to look at the hierarchy. The most important thing is responsiveness and compatibility to the original resource which is the buck-prager and we have talked in detail about those design features. Oh, sorry, I can't just stop talking. Also the appellant's interpretation of compatibility is unduly narrow, they really want to argue the buildings have to be similar to the standby buildings but compatibility doesn't mean similarity and if we look at the landmarks commission guide to the historic review process and this is quoting from that guide, new buildings do not have to be copies of historic buildings to become compatible and fitting in is not the same thing as uniformity.

Black: So now we go to the community design guidelines, p1, plan area character, enhance the sense of place and identity by incorporation site and building design features that respond to the areas desire characteristics and traditions. So the multiple, how we're meeting this guideline is the multiple distinct buildings around the length of a block its something that we see throughout the district, the articulated facade designs incorporating details that were found throughout the district creating an urban edge around 18th avenue and landscape setbacks on Hoyt and Irving. Rehabilitation of the buck-prager itself and compatible south addition to the buck-prager.

Tran-Caffee: Here the appellate argument is similar to some of their other arguments that the new buildings under this guideline need to be similar to that subset of nearby houses but what the desired characteristics and traditions here, is actually a specifically defined term its found in the northwest district area plan and specifically in the section of that called the eastern edge, desired characteristics and traditions because this property is in the sub area the eastern edge sub area of the northwest district plan area. So there are three applicable desired characteristics outlined in that plan. The first is contribution to the architectural diversity of the eastern edge we have seen this project does that. The second desired characteristic is continuation of the established pattern of partial block massing and we have seen this project also does that and then the third desired characteristic is preservation of historic resources in the historic alphabet district and here of course this project is restoring the buck-prager in rehabilitating it so we have satisfied that as well.

Black: Community design guideline number it 2, historic and conservation districts. Enhance identity of historic and conservation districts by incorporating site and building design features that reinforce the areas historic significance, near historic and conservation districts use such features to reinforce and compliment the historic area. So how we are meeting this guideline is through the full upgrade of the buck-prager and sensitive restoration of its façade elements. Compatible south addition to the buck-prager a north building that's influenced by historic buildings in the district as well as we have site amenities such as mirroring the brick pavers that are found across Irving street as well as other landscaping.

Tran-Caffee: The mayor argument raised under this guideline has been that the landmark's commission didn't make the same findings or perform the same analysis as council did a few years ago with respect to the demolition review. We saw in grace's presentation, sort of the, I mean, the main difference between these two reviews is that this project is proposing to rehabilitate and save the buck-prager and the previous demolition review was for demolition of the building but also we saw in grace's presentation just the difference in size between these two projects. That was a full half block, this is several related but distinct from a design perspective buildings that are much smaller and that retain the historic resource. In addition, there is no requirement that each land use review end up with the same analysis or make the same findings and in this case,

November 28 – 29, 2018

you really couldn't because the applicable approval criteria is a completely separate set of applicable approval criteria for this than it was for the demolition review.

Black: Community design guideline D6, architectural integrity, respect the original character contract buildings when making modifications that affect exterior, make additions compatible in scale, color, details, material proportion and character with the existing building. We're meeting this by providing full systems upgrades to the buck-prager conducting a sensitive restoration of the facade elements and its addition is compatible with it.

Tran-Caffee: There is not too much to say from a legal perspective on this architectural integrity guideline and I also want to save time to address the request guidance on the affordability covenant unless you guys have questions.

Black: And then community design guideline D7 blending into the neighborhood. Reduce the impact in new development on established neighborhoods by incorporating elements of nearby quality buildings such as building details, massing, proportions and materials. So exterior wall areas are divided into distinct smaller plains especially along Hoyt and Irving street really breaking down the massing of our buildings. There is differentiation in materials and detailing that we find throughout the district. The south addition again is compatible with the buck-prager and there's landscaping setbacks along the transition to those more residential streets of Hoyt and Irving.

Tran-Caffee: You've seen and Michelle just reminded you of the site and building design details that the project uses to sort of reduce its impact on the neighborhood. This is another area where the appellants really want us to focus again just on that subset of houses but really the frame of reference is the neighborhood and I think we should also look even like let's assume that really we're only looking at the immediate adjacent properties, even just the ones that are either directly touch the site the project site or just across the street from the site, there is a good deal of diversity just in those properties. There is the buck-prager obviously, a flat-roofed institutional building, there's also a flat-roof office building, a flat roof community service center attached to the church, one of the two churches, a couple of multifamily buildings including a converted church which will actually be just about the same height as the south addition or even maybe a little taller. So this project really does blend into the diversity of the neighborhood. Before we conclude, I do want to address the requested affordability condition. I will address it from a legal standpoint and then Trell can address it from a practical standpoint. There has been some suggestion that this affordable housing proposal has sort of colored the landmarks commissions assessment and even the neighbors assessment of the design. You have seen in our presentation which is similar to what was presented before landmarks commission, the focus really is on the design and the decision the landmarks commission has made it very clear that whether or not these units are affordable is not relevant to the applicable approval criteria in this design focused review. So from a legal standpoint imposing an affordability condition because it is not relevant to be applicable approval criteria and its not otherwise authorized by the code would be beyond the authority of this review beyond the scope of this review.

Anderson: From a.

Saltzman: Go ahead Trell go ahead and finish.

Anderson: I was just going to say from a practical standpoint, you two as the housing commissioners know this, any time apply for public funding to subsidize these units, there will be covenant restrictions on the property for terms. We do intend to apply for funding from the city of Portland, we're eye balling the bond funds that have recently been approved that will come with the restrictions and affordability compliance period, I believe Portland housing bureau is now talking about 99-year affordability period. So as you know, that is down the road as we secure the funding to do the affordable housing.

November 28 – 29, 2018

Wheeler: Commissioner Fritz?

Fritz: So would you be willing to add a voluntary condition of approval and holding it to 60% of median family income?

Anderson: Commissioner thank you, I really appreciate that. Our mission is to provide 100% affordable housing in what we do. I'm hesitant to commit to any level in this process because that needs to be negotiated as the funding comes in there are so many different levers that determine the rate of affordability of each unit. We can have a number of different affordability ranges within one property and really depends on the amount of subsidy that comes in for the type of unit within a building.

Fritz: You don't provide workforce housing, do you?

Anderson: Well that's.

Fritz: Do you provide 80%?

Anderson: Workforce housing is a debatable term, so I hesitate.

Fritz: Do you provide 80% and 100% market rate housing?

Anderson: I hesitate -- we have 1800 units in portfolio, none of them are above 80% median family income.

Fritz: That's why I was, so because I think there is a legal nexus with the waiving of the loading dock, the loading space, that its prefixed on either it be senior housing or studio apartments and the argument was made people are not going to have stuff because they either are elderly or have low-incomes. So I think there's a relevance to that particular adjustment in the approval criteria in 805.040. So that's, if you could be thinking about is there something that you could agree to a condition of approval of that adjustment, that would still be well within the range of what you do and get some assurance that it is not, if the city funding or whatever funding doesn't come through, it is not then going to then be sold off for market rate housing with massive apartments that will need much more of the loading and unloading capacity.

Black: Could I just speak to the design implication that you are making right now? While this certainly is looking at we're getting approval of the exterior of this building, it is not so simple to just leave everything in place on the outside and move around the interiors to make this work, especially of a development as complicated as this with the three different structures in the historic building. So while I understand what you are going for I think the idea that this would be sold and then changed massively and still meeting all the codes and guidelines is a bit more complicated than maybe we're addressing.

Fritz: Well then maybe it's a condition of approval to keep it studio apartments, but because it says right here in the findings on page 21, developments such as this affordable senior housing consisting of studio apartments tend to have minimal apartment turnover and less need for unloading larger furniture. That goes away if it becomes, his is a really nice area, so it could be very marketable these and I actually like the design of your property, I am concerned about this particular modification.

Tran-Caffee: Can we have a couple of minutes?

Fritz: Oh, yeah, I'm not actually saying it now, I'm just saying we have 14 people signed up to testify so if we could have you come back at the end to see if there's something that could help me be comfortable with approving that adjustment.

Eudaly: I also have some questions.

Wheeler: Commissioner Eudaly?

Eudaly: Thank you, first of all I want to thank you for clarifying issues that are concerns or suspicions about this being a bait and switch with west housing alternatives is an absolutely reputable affordable housing developer and I just think it speaks to the level of anxiety and mistrust in the community which is sometimes well-founded but I don't think it is in this case. I am also reluctant to agree to a condition of affordability because I know that you can't secure financing until you are able to build and that is what this hearing is

November 28 – 29, 2018

about, and I think an encumbrance like that would be to restrict and challenging given the market we're in right now, but I do agree if we are making a modification based on this assumption these are small units and that people won't be unloading grand pianos and full dining sets, that maybe there's a condition to be set there, that if we're going ahead without the loading space, that these have to be studio apartments or however many studio apartments they are currently considering. One item came up that you didn't address and I am, again, no Lauren is gone so not sure I should raise this issue or not but it is a question for me from the owner -- okay, from the owner of the converted church across the street which is a historic property that's been negatively impacted by unified development in the past. There were two concerns. One, a concern about damaging -- I'm sorry, what is the name of the contributing property on the lot?

Black: Buck-prager.

Eudaly: Buck-Prager any potential damage to that building as well as damage to that converted church property or other nearby older, more fragile properties. I don't know if there is going to be pile driving on this project, can you speak to this concern at all? I mean is it a possibility?

Black: Is there the possibility yes, this is construction, there is always a possibility. I think you know, we do this for a living, we have extensive experience in historic preservation. There is a lot of work that happens before any tools are brought to the site. We have structural engineers that are onboard that have experience with this and our construction team is Bremik construction who they also has a lot of experience in historic preservation so certainly we understand what it takes to build next to, in even historic properties and what precautions to take. It is a much different level of construction, honestly. It takes a longer time, you have to be more deliberate about things, there are certain tools you can and cannot use just to keep this historic fabric in place.

Anderson: Just to point out, we have the same concern about the buck-prager.

Eudaly: Right.

Wheeler: Very good you have 45 more seconds do you need it.

Tran-Caffee: We did have a nice conclusion.

Anderson: Thank you. Our conclusion really is we hesitated to use this slide because the image of our property, our proposed project here, it is not obvious but because of that, it makes a great point. This is the fabric of the neighborhood, it is unique, it is diverse. Our property fits in and we're excited to get going as soon as we can. So we thank you for your time today, your consideration, we'd be happy to answer any and all questions. Thank you.

Wheeler: Thank you any further questions for this panel? Okay, next up, thank you, we have other opponents who would like to testify, two minutes each. Sue, how many people do we have signed up?

Parsons: We have 14.

Wheeler: Very good, please sign the first three. Good afternoon.

Kristin Minor: Hello, mayor, commissioners, I am Kristin minor, chair of the landmarks commission and I was present at all of the proceeding for this project including the design advice hearings. Ultimately the landmarks commission did vote 5-1 to approve this project --

Wheeler: I am sorry, sue, number one the clock isn't running and number 2, can we take the presentation down? One moment. Not on me, that's what I get for asking.

Minor: So I wanted to talk about our decision and how we reached it briefly. First off, the commission was unanimous on quite a number of points and those included support of the changes to the buck-prager and its adoption to this residential use this is a great win. The modifications that were requested and the adjustment and the style and look of the south building which is really the addition to the buck-prager. The one commissioner voted no based on the north building's exterior materials and style so she believed that the north

November 28 – 29, 2018

building did not meet the interest, quality and compensation guideline and just to paraphrase, she thought that that building mimicked the historic buildings too closely and that its materials and craftsmanship fell short as compared to some of the other historic buildings that it really was trying to look like. Several other commissioners did discuss this but found the guideline to be met so overall, the majority of commissioners did find the final proposal to meet the guidelines and I will say that regarding scale and height, that was a unanimous decision. None of the commissioners had concerns overall with the scale and height and that's important. The historic district does have quite a few disparities in height and style as have been discussed here and these disparities are existing and therefore appropriate and there are just many instances where volume such as those three sort of separate looked buildings really fit into the morphology of this neighborhood.

Wheeler: Thank you very much, good afternoon.

Martha McLennan: Good afternoon, I'm Martha McLennan and I'm speaking today as a private citizen, former executive director of northwest housing alternatives. So I have some history with this project and the efforts that the agency had undertaken to begin the design process and bring it to the point that you see it here today. I think the issue that I want to comment most upon is the diversity of this district within Portland and how that diversity contributes to the riches of our community. The district includes small buildings, large buildings, old buildings, new buildings, buildings that are serving people of affluence and serving people with lesser incomes. I think that is the thing that makes Portland a great place and makes northwest Portland a great place. That diversity is its historic character and taking that character on into the future will strengthen the community as a whole. I think how the, how the appellants confused sameness with compatibility and I think that it's very important to distinguish those two principles. Having a tall building next to a short building, an old building next to a new building, a multifamily building next to a single family building. Do not detract from the neighborhood, in fact they make the tapestry of our community stronger so I encourage you to uphold the landmarks commission and I'd be happy to answer any questions.

Wheeler: Thank you. Good afternoon.

Brian Carleton: Good afternoon, I am Brian Carleton, thank you for the opportunity to speak. I am principle of Carleton hart architecture, I am speaking as an interested architect here and the first thing I would like to do is applaud the neighborhood and the district association for the welcoming of affordable housing into their neighborhood I want to acknowledge that. Our firm specializes in affordable housing, we're in front of a lot of angry neighborhoods associations throughout the city and they have been clear from the beginning of this process that they welcome affordable housing so I just want to acknowledge that. We do have disagreement on questions of density and scale though and I would like to read real quickly from the statement of significance that was included in the nomination of the alphabet district historic district to have it included in the national register. This has been read before, but I really think it is worth repeating. The historic alphabet district is further eligible under criterion C for its expression of early residential architecture in the city of Portland. Characterized by buildings of various types, styles and areas, indeed the historic alphabet district is unique in Portland for its concentration of early 20th century multifamily structures, many of which were designed and constructed by the city's premiere architects and developers. The districts multifamily dwellings are noteworthy for their appearance and areas that retain buildings from its earlier development period. Grand single family homes sit right next to first class apartment buildings in physical representation of social, cultural transition experienced by one of Portland's oldest neighborhoods. So the two main points are that it is a neighborhood rich in architectural diversity, size, use and that has been a part of its history throughout and that is also -- the second point is that introduction of the apartment building is what has led

November 28 – 29, 2018

to its social and cultural diversity as well. It was stated earlier that northwest district and the alphabet district are the densest neighborhoods in all of Oregon and that is appropriate. It's a bedroom community sitting right next to downtown. That's where we should have density, it's a neighborhood made rich by that diversity both architecturally and socially.

Wheeler: Thank you, next three, please. Good afternoon.

Paul Falsetto: Good afternoon, council, my name is Paul Falsetto and I am the historic preservation consultant to the applicants on this project and we have been working diligently since 2016 with the BDS staff, Grace and Hillary, on this project, because it is one of the most complex projects I have ever been associated with and I like these sort of projects. So in preservation and architecture you have three main activities you can do. One, is you can restore or rehabilitate a historic building, we're doing that. Two, is you do an addition to that building. Incredibly complex. We're doing that. And three build is you do a new building in a historic context, we're doing all those simultaneously. The staff and us really had to get into the DNA of the 19 criterion across two guidelines that we have to address. Landmarks Commission put us through our paces and I have to say top to bottom in its entirety, this is one of the best historic landmarks commissions I have seen in my 20 years from Portland and they made us earn their 5 to 1, which is a near unanimous opinion. The one dissent said the north building is too compatible for the district and we take that as a forehand compliment. Regarding the height of the building, within two blocks, there's five buildings from 2003 and 2017 of five stories or taller that were approved through this very same process. So what we're doing is not an anomaly. It was brought up the 2014 type four hearing that council reviewed and rightfully denied demolition of the Buck-Prager building, that proposal brought before council was a -- first of all, demolish the Buck-Prager and it created a 4-6 story single half-block structure. That's not what we're doing at all. So to try to relate the two is a little confusing at best. What we're doing is creating the three building types that I mentioned and I don't want it to be forgiven that we are doing the near miracle of saving the Buck-Prager, restoring its façade elements and doing a full seismic upgrade. Any questions for me?

Wheeler: No, thank you.

Doug Klotz: Mayor, my name is Doug Klotz and I oppose this appeal and support the project as approved by the historic landmarks commission. The design restores the Buck-Prager and the south addition uses simple massing and window arrangement to relate it to Buck-Prager. The north buildings materials form a detailed and rich fabric with protecting bays and recesses that mimic many of the historic apartment buildings in the district. This five-story building meets the standard of issue two guideline compatible with qualities in the district. There has been talk about it being oversized however there is a five-story contributing structure, the Worthington apartments, a half block away from the site, that establish the qualities of the immediate neighborhood under guidelines 2 and 3. Two blocks away we have the five-story contributing Wickersham apartments which sit directly across a 60' street right of way from two-story Victorian houses, all contributing, I believe. So the north building will also be across a 60-foot right-of-way from two and three-story Victorian houses on Irving street. Although the Irving St roadway is 28 feet, the right-of-way is 60 feet which is the same as all of the rest of the streets in the district. So that determines how far away you are when you're across the street from it. It's the same as all the rest of the streets in the district. The juxtaposition of taller apartment buildings and smaller houses is a characteristic of the district in the context statement that we have heard twice now and I won't reiterate it a third time, but this building and the siting and the size are very compatible with the district and I would say go much further to keeping the character of the district than leaving what we have there which is two parking lots and the Buck-Prager sitting in the middle of it vacant. It is significant that this building may very well

November 28 – 29, 2018

have 148 units of affordable housing, many for seniors who would benefit from the proximity to Good Sam hospital and services there so I urge you to vote today to reject this appeal.

Wheeler: Good afternoon.

Iain MacKenzie: My name is Iain MacKenzie. I'm an architect and am here to oppose this appeal. From 2013 to January of this year I was a resident of the NW district and living in the 1927 empress condominiums, although located just outside of the boundaries of the historic district, they are a great example of multi-family housing that makes NW the wonderful district that it is. The five-story building was designed by noted architect Claussen and Claussen and has been determined to be eligible for inclusion in the national register. I believe northwest 18th and Hoyt will be a worthy successor to the tradition of multi-family housing, a character defining feature of the neighborhood. I was going to read the same quote that Mr. Carlton did from the national register, but it is important to keep in mind this building is on the historic registers because of the juxtaposition of multi-family, mid-rise buildings and lower rise single-family houses. Indeed only two blocks to the south is the individually listed Wickersham condominiums which rises 5 ½ stories directly across the street from lower rise detached houses. The architects has done a good job at studying the district and drawing influences from its greatest buildings, including the American Apartment Building at northwest 21st and Johnson. In doing so, they have not only met but exceeded the guidelines d7, blending into the neighborhood. Which says the new development should incorporate elements of nearby quality buildings such as building details, massing, proportions and materials. This building underwent a great deal of scrutiny by the historic landmarks commission about how they take their role in historic preservation very seriously. If you vote to uphold their decision, you can be confident you are approving a building that has been very carefully reviewed by both city staff and dedicated volunteers. I urge you to vote yes on this today. Affordable housing in particular faces great challenges in assembling its funding and that funding can easily be jeopardized by delay. Voting yes will allow Northwest housing alternatives and the architects to quickly move forward, assembling, funding, submitting building permits and ultimately breaking ground on 148 new affordable homes. Thank you.

Wheeler: Thank you, next three, please.

Wheeler: Good afternoon.

Madeline Kovacs: Sure, good afternoon, my name is Madeline Kovacs and I am coordinator of the Portland for everyone coalition here in Portland. The 43 members of the coalition urge you to reject the appeal of block 162 apartments and uphold the decision of the historic landmarks commission. We urge you to support the project that will preserve and seismically retrofit the buck-prager fall well within massing and unit limits allowed by the zoning and offer 148 regulated affordable homes to Portland households that desperately need them. We don't believe it ever made sense to take all of the social and human contexts out of any decision we make in the public realm but we must consider that we are in the midst of an affordable housing shortage. Portland does not have enough homes that are affordable to moderate and low income residents if bringing online more regulated affordable homes as quickly and efficiently as possible is a concern and it should be, we urge Portland city council to approve the project and not add further delay thereby increasing costs per home. 17 homes and a floor have already been removed from the building again, floors allowed under the 501 f.a.r. allowed by the code and even under the 4:1 base code approved for the neighborhood by city council and as people already said here today, the mixture of building types is part of what qualifies that district as a historic district in the first place, it is part of the diversity of the district. As a city, if we continue to add delays and costs to every housing project, not to mention unduly burdening nonprofit affordable housing projects, then the overall cost to Portlanders will be tremendous. The

November 28 – 29, 2018

inefficiencies add up and it is the public that pays through public expenditure of time and resources and through rising housing prices, thank you very much.

Wheeler: Thank you.

Leon Porter: Hi, I am Leon porter, I currently live in Sullivan's Gulch, but I lived in the alphabet district within a few blocks of this site for 15 years until 2016 and I would have been happy to live across the street from this building. I think it will substantially improve the character of its block and enhance the appeal of the immediately surrounding blocks as well. As several speakers have already said, the diversity of the alphabet district is part of its history and by adding diverse scale and massing and housing types in this area that will actually help this block to better match the character of the neighborhood as a whole, one thing that nobody else has said yet that I think is relevant is that the city does have an officially-declared housing emergency and I think you should weigh that into your decision. And I would urge you not only to approve this project but if you are going to add any conditions to it, one condition you could add would be to ask the developer to increase the building size back up to 6 stories so that it could include the 14 to 17 units that were lost. Okay.

Wheeler: Thank you, good afternoon.

Alan Kessler: Good afternoon, my name is Alan Kessler, I am a concerned citizen. I have been here before to talk about this project. We had a discussion at the time, talking about the commissioner who lives across the street and decided to participate in the design advice review and there's complaints filed over that. This is happening at the end of last year and beginning of this year. This project has dragged out for 10 or 11 months and to allow this process, to have neighbors be able to throw a temper tantrum and delay the creation of affordable housing which everybody here on this panel has said we desperately need is contrary to our goals. I know there are a lot of people across the city who would like to have this power but they don't. There are only a few types of neighborhoods that have the resources to do it and if historic preservation isn't going to continue to be just a tool of white supremacy which is what it is in this case, we have to do something different. We can't entertain this nonsense. Going to commissioner Eudaly's comment earlier whether there were bonuses given, no, there was a bonus available but bds staff told developers not to even come in at the affordable level, so they didn't get anywhere near the affordable housing bonus that this council, the neighbors came to this council before and asked the area be down-zoned and you denied it because you had different priorities. But through this process, through the pressure from bds and then through the three different design advice review hearings which stretched over months, I would love to note the professional fee's involved in taking the architects and lawyers through the process. That is all money going towards the cost of the affordable housing that we desperately say we need. I would hope the council would take this opportunity to , one censure the neighbors who are bringing this and two to remove this ridiculous fee waiver for appeals because this behavior shouldn't be tolerated.

Wheeler: Thank you, next three, please? Good afternoon.

Laura Golino de Lovato: Good afternoon, mayor, commissioners, thanks for the opportunity. My name is Laura Golino De Lovato and I am the executive director at northwest pilot project. For 49 years, northwest pilot project has been helping low-income seniors get into housing or stay in housing. We would urge you from that perspective of knowing how many seniors are being left struggling trying to find housing they can afford to stay in and how many homeless seniors there are needing housing, we would encourage you to uphold the historic landmarks commission approval of this project and deny the appeal. We also want to say we have a long and strong partnership with northwest housing alternatives who has a track record of building and managing affordable housing and making the day-to-day lives of the people who we serve, low income seniors, more

November 28 – 29, 2018

pleasant and gives them the ability to live independently for a longer period of time. This is as someone said earlier, a high opportunity area, the location is ideal for seniors and the unit sizes are ideal. Nha is willing to go through and has demonstrated that they are going through a lot of hoops and challenges to identify a project that's going to be visually appealing as well as provide affordable housing and the historic landmarks commission approve the design. Let's maximize the use of this lot for housing that will be available at affordable rates for our most valued citizens or elders. Thank you.

Darrin Gilbert: Thank you for hearing my argument, my name is Darrin Gilbert I'm a student at Portland state university who is studying urban development and since the beginning of this term, I have looked around the city of Portland on many different issues and sites being developed and are being sold to be developed. I have lived in Portland for over 20 years. I know the area we are speaking of and I think affordable housing is definitely something we need. The one thing I did hear today is we need to put special conditions on this housing unit to make sure we have affordable housing for residents because that is a big issue in this city. As a student and living on campus, I see a lot of homeless problems and it is a disgrace to our city and I think if we had more affordable housing, then we could maybe take some of those people off the street. Thank you.

Parsons: Is Julie Garber present? Okay, next three, please.

Gregory D. Baker: Good afternoon, mayor, my name is Greg Baker, I am the executive director of the Blanchette hospitality agency that's been very active in providing food services and a shelter for homeless people for some 66 years. We always get asked to step forward and testify in this regard but to have an opportunity to find housing for men that we graduate, we graduate roughly about 50 men a year, about 10% of those guys are over 55 years of age, there are 5 percent of them that are people of color and we need housing, we spend a large amount of money to get people rehabilitated during their 7 months at the Blanchette house in the hospitality to have the opportunity to find housing for them is very important to us. The average guy spends a year to two years to get housing after they graduate from our program so we were invited to talk about this and could not afford the opportunity to miss this. So, we hope and encourage you to give great consideration to this, it would be very, very important to have a bridge available to our guys as they graduate thank you very much.

Wheeler: Thank you, good afternoon.

Holly Balcom: Thank you for your time, my name is Holly Balcom I am a concerned citizen here in support of the project and in opposition to the appeal. I want to talk about the one the fancy architects mentioned which is the northwest towers which is 335 northwest 19th street its two blocks away, it a full 13 stories. This is an ugly building, its white, it is 60s, its got aluminum windows but it provides section 8 housing for mostly clients with disabilities I wish we had a thousand more in Portland. This project the one at 17th and Hoyt is not that, these guys have worked really hard to make this fit into the neighborhood and the fact that this ugly white building is two blocks away and has not stopped the tourist from coming and hasn't stopped this from being a landmark neighborhood and this is within the landmark area means something that so clearly leaps over the barriers that have been set should be approved. I just have to say there is something ugly about a room full people comfortably housed denying much needed housing for the sake of basically middle class aesthetics. Please uphold the historic landmarks commission September approval of this project, if it's a neighborhood which is defined by small apartment buildings like this, side by side with single family homes. Thank you for your consideration and time.

Wheeler: Thank you, good afternoon.

Laura Golino de Lovato: Hello again, Laura Golino De Lovato, I'm reading testimony of Steven McMurtry. Hello, my name is Steven McMurtry I am the former housing

November 28 – 29, 2018

development director at northwest housing alternatives I want to stressed my full support for this project moving forward. From the beginning nha has put together a thoughtful and experienced team that has demonstrated the sensitivity to the design of the buildings within the context of the alphabet district and its neighbors. As direct demonstration of this nha is committed to preserving and fully renovating the buck-prager building which as it stands now is rapidly deteriorating. It is my opinion that all three buildings making up the redevelopment of is important site in such a resource rich area as the alphabet district, do an excellent job of complimenting the adjacent dwellings of the community while reflecting the eclectic nature and the varied uses shapes and sizes of the buildings that make up the district as a whole. Nha is an unparalleled of track record of conceptualizing and delivering on mission based affordable housing developments that became permanent resources to the community they served throughout Oregon. They have selected a project team with decades of experience in preserving historic resources and the development of affordable housing in urban communities with a varied cast of community stakeholders. With that in mind nha and their team has presented a project that meets historic landmark guidelines while providing a affordable housing resource and a resource rich neighborhood for decades to come. There is a housing crisis in our community as evidenced then supported by the voters of the metro housing bond and the passing of statewide measure 102. The crisis is real and this project makes the commitment to help alleviate some of the crisis while making itself a valuable and complimentary part of the alphabet district. Thank you for your time and efforts and hope you will support nha in moving forward with this development Steven McMurtry currently the director of housing development housing authority Clackamas county.

Wheeler: Thank you very much.

Parsons: And that's all.

Wheeler: Very good. So the appellants each have five minutes for rebuttal if they so choose. So first up is appellant number one, the northwest district association, if you would like to rebut anything?

Jessica Richmond: I have a strange sense of deja vu. Jessica Richmond again for northwest district association, first the definitions, new development occurs on a vacant site and you have before you the definitions of new development, exterior alteration and this definition of site is long and complicated. I apologize. I wrote it, but it basically says a site is an ownership so the site for this project is the full half block which is under the ownership of one entity and therefore the north building is an addition to that site, is an exterior alteration it is not a vacant site. Second, the height, the image of the neighborhood at the end was very misleading. It showed a lot of nonexistent full-grown trees obscuring some of the lower-rise development and the heights shown by the applicants of neighborhood buildings were often inaccurate and also they compared buildings with sharply peaked roofs and church steeples to a flat-roofed building. In terms of mass, in terms of impact, in terms of design, those are very different things. There was a question of this project is saving the buck-prager building that's wonderful and will very happy but what saved the buck-prager building was this council decision in 2015 to deny the demolition here wasn't really a choice here by the applicant. The eastern edge includes much more than you have heard about from the applicant and if you go back to the slides we showed, see our slides for community design guideline p1, you see the full text of the characteristics of the eastern edge. There is also a difference between the characteristics of the district which is rather large and the character of our neighborhood which is a small area with small buildings. It is not like the rest of the district and that is why we have sub districts within the northwest alphabet district. Finally on the condition of approval that we have requested, because nha are not owners of the land as part of our concern they'll be leasing it on a 75-year lease, we would be more than happy to be flexible to pick 60% of

November 28 – 29, 2018

mfi because that is what they have been consistently saying, but if they we can come up with language that will get us to the same place of a assurance it will be affordable housing, we would fully support that. And we also note that the -- i'm sorry, the landmarks commission, the language in the decision specifically says, I quote, "approve 148 units of affordable housing" so we're just asking council to implement that and finally there was talk about the length of the process and so on. There were three design advice requests for this proposal, design advice requests are completely voluntary. It was the applicant who chose to go through those and we appreciate that they did and we also would note that until the final hearing, the landmarks commission was not reaching a consensus about the buildings and often the straw vote was 3-3 or some other proportions and I'd be glad to answer any questions you might have.

Saltzman: I have a question.

Wheeler: Commissioner Saltzman and then commissioner Fritz.

Saltzman: Perhaps I should ask this of staff, but since your almost like staff I'll ask you and you are representing the neighborhood and I thought Mr. Schwartz gave a fantastic quote from Art DeMuro former member, chair of landmarks commission.

Jessica Richmond: Yes, an amazing man.

Saltzman: Yes, an amazing man about being basically content blind in the decision so to me as long as the building fits the criteria, why should we even be debating -- and it is a residential use, why should we even be debating the affordable -- I mean the affordable is nice, we all want it, but I don't see it being in the scheme of things if I'm listening to what the Art DeMuro said and I listen to him a lot over the years, why we should be content blind.

Richmond: I agree but I think they key word there is should, that we should be blind to the content, but the reality is that we're human and that there is a dire housing shortage for affordable housing and if that we can't help but be affected by that. We have all talked about how ironic it is that we find ourselves opposing an affordable housing project. We know that it affected the landmarks commission because it pervaded their discussion and its reflected in their written decision. We know it has affected us and we don't expect council to ignore that factor either and we think in all three of our cases, it makes us a little less critical of this proposal because we want so much for affordable housing to happen, but by the same token, we don't want to be generous and then something else comes in. Maybe not bigger apartments or ones that rent for a lot more and so the condition should in fact be harmless to nha. As I said earlier, they are not in the business for market rate housing so we would like to work with them to craft a condition that will work for them and also assures us that it is affordable.

Wheeler: Thank you, commissioner Fritz?

Fritz: I am glad you went first because that gave me a chance to look at the code and thank you m. Richmond for for the appeal because you are correct, it does say in the historic landmarks commissioning decision, approved for affordable housing and then you very helpfully put in the definition from 30.01.030.b regarding what does that mean in city code so I think it would be helpful in this case if we could get a condition which commissioner Eudaly said, I believe, is necessary for that adjustment and state what is meant by that. So thank you.

Richmond: Thank you.

Wheeler: Appellant number 2, Mr. Schwartz if you would like to come up?

Tony Schwartz: Thank you, mayor, let me see if I can plug this in with the help of the clerk. Somebody has panic at the disco up. Thank you, mayor, commissioners, I appreciate the time I just wanted to quickly engage in some rebuttal with regard to the applicants presentation and show some additional pictures from a different submission that's in the record. The top photo is heading south on 18th and you can see the buck-

November 28 – 29, 2018

prager building to the left hand side and you can see the 1940 green apartments that are slated for demolition on the left hand side as well, the lutheran church with rose haven, the day shelter for homeless and abused women is right to the right where the first car is and that is just 650 feet away or so from northwest Irving and all the houses on that. I showed this to providing contexts this is Irving east side heading north, just so you know the north building would be on the left side of the photo, those trees on the left hand side will be taken down and hopefully there will be some tree abatement but that was some discussion I think that is still in the air. The landmark units are on the right hand side and you can see that is a 30-foot wide street and I present that to you so you will have a context of how narrow Irving is in relation to the 60-foot building slated to be put where those trees are about six feet from the right-of-way -- well, from the road. This is another photo from the east to the west on Irving that the exeg1 building that was referenced both by the applicant and bds staff and again the 60-foot north building will be just to the west of that on the left hand side of the photo and you can see the trees up here that will be slated for demolition and that's where the project is which is on the west side of the unit and again another photo with the historic landmarks on the right hand side and the edg1 on the left hand side. So I just wanted to present those photos for you just so you can get a little better context when you're evaluating some of the photos presented by the applicant particularly the north building which I would argue does not meet the criteria particularly with regard to d7 and the hierarchy of compatibility. I would say I am always concerned when individuals talk about well we went big and then we came down, to me as a lawyer, I always regard that as sort of a negotiation tactic, start high and sort of whittle down. So I would disregard some of that comment in that they had a 6-story building initially and then took off some of it so this is great. I would say look to their photo which is referencing the record of august 10, 2018, that is the final north building design again put that in reference to the photos I just put up, there are no doubts that there are five or six story buildings as commissioner Eudaly and lots of other people have talked about throughout this district there is no doubt that that's true at all. I would say with regards to the 2015 findings this body stated that the majority of four to six story multidwelling buildings in the district have deep and well-defined landscape courtyards this program does not have deep and well-defined landscape courtyard. All the other buildings presented by the individuals like the Worthington or the Wickersham, the American apartments, they really do have deep courtyards and it really breaks up the massing just for your clarification. With regard to the approval criteria, there was some discussion on how the appeals presented by myself and nwda, talked about how the south and north buildings will overwhelm the buck-prager that is not entirely true our contention is that there should have been analysis about it would overwhelm the landmark structures surrounding the site. Again plenty of context throughout the district for a similar-size building, I get that, I understand that, but there is no other context in the State of Oregon for this site with 13 individually listed landmarks surrounding the site which is really that the support for the 2015 findings in which you said a 46 replacement building was too big, it is because the site itself is unique and it is unique its one of a kind and the only kind in Oregon. I would say there was a lot of discussion about the approval criteria from the applicant and its lawyer and nha's new director. again that is in a vacuum you have to think about the 2015 decision which I have already discussed. There was discussion about how the approval criteria in 2015 was totally different than used in this matter. That is not true. In 2015, the city government looked through the comprehensive plan, the northwest district plan and the alphabet historic district plan and with regard to the historic district plan that informs the community design guidelines of p-1 so there was a lot of overlay between the 2015 discussion and the discussion up before Portland historic landmarks commission. Again I put that out there because to me that is where I come down from which is there should have been a fairness

November 28 – 29, 2018

aspect. I want to say quickly, at the final land use decision before landmarks there were 44 submissions in opposition to the program and 26 submissions in support. Look, there is a lot of people on both sides that have strong opinions and I get that. I can certainly see how landmarks went but many people do have reservations about the project and all I ask is that you take due care and consideration with regard to this program. Thank you, mayor.

Wheeler: Thank you everybody for your testimony unless there is any objection. This will be the end of the public participation portion of this on the record hearing.

Fritz: Could I get -- they were going to come back with the --

Wheeler: Yes, council can still ask questions, add deliberations, whatever you like.

Fritz: The applicant was going to come back with a suggested condition of approval that they could live with which I would rather prefer than trying to come up with something myself.

Wheeler: If they so choose.

Fritz: If they so choose and to be clear I'm not asking you to do anything you don't normally do, I just wanted to try to define what you normally do because what you normally do is really good. I just don't want anyone else to come in and use this property for something else.

Wheeler: Could I ask a question of legal counsel while they're setting up? We have heard testimony with regard to the use of the facility and the testimony that we have received suggests that issue is on the table because of the actual findings of the historic landmarks commission. Is that accurate?

Lauren King, Deputy City Attorney: So if you are -- the applicant is an affordable housing provider and I think you can see in the way the application was provided, was approved, that they do discuss it as affordable housing. I believe what commissioner Fritz was referring to in the findings was the adjustment for the loading dock was based on the assumption that because the units are smaller, they won't need as wide of a loading dock, bds can speak to what the pbot staff specifically said which they just talk about the size of the units, not the price point of the units but I guess I am not sure what your question -- if your question is whether we can talk about being affordable, yes. If your question is does this give us a nexus to impose a condition, I think my advice would be no. The councils authority to impose conditions is based on the applicable approvable criteria, so whether or not a finding mentioned the project that was proposed by the applicant as including affordable housing that's still not the applicable approval criteria.

Wheeler: So that clarifies my question because my question was related to issue number 2 that you just raised.

Cozette Tran-Caffee: That was actually helpful and we would agree with that analysis. You know, we do understand the concern about maintaining affordability at this project, but I can't advise my client to voluntarily agree to any additional restriction on the development as Trell discussed earlier would make it harder to fund. With respect to the size of the unit, Trell and maybe Michelle can address this a little bit more but assuming the design is approved, the shell of the building is set and really is not -- you couldn't just switch out the inside to move from studio apartments to family-sized apartment without a lot of work.

Fritz: Why not?

Tran-Caffee: That is probably a question for an architect.

Fritz: Isn't it just a matter of whether you put a second set of plumbing in and have a door through or not?

Michelle Black: For one thing, if the exterior is set, all the windows are set in a specific place it's not easy to just put walls wherever you want --

Fritz: You just remove the wall is what the concern is so instead of having three studio apartments, you have connecting doors through interior and so suddenly you have a three-bedroom apartment.

November 28 – 29, 2018

Black: Is it possible, yes. It is difficult to do when you have a site like this where everything is so tight and decided already. Can I tell you that it absolutely could not happen, no, I can't.

Fritz: The concern is, I like the design, let me be very clear I like the design I want to approve this development but I am concerned about the adjustment for the loading zone and this is consistent with my ten years on council, I think we get into problems when we don't have places for people to load and offload their stuff so I am concerned about that. I was prepared to approve the adjustment, even if they have to be studios, then they have to be studios, maybe its a condition they have to be studios since you're saying that would be difficult to change that any way, then at least they would be relatively affordable even if they were market rate. My concern is as commissioner Eudaly said consolidating the units and having people with a full dining room set and grand piano.

Black: I don't know how to address that other than the intention of this client and the design team, that the proposal we are showing you today is the proposal going forward. Is there a chance that ours doesn't go forward and someone else buys this site, I don't know how to play out all the hypotheticals you are laying out here but as we are working on a pro forma and looking at funding based on only studio units. That is the intention and that has never been looking at anything else. I think you know our concern with the covenant is based on it is already very difficult to provide affordable housing and so to put anything else tied to this project makes lenders very uneasy and quite frankly we need as much flexibility as possible in talking to as many lenders as possible to get projects funded.

Fritz: So as the decision currently says it is for affordable housing and it refers in the adjustment criteria to the studios and the seniors, et cetera. Then the appeal pointed out the city's definition of affordable housing is at 80% median family income and the appellants were asking for 60. So at 80%, you said you don't have any projects that are providing housing at greater than 80%, is that correct?

Anderson: That's right.

Fritz: So that is something that is defacto in the decision?

Tran-Caffee: I would note that the decision also notes the type of housing proposed the amount of -- quoting page 5, the type of housing proposed, the amount of parking and density are not relevant to the applicable historic research review criteria. So as we read the decision and the deliberations and all that references to affordable housing were just --

Fritz: No, I agree with that, I am talking about the adjustment request, not the historic criteria.

Black: I think it is worth saying and certainly this is a concern and we respect this concern but it is worth saying that projects, multi-family projects get those adjustments. There are projects within the alphabet district that have gotten this adjustment that are mixed unit buildings and again, if this is a concern for you, I understand that but this is not out of keeping with what other projects, multifamily projects are getting allowed by pbot.

Saltzman: I am prepared to make a motion.

Wheeler: Commissioner Saltzman?

Saltzman: I move to uphold the landmarks commission's decision.

Eudaly: Second.

Wheeler: We have a motion and a second. Further discussion?

Tran-Caffee: Can we request to make like tentative findings and --

King: This is a tentative vote and we'll talk after the vote about when council would come back to adopt the final finding, yeah.

Eudaly: Do we have opportunity to bring staff back up as I did have a question for bds.

Wheeler: We ha a motion on the table, we have plenty of time to bring up staff.

Fritz: We probably are going to run out the clock to right?

King: I believe its December 30th or 31st, yes.

November 28 – 29, 2018

Fritz: So I don't think we can do it. Does it go into effect immediately after the council votes next time?

King: Does the decision go into effect?

Fritz: Yes or is it the usual waiting?

King: It would be an approved land use decision and then the parties have 21 days to appeal it to luba.

Wheeler: Commissioner Eudaly.

Eudaly: So I am just hoping to understand the question about zoning that was stated earlier that bds stuff discouraged the developer from trying to develop to the full height allowed by designing on the lot. Would you say that is a fair characterization?

Grace Jeffreys, Bureau of Development Services: I would say there were discussions about compatibility in the district so it was more to do with maybe a discussion massing in scale and how it fits into the district.

Eudaly: So they might have been able to reach the full height if the massing had been changed?

Jeffreys: Yes.

Eudaly: Here is my question. It is an historic district so there is additional considerations but we have given it this zoning so why wouldn't we have just down-zoned if we didn't feel building to the full height was appropriate to the neighborhood rather than having a defacto downzoning?

Fritz: I could speak to that -- [overlapping speakers]

Fritz: I opted to down-zone it and my colleagues outvoted me and said let's just see what we can come up with so this is what they have come up with and I'm actually quite happy with it. It was to allow design flexibility and it was theoretically possible to build it higher if it was skinnier or something.

Eudaly: Okay, thank you, that makes sense. I wasn't here in 2000.

Jeffreys: So to keep the buck building, it is a lower building and it's an expensive thing to renovate and keep that building so it's a...

Wheeler: So legal council, I assume you want us to restate commissioner Saltzman's motion in land use speak, is that correct?

King: Yes, and if I may, I did speak to the applicant and I have a potential condition that might solve the issue. I don't know if it would satisfy everyone's concerns but I would like to at least offer it --

Fritz: I would love to hear it.

King: And okay, so understanding that the loading dock is based on the size of the units and hearing that the applicant does not participate in internal conversions, it could be if there are internal conversions which would trigger a building permit that substantially reduced the number of studio apartments, then it would an additional land use review would be required of that adjustment.

Fritz: And they would be willing to have that?

Saltzman: I will accept that as a friendly amendment.

King: [Conferring with Grace Jeffreys] Yes, that is true, we would just need to identify what substantially how many units is reduced. So right now, I think they are proposing 128, 148 units so I don't know what Council thinks at what point internal conversions would trigger the loading dock but -- 50 percent reduction. Okay, so there's 48 units. Sorry, BDS staff could speak to that better because they could speak to the exact location where the loading spaces are.

Jeffreys: So I will just refer to pbot's response to the adjustment because it is pbot that actually -- BDS staff looks to pbot to approving an adjustment to loading. So I just want to go back to -- the north building has 100 units and so that loading space being provided on the north is for those hundred units in that north building so the trigger is once you go over

November 28 – 29, 2018

100 units, you need two type b's. If you have 100 units or less, it is one type b space. So that one type b space meets the loading needs of the north building. Since they are over at 148, the 48 units which are not really being served by that loading space because there is a height difference and it won't really work to use that loading bay for the south building in the buck-prager, the adjustment is really for those 48 units so I would say you would want to talk to the members of those 48 units.

Fritz: I would be happy with that. Would the applicant be happy with that?

King: So I think what we're trying to identify is whether or not -- what that substantial reduction would trigger an additional land use review of the loading space. So knowing you are starting with 48 units when there are fewer than 20 studio apartments, at what point is there a substantial reduction in the video apartments --

King: Triggering the need for a language review to look at the adjustment. [off mic]

Fritz: I know we have an expert here. Jessica, I would suggest you talk to hillary.

King: So what I am hearing from staff is that there's 48 units. Once they get under 40, they wouldn't need that adjustment any way. So it is somewhere between 40 and 48 if they adjusted it. That doesn't sound like it is a substantial reduction. If they adjust it between 40 and 48, council may not interpret that as a substantial reduction in studio apartments that should trigger a land review.

Fritz: What I am hearing from the applicant is they have no intention of doing any conversions. What I'm trying to do is acknowledge that the neighborhood has expressed and presented their concerns in a very helpful and supportive way that is very respectful of affordable housing and actually they are asking to make sure that it happens. So I think it would be very nice to get somewhere to have in writing that their concerns have been addressed and I don't really mind exactly what it is.

Richmond: Mayor, may I ask a technical question?

Wheeler: No, I am sorry, we're in the Council deliberation section of this so I cannot, I apologize. [off mic]

Wheeler: I think what you are hearing from the council is we're reluctant to reopen the record on this so the answer is respectfully no.

Saltzman: I'm ready to restate my motion in the appropriate language. Deny the appeals and uphold the historic landmarks commission decision to approve the requested block 162 apartments historic review with modifications and adjustments case file lu 18-187493 hrm ad.

Fritz: And not having any conditions?

Saltzman: Yeah, I don't see the need for conditions if we're talking between 48 and 40 apartments.

Wheeler: Is there a second?

Eudaly: Second.

Wheeler: We have a motion and a second. Please call the roll -- i'm sorry, I have to clarify this is a tentative vote and we will take a final vote at a later date and when will we determine that date --

King: We will determine the date after Council votes. Before you go anywhere.

Wheeler: Assuming that the motion carries, very good, thank you. Commissioner eudaly?

Eudaly: So I do believe the criteria was met and I don't believe there were errors made in the review process or if there were deviations from the review process that it would have resulted in a different outcome. I want to say on a personal note like many Portlanders, I am overwhelmed by the rate of change in the city and I don't like a lot of it but in this case, I actually think that this is a much more attractive new development that I have seen on our streets and that the developer and architect has really gone to great lengths to meet the criteria and I was actually a little confused by the brick building. I agree it is so similar to some of the buildings in the neighborhood and thought it was an existing building I

November 28 – 29, 2018

remembered being there but is actually a new one. I think of mixed streetscape as desirable so whether that is mixed materials or contrast of textures or age of the building, height and depth, that adds to our built environment so the fact that it may not be exactly the same as every other block in the district doesn't seem valid to me. Also, I would also love to guarantee that this is affordable housing and remains affordable housing and I have no reason to believe it won't be. I don't believe that we can put restrictions on it, however, because none of the decisions made by bds, pbot or the historic review committee are contingent on that affordability and this would be an acceptable development whether or not it was affordable. This is in fact extremely expensive real estate and the idea it is going to be developed at two stories in keeping with the adjacent contributing structures is just unrealistic. I agree there is a balance to be struck between density, affordability and preservation and I actually don't think it is perfectly met here because we could have gotten more units and I don't think the developer came in at a higher height as a bargaining tactic but because they were allowed a higher height due to mixed zoning on the property and I appreciate everything they have done to meet the requirements of the city. And with that, I vote aye.

Fritz: First, thanks to northwest housing associates. I'm feeling very happy. And it was really difficult to say no in 2016; that building was really out of character with the neighborhood. This one isn't and I am very pleased with the work you have done and appreciate that. Also appreciate the historic landmarks commission and their members who worked very diligently and under extreme pressure, thanks to Hillary Adam and grace Jeffreys for her support of them and for this decision which does say it is for 148 units, new affordable housing units including 48 senior units and 100 units of affordable workforce housing and that no field changes are allowed. So I think it is quite clear in the record what is intended because NW Housing Associates, I am very confident that you are going to get the funding and that this is going to move forward so thank you very much for all you do for affordable housing as a well as northwest pilot projects and others. I think it is a remarkable project and looking forward to seeing it done. I would also say commissioner Fish is out of state on personal business and I know he would say if he were here that he is relieved that we got here after we said no to the other one and also people who live in affordable housing should not have to sacrifice design and that they get to live in wonderful places with great design and I think that is what we're going to get here so thank you very much. Aye.

Saltzman: I want to commend the NW district association and mr Schwartz. As always you do outstanding jobs in your presentations and I appreciate that but in this case I disagree. I think the applicant has done an outstanding job this time around in making the project look indistinguishable from much of the rest of the alphabet district and kudos to you getting it designated as a historical landmark. It really is an outstanding array of multifamily developments. But as I saw the pictures presented by the applicant, I said, wow, the north building looks like the American apartments on northwest 21st and Johnson, in fact it looks like they borrowed heavily from that. So it looks and feels like northwest Portland and I am sure when it is built, I will walk down the street and won't even notice it is new construction. And with respect to requiring it to be 60 percent affordability, part of your concern was that you had a landmarks commission that was running amuck with housing authority. Think about that for a second. If you had a Council that started attaching conditions to every new residential development saying by golly that's got to be 60% affordability, first of all that's not fair to the projects that come before us for approval, but it's probably not wise blanket public policy. And if it's not wise blanket policy, it's not wise to do it as an individual condition on an individual project. As much as our hearts may all be there and that may be the problem, that everybody wants to go there but we have to remember that it is a very complicated business to build affordable housing. As housing

November 28 – 29, 2018

commissioner, I have always been baffled at the ability for these projects to break ground and happen because there are so many complicated funding streams, bank loans, all of that stuff, it just baffles me. So I think we've landed at a good place, this is a good project. I hope there doesn't have to be any changes and I'm pleased to vote aye.

Wheeler: Today I am voting on information I heard today. Obviously I was late to the hearing, I was elsewhere conducting city business. Today's vote is a tentative vote. I have read the staff reports and the materials provided or submitted to the council clerk. Of course prior to taking the final vote, I will review the portion of the hearing that I missed earlier on. However based on the information that I have heard today, I vote aye. The motion carries. This is a tentative vote and the final vote will be --

King: On December 19th at 10:30.

Wheeler: So the final vote of the city council will be December 19th, 10:30 a.m. Portland city hall council chamber. Thank you all for those who presented and provided testimony, we're adjourned.

At 5:20 p.m. council adjourned.