



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **23RD DAY OF MARCH, 2005** AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Potter, Presiding; Commissioners Adams, Leonard and Sten, 4.

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

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

COMMUNICATIONS		Disposition:
216 Request of Charles E. Long to address Council regarding seniors, an untapped community resource (Communication)		PLACED ON FILE
217 Request of Laura Herbon to address Council regarding franchise agreement with Sprint Telecommunications (Communication)		PLACED ON FILE
218 Request of Marc Batko to address Council regarding Benson Tower Project (Communication)		PLACED ON FILE
CONSENT AGENDA – NO DISCUSSION		
Mayor Tom Potter		
Bureau of Development Services		
*219 Adopt the State of Oregon 2005 Editions of the Oregon Plumbing Specialty Code, the Oregon Electrical Specialty Code and the Oregon Residential Specialty Code and amend City Code to reflect revisions in Oregon State Building Programs (Ordinance; amend Titles 24, 25 and 26) (Y-4)		179125
Bureau of Environmental Services		
*220 Authorize Intergovernmental Agreement with Portland State University to provide services for the June 2005 China - U.S. Sustainable Urban Planning and Design Training Program for the Chinese Ministry of Construction (Ordinance) (Y-4)		179126
*221 Approve settlement with S-2 Contractors, Inc. in regards to the Tanner Creek Diversion Project, Phase 4, Project No. 5407 (Ordinance) (Y-4)		179127

March 23, 2005

*222	Authorize the Director of Environmental Services to execute individual agreements for implementation of stormwater management demonstration projects, as part of the Environmental Protection Agency Innovative Wet Weather grant program (Ordinance) (Y-4)	179128
223	Authorize an Intergovernmental Cooperative Agreement with the Regional Coalition for Clean Rivers and Streams to coordinate, develop and implement a regional stormwater pollution prevention and fish protection public awareness and media campaign (Ordinance)	PASSED TO SECOND READING MARCH 30, 2005 AT 9:30 AM
224	Authorize a contract with the lowest responsible bidder for the Sullivan Pump Station Capital Repairs Project for the Bureau of Environmental Services, and provide for payment, Project No. 7172 (Ordinance)	PASSED TO SECOND READING MARCH 30, 2005 AT 9:30 AM
225	Authorize an Intergovernmental Agreement with Portland State University to set up and add customization to the CE-QUAL-W2 model Version 3.2 hydrodynamic and water quality modeling for the Columbia Slough (Ordinance)	PASSED TO SECOND READING MARCH 30, 2005 AT 9:30 AM
Fire, Rescue and Emergency Services		
*226	Revise fire code enforcement fee (Ordinance; amend Code Section 31.40.020) (Y-4)	179129
*227	Apply for a \$227,592 supplemental grant from the Department of Homeland Security for Portland Bureau of Fire, Rescue & Emergency Services to secure additional equipment and training related to the City Metropolitan Medical Response System (Ordinance) (Y-4)	179130
*228	Accept \$242,354 grant from the Department of Homeland Security for learning center exhibits and to broadcast messages for Portland Fire and Rescue (Ordinance) (Y-4)	179131
Office of Management and Finance – Bond Counsel		
*229	Authorize bonds to refund outstanding Water System Revenue Bonds, 1997 Series A and 2000 Series A (Ordinance) (Y-4)	179132
Office of Sustainable Development		
230	Authorize an Intergovernmental Agreement with Portland State University in the amount of \$81,847 to execute the Single Family Weight Study Recycling Project (Ordinance)	PASSED TO SECOND READING MARCH 30, 2005 AT 9:30 AM
231	Authorize an Intergovernmental Agreement with Portland State University in the amount of \$113,000 to execute the Commercial Recycling Project (Ordinance)	PASSED TO SECOND READING MARCH 30, 2005 AT 9:30 AM
232	Authorize an Intergovernmental Agreement with Portland State University in the amount of \$40,748 to execute the Multifamily Recycling Project (Ordinance)	PASSED TO SECOND READING MARCH 30, 2005 AT 9:30 AM

March 23, 2005

Parks and Recreation		
*233	Allow Portland Parks and Recreation Urban Forestry Division to accept a \$5,000 donation from PacifiCorp to purchase trees planted on public property (Ordinance) (Y-4)	179133
*234	Apply for a \$135,000 grant from the Department of Education to improve Portland Parks and Recreation ability to provide recreational services to people with disabilities and improve the inclusiveness of recreation facilities (Ordinance) (Y-4)	179134
Planning Bureau		
*235	Amend an Intergovernmental Agreement with the State of Oregon to provide \$3,000 for the Division Green Street/Main Street Project, an approved project under the State Transportation and Growth Management Program (Ordinance; amend Contract No. 52263) (Y-4)	179135
Police Bureau		
*236	Authorize an Intergovernmental Agreement with the Tri-County Metropolitan Transportation District of Oregon and the City of Tigard to allow a Tigard officer to participate in the TriMet Transit Police managed by the Portland Police Bureau (Ordinance) (Y-4)	179136
*237	Amend an Intergovernmental Agreement with the Tri-County Metropolitan Transportation District of Oregon and City of Gresham to reduce the number of Gresham officers who participate in the TriMet Transit Police managed by the Portland Police Bureau (Ordinance; amend Contract No. 51955) (Y-4)	179137
*238	Amend an Intergovernmental Agreement with the Tri-County Metropolitan Transportation District of Oregon for the Portland Police to manage the TriMet Transit Police Division (Ordinance; amend Contract No. 51484) (Y-4)	179138
*239	Apply for a \$234,902 Gang Resistance Education and Training Local grant from the Bureau of Justice Assistance to operate local programs (Ordinance) (Y-4)	179139
Water Bureau		
*240	Authorize the Bureau of Water Works to purchase a site for the Whitwood Pump Station on the property of WB Oregon, Inc. and provide for payment (Ordinance) (Y-4)	179140
REGULAR AGENDA		

<p style="text-align: center;">March 23, 2005</p> <p style="text-align: center;">Mayor Tom Potter</p> <p style="text-align: center;">Office of Transportation</p>		
*241	Provide for parking operations and enforcement authority on city-owned and city-operated property (Ordinance; amend Title 16) (Y-4)	179141
<p style="text-align: center;">Police Bureau</p>		
*242	Apply for a \$1,030,701 Justice Assistance Grant from the Bureau of Justice Assistance, Office of Justice Programs to reduce crime and improve public safety (Ordinance) (Y-4)	179142
<p style="text-align: center;">Second Readings</p>		
243	Establish a Development Services Fee to cover costs and improve service of the Land Use Services Program and adjust permit fee schedules to minimize the impact of the new fee (Second Reading Agenda 192) Motion to add to section d a statement that says the General Fund shall continue to provide ongoing financial support to the Land Use Services Program but does not specify at what level: Moved by Commissioner Leonard and seconded by Commissioner Adams. (Y-4)	PASSED TO SECOND READING AS AMENDED MARCH 30, 2005 AT 9:30 AM
244	Create a new Nonrepresented classification of Neighborhood Intervention Specialist and establish a compensation rate for this classification (Second Reading Agenda 206) (Y-2; N-2, Adams, Leonard)	FAILED TO PASS
245	Authorize the Wind Energy System Funding Agreement with the Energy Trust of Oregon, Inc. and accept a payment of \$36,117 to partially offset costs to construct a wind turbine at Sunderland Yard (Second Reading Agenda 207) (Y-4)	179143

At 10:15 a.m., Council recessed.

March 23, 2005

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND,
OREGON WAS HELD THIS **23RD DAY OF MARCH, 2005** AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Potter, Presiding; Commissioners Adams, Leonard
and Sten, 4.

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

	Disposition:
<p>246 TIME CERTAIN: 2:00 PM – Appeal of Northwest District Association against Design Commission decision to approve the application of SKB- Uptown Investments, Owner, and Jack Onder, Developer, for the 24th Place Condominiums at 1-39 NW 23rd Place (Hearing; LU 04-018250 DZM)</p> <p>Motion to grant the appeal: Moved by Commissioner Sten and seconded by Commissioner Adams. (Y-3; N-1, Potter)</p> <p>Motion to reconsider: Moved by Commissioner Leonard and seconded by Commissioner Adams. (Y-4)</p> <p>Motion to refer this matter back to Design Commission and any proceedings in front of the Design Commission would have to be noticed: Moved by Commissioner Leonard and seconded by Commissioner Adams. (Y-4)</p>	<p>REFERRED BACK TO DESIGN COMMISSION</p>

At 4:54 p.m., Council adjourned.

GARY BLACKMER
Auditor of the City of Portland

By Karla Moore-Love
Clerk of the Council

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

March 23, 2005
Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

MARCH 23, 2005 9:30 AM

Potter: Before we begin the official session, each wednesday morning council session, I open up with asking a question that is asked in many villages in africa. And as the adults pass each other, instead of saying, "hi, how are?," they say "how are the children?" that's the question I ask our community, is "how are our children?" shortly after I became mayor we decided to bring in experts to talk about that very issue, how are the children. And we have two experts with us this morning, niasha simms and ashley duke. Could you folks come forward, please? If you would just introduce yourself and tell us a little bit about yourself and we can go from there.

*****: Go ahead.

Nyesha Sims: My name is nyesha sims, i'm a freshman at jefferson high school. I play basketball. I currently have a 4.0 g.p.a. And hope to graduate from the university in atlanta, georgia. In my spare time I like to socialize and attend outings with my friend, however a great proportion of my time is involved in studying and attending practice and eating.

Ashleigh Duke: Ok. My name is ashleigh duke. I attend sei academy. I'm in the sixth grade. I'm 11 years old. I also want to attend a college down south. In my spare time, I like to eat and talk.

Potter: One of the questions that we ask you experts are what are the issues that you think are really important to young people and what should adults know about those issues?

Sims: Umm, can you restate that question?

Potter: Sure. What's important to you as young people? What do you think we as adults could do to help you?

Sims: I think at school, one way adults could help us, is to kind of help us have like more of a variety. Like sometimes you're in class, you're all working on the same work sheets, and sometimes it's something that you already know, and it's kind of like a review. And other students who may not know it, they are learning something new, and that's good, but we're not really getting challenged that much in a lot of classes. That needs to stop.

Potter: Good point.

Duke: I also feel the same way. I think we need to get challenged a little bit better. Maybe by switching up to a higher class or something. But like the -- some of the work in my school is pretty much easy for me, because we learned it in eighth grade, and we're learning it again. So it's like, what are we coming up in a higher grade for if we're just learning the same stuff over again.

Potter: That's a very good point. So tell us a little bit, ashleigh, about your involvement with s.e.i. You say you're in the sixth grade?

*****: Uh-huh.

Potter: What does s.e.i. Do different than other schools?

Duke: It's a new charter school at self-enhancement, inc. They split up the classes a lot, and there's a ratio of one teacher to 12 students, so you get more attention because you're in smaller classes instead of being in, you know, bigger classes with more kids and more chaos. And when you don't understand a certain subject, then for about an hour of the day you'll go with a separate teacher and they'll help you study that subject. And then when you advance to a certain point, then you'll be able to go to your next -- to your regular class. And then if you do really well in that class, you can be in an advanced class.

Potter: And how would you like to see things different at jefferson high school, niasha?

March 23, 2005

Sims: I think we should cut off the roundup policy, because if you're like 10 seconds late and you're running to class, trying to make it on time, they automatically send you to roundup, and you're wasting a whole hour of learning, which you can be in class doing work and studying, but they send you to roundup, which is you're just going to sit there because you don't have anything else to do, because like your first period class or you just don't have any work. And I think we need more money for our schools to help buy more equipment and like have a new track, buy new weight room equipment and stuff.

Potter: Do you have a music program at jefferson, or does jefferson have a music program I should say?

Sims: No. They need like a music program, too, and like a band.

Potter: I understand they don't have any equipment for a band either. Why don't you introduce the folks that brought you here this morning.

Duke: Mr. Williams sr., he's standing right there. Yeah.

Potter: Mr. Harold williams sr.

Sims: Yeah. And mr. Harold williams jr. and o.g. one. Mr. Jackson is o.g. One.

Potter: I really appreciate you coming in today.

*****: You're welcome.

*****: Thank you.

*****: Thank you.

Potter: Study hard. What's the school in atlanta that you want to go to?

Sims: Not exactly sure. I just know I want to go to atlanta when I grow up.

Potter: Well, I hope we can keep you here in Portland. Thank you very much for coming in this morning.

Adams: Or at least come back.

Potter: Yes. Thank you. [gavel pounded] council will come to order. Karla, please call the roll.

Adams: Here.

Leonard: Here.

Sten: Here.

Potter: Here. [gavel pounded] it's communications. Karla, please read item 216.

Item 216.

Potter: Mr. Long. Thank you for coming. Could you please state your name for the record and you have three minutes.

Charles E. Long: Yes. My name is charles e. Long. I've been a resident of Portland since 1923. Portland has an incredible largely untapped community resource in its retired senior citizens. Seniors are not only living longer, but also are generally in better physical, mental, and financial shape than ever despite the current obesity problem. Many are acquiring college or graduate education. Many are have skills and experience in several vocations, and most have the wisdom that only comes through trial and error. Oregon has the fourth highest percentage of seniors in our nation at a time when budgets are strained to the breaking point it would be foolhardy to ignore this critical resource. Our united states supreme court members are appointed for life. Most are now senior citizens. Senior president jimmy carter has probably serving the nation more now than when he was president with his work on -- on hands work with habitat for humanity and his unofficial ambassador for peace in troubled spots throughout the world. And my own sister at age 89, despite recovering from two types of cancer and a serious auto accident, is an organist at her church and pianist at the mcminnville senior center. Government's only requirement is to match the skills of the willing with the needs of the community. Thousands will be willing to serve if you only asked them. Thank you.

Potter: Thank you, mr. Long. As a fellow senior citizen, I appreciate your comments.

Adams: Thank you.

March 23, 2005

Potter: And I think -- I don't know what we have in the way of programs for seniors in the city to volunteer.

Leonard: We have elders in action as a part of o.n.i., an excellent organization for seniors to get involved in. They do wonderful work in the community on behalf of seniors.

Potter: That's a good point.

Adams: And part of the budget discussion with both police and fire and the other bureaus was to come back with options for using volunteers more, which would be an opportunity for seniors.

Potter: Good. Karla, please read the next communication. Hello. Thank you for being here. State your name for the record and you have three minutes.

Item 217.

Laura Herbon: Thank you for the opportunity to address council this morning. My name is Laura Herbon, a resident of the Arbor Lodge neighborhood in Portland. I live near North Lombard Street. I requested this time to address city council because I have concerns about the land use review process for a proposed cell tower in my neighborhood. I speak not just for myself, but on behalf of the neighbors who also share my concerns, which you signed a list from some of the neighbors in my neighborhood. I brought two plans to illustrate the situation. The project I want to bring to your attention is a cell tower and accessory equipment yard that is proposed at the corner of North Villard Avenue, right here, and North Lombard Street. Basically the accessory yard is proposed behind this building, and now that the city has a wireless resolution the proposed monopole, which will be 81 feet tall, and colocated with the p.g.e. Pole, which is currently 61-foot-tall, they can take that down and put the monopole in in the right-of-way just legally, and there's no -- it's a type one land use review process for the accessory yard only. A similar proposal by Sprint in this very same location, where they proposed the monopole entirely on private property with the accessory yard was denied three months ago by the city in a type three land use review process. And in my opinion, for all intents and purposes, this is the same project. The pole -- the new pole location would be 60 feet away from the pole location that was already denied, and now this is perfectly legal. I'm bringing this attention -- to your attention, because I believe that the proposed location of this 81-foot-tall cell tower is too close to a residential neighborhood. In these diagrams, yellow is residential zones and red is commercial zones. The new monopole's approximately 60 feet from the last proposed location, and that was denied. There's something awry with this process. I believe that there will be significant visual impacts to this local residential neighborhood if the pole's installed and the applicant has not demonstrated that the visual impacts are minimal or can be mitigated, nor does the applicant have to address that with the wireless resolution and allowance of these poles to be put in the city right-of-ways. The proposed relocated pole will be three times wider than the existing pole, 21 feet taller than the existing pole with a lightning rod that's five feet on top of that elevation. I think this will add significant negative aesthetic to our neighborhood. It's out of scale with the North Villard Avenue public right-of-way, which is primarily a residential street. I don't think this is a precedent we want to set in our neighborhood. The city has an obligation to manage the city right-of-way as a trustee for the public, while the wireless resolution allows for the location of these facilities in the public right-of-way there's no provision in the ordinance for a transition zone between commercially zoned properties to buffer -- or screen the visual impacts when these properties abut residential zones. This is a lawsuit waiting to happen. The construction of the telecommunications tower and associated facilities this close to a residential zone may reduce our property values, meanwhile the city of Portland will be making money by allowing wireless providers to access these public right-of-ways, including annual fee, right-of-way user fees, installation and application fees, and if the update to the utility license code becomes effective this July the city will also collect 5% of these companies' gross revenues. If the city also purchases p.g.e. they will assume responsibility for these colocated cell towers essentially in the right-of-ways. As Commissioner Leonard rightly pointed out in a press release last fall when he was -- when they were updating the utility license code, I want to be sure that these fee changes will generate

March 23, 2005

and be put to the highest and best use. That means setting priorities and making hard decisions. I will not agree to proposals that don't contribute to public safety, community livability, and government accountability. There are shortcomings in this land use review process that currently threaten our community livability. I urge council to reconsider the wireless resolution by adding a public review process for projects this close to residential zones and incorporating transition zone provision in the wireless resolution. Thank you.

Potter: Thank you.

Leonard: And if I could, I very much share your concern. In fact, the council, after reviewing a couple of these that did come before us in a type three hearing, have rejected the applications. And we've asked the office of cable and franchise to develop a better process for the placement of these.

What we've run into, unfortunately, is the cellphone industry has lobbied the u.s. Congress to preempt us, the local governments, from doing a lot of the things we like to do to regulate where these are placed, but we're very much looking at the -- at the words of the law and trying to figure out a way to accomplish exactly what you are asking, because I absolutely agree, as I think my colleagues do, that that's an industry that we have to get some control over. And cellphone towers are an example I use as some of the bad things that could happen under measure 37.

Herbon: Right. This is a measure 37 case waiting to happen.

Leonard: Yeah.

Herbon: Some of my neighbors have already been talking about that.

Adams: Is there anything we could do, you know?

Leonard: I'd like it if you'd contact my office, maybe sit down and look at the particulars and see if there is something that we could do.

Herbon: Ok. Thank you.

Leonard: We'll have david olson, who happens to be here, is the cable director. So maybe you could talk to him. And david and I and you could meet and talk about this.

Herbon: Ok, great.

Adams: Thanks for taking the time to have such a good presentation.

Potter: Karla, the next sir, thank you for coming here. State your name for the record and you have three minutes once you begin talking. Thank you, sir.

Adams: Thank you.

Item 218.

Marc Batko: Thank you very much, mayor Potter and commissioners. My name is marc batko. I live on 11th and clay. I've lived in Portland for five years after living in had the bay area for 20 years. I'd like to plea that the benson tower project at 11th and clay be canceled. Some loopholes or procedural errors could be found to protect the health of hundreds of disabled and preserve the neighborhood. This is a 26-story that is just in the excavation stage now at 11th and clay. The procedure was flawed. The community should have been told of the two hearings and encouraged to participate. At the may and june 2003 hearings, the Portland design commission heard only one person speak in favor of the project, the architect at the first hearing. And only one person, myself, speak at the second hearing. I emphasized the noise and health concerns, the lack of social space, the inconsistency of a 26-story in a six-story environment, the lack of university involvement in a project next to p.s.u. and the traffic problems on clay street. A representative of the old church described the project as an out of scale monstrosity. The design commission didn't mention any of the objections in their summaries. The commission skirted the central issues of scale, consistency, traffic congestion, noise and health problems, and simply followed the path of least resistance, the developer's will. The commission was impressed that canadians were investing in Portland. They were impressed with the slenderness of the project, 26 stories on a quarter of a block. And the fountains that were stylized as a community space. The sustainability of the garbage removal as the architect emphasized gave the project an environmental legitimacy. The architect called me after the second hearing and I urged delaying the project. I said the project may be attractive, but not in

March 23, 2005

this area. Excavation first began one and a half years later on march than of this year, just two weeks ago. In a time of housing shortage the project represents a wrong turn in the road, a false priority, the result of uncontrolled market forces. The rights -- the right of housing can be subverted by the right of speculation. We end up protecting the sharks from the sardines. After building 30 condominiums, low-income housing should be a priority. As india paid enron \$220 million a year for not providing electricity, Portland could pay the developer for not building the 26-story. What is called the benson tower should be called march madness, or developers over everything. In this 11th-hour appeal I urge the city council to stop the benson tower project, since the project is only in the excavation stage, the cost of canceling the madness would be relatively small. Thank you for your consideration. I'm going to be uploading a great article entitled "what is neoliberalism" later today, and the writer from attack austria emphasizes that economic laws could be considered as social constructions, and that is what our challenge today is to unmask the so-called great narratives of the free market and efficiency, and to find our way to a sustainable economy. So thank you.

Adams: Do you have any reason to believe that we have authority to cancel this project?

Batko: I'm sorry?

Adams: Do you have any reason to believe that the city council has the authority to cancel this project?

Batko: I'm sure there are procedural errors, there are loopholes. The community should have been involved and should have been told of the hearings. It seemed like the developers just have full power in this -- in this area, and, you know, now it would be an ideal time to reflect again, you know, and to see if the architect -- see if the developer is willing to delay or to change his plans.

Potter: Thank you, mr. Batko.

Batko: Thank you.

Moore: The consent agenda.

Potter: Now the consent agenda. We'll take a vote on the consent agenda. Commissioners, do you have any items to pull from the consent agenda?

Adams: No.

Potter: Is there anyone in the audience who wishes to pull any item off the consent agenda? Hearing no comment, Karla, please call the roll.

Adams: Aye. **Leonard:** Aye. **Sten:** Aye.

Potter: Aye. [gavel pounded] there are no to certians this morning, so let's hear the agenda. Please call 241.

Item 241.

Keith Ehrensing: Good morning. My name is keith ehrensing. I work for the department of transportation in parking operations. I'm here to initially just give you a little rundown on what it is that we're doing here. Along with me, on my right, your left, is casey jones from the bureau of general services, and on my left, your right, is nolan Mackrill from parking enforcement. What we're proposing is essentially authorization for parking enforcement to provide enforcement services in offstreet publicly-owned parking lots. And these have been operated by b.g.s. for some 10 years or so. And they're in favor and we've agreed to september transfer of those from b.g.s. to transportation, and this facilitates our ability to enforce these lots and operate them.

Potter: Is this just sort of cutting out the middleman?

Ehrensing: To some degree, that's true, yes. We would move to a situation where we would be directly operating these lots rather than hiring a contractor to do so. That has been b.g.s.'s practice in the past.

Potter: Is anybody from b.g.s. here? Go ahead and respond.

Casey Jones: Mayor, commissioner, my name is casey jones. I'm the smart park manager for the bureau of general services. B.g.s. has operated these lots through a subcontractor for about 10 years, and just in the last nine months or so brought to pdot the idea of using multispace meters on the lots and operate those directly from the office of transportation. We feel it's a more efficient and

March 23, 2005

effective use of public resources, and we think that the lots will better serve the community by having pdot directly manage and operate them.

Potter: Any questions from the commissioners? Thank you, staff.

Adams: Thank you.

Potter: Is there anyone signed up to testify on this, Karla?

Moore: No one signed up.

Potter: Is council ready to take a vote? Karla, please call the roll.

Adams: Great work, folks. Aye.

Leonard: Aye.

Sten: Aye.

Potter: I think this is -- shows excellent cooperation between the two bureaus, and that's the kind of thing that we want to encourage at city council. So thank you very much. Aye. [gavel pounded]
Karla, please read item 242. This is emergency ordinance, correct?

Moore: It is.

Item 242.

Bob Del Gizzi: Good morning, mr. Mayor, commissioners. My name is bob del gizzi with the Portland police bureau. With me is a grants analyst with the police bureau. Thank you for hearing this public statement regarding this proposed grant application. The u.s. Department of justice, bureau of justice assistance, the b.j.a., has announced the availability of grant funds. This was created to replace both burn grant and local law enforcement block grant programs. Portland police has received block grant funds for several years. The program allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system. The funding distribution is based on population and crime statistics as well as law enforcement expenditure data. There are six purpose areas for the use of j.a.g. funds. Law enforcement programs, prosecution and court programs, prevention and education programs, corrections and community corrections programs, drug treatment programs, and planning, evaluation and technology improvement programs the city of Portland is eligible to apply for a joint amount of \$1,030,701 in j.a.g. funds. There is no local match requirement. Portland and two other governments are listed together for a disparate allocation that occurs when a government is scheduled to receive 1 1/2 times more than another unit, while the other local government bears more than 50% of the costs of prosecution and incarceration that arise from part one violent crimes reported by the geographically constituent units. As a result of this designation, Portland, Multnomah county, and gresham, each had to come to a mutual agreement as to how the funding would be distributed. That negotiated distribution was based on prior years' block grant percentages. The dollars will be divided with roughly \$550,000 to Portland, \$415,000 to Multnomah county, and \$66,000 to gresham. Required memorandums of understanding have been drawn up, stating that Portland will be the lead applicant, and that the funds will be distributed as listed -- as I just mentioned. The m.o.u.'s will be submitted with the application. The deadline for the application is march 31, 2005. The j.a.g. program has a nonsupplanting requirement. This means that may supplement existing funds for program activities, but cannot replace nonfederal funds that have been appropriated for the same purpose. Portland police bureau proposes its j.a.g. Award to be used to continue funding those law enforcement programs currently funded by the discontinued block grant program, once those funds have been exhausted. The j.a.g. program resources would allow the support of law enforcement and administrative efforts performed by these limited-term positions to continue through november of 2007. Proposed programs, continued funding of one limited term payroll accountant, continued funding of one limited term grants analyst in the fiscal services division, and continued funding of one limited term program specialist in web service and internet mapping in the planning and support division. Multnomah county proposes to fund sheriff's office training for law enforcement and corrections staff and community courts. District attorney office for deputy district attorney positions, 1.5 equivalent in the

March 23, 2005

neighborhood d.a. program, and the department of community justice, the drug courts, corrections counselors, two full-time equivalent, and clerical position, .7 equivalent in the high-risk drug supervision unit. Finally gresham proposes to fund a video surveillance enhancement system, web leads to access the state of Oregon's law enforcement data system, and the integrated biometric identification system, or ibis, which will enable officers to identify individuals in the field through the use of thumbprint imaging. The j.a.g. advisory board received for its review this list of proposed projects on the 28th of february, 2005. The members are a judge from Multnomah county court, superintendent of Portland public schools, the sheriff from the Multnomah county sheriff's office, district attorney mike schrunk of Multnomah county, and the executive director of coda. We conclude our statement and will take comments at this time.

Potter: How did the police bureau determine what positions or functions to use the money for?

Del Gizzi: These are positions currently funded under the block grant and have been funded for several years running. Block grant funds have declined in amount over the course of those years, and several of these positions would have been discontinued as limited term positions. The j.a.g. grant allows us to continue to fund these so they can continue to perform the activities these positions are currently assigned to perform.

Potter: Any other questions?

Adams: I can't see any downside.

Del Gizzi: There's no local match. This is a better deal in that respect.

Potter: Any other questions? Karla?

Moore: I didn't have a sign-up sheet.

Adams: Thanks for working on this. Oh, I thought we were voting.

Del Gizzi: You're welcome.

Potter: Do we take a vote?

Moore: Unless anybody wants to testify. I didn't have a sign-up sheet.

Potter: Oh, i'm sorry. Thank you, staff, very much. Is there anybody else here to testify on this issue? Now Karla.

Adams: Great work. Aye.

Leonard: Aye.

Sten: Aye.

Potter: Aye. Good job, folks. Thank you very much. [gavel pounded] item 243 is a second reading and we only vote. Karla, please read item 243.

Item 243.

*******:** We have an amendment on this one, so it has to go to second reading one more time.

Moore: State your name.

Ty Kovatch, Bureau of Development Services: Ty Kovatch. Last week when this came before the council, the subject of the past council policy of having 35% supported by a general fund and 65% supported by fees came up in the discussion, and everybody acknowledged that that hasn't actually occurred since 2001 and commissioner Saltzman specifically requested that we come back with an adjustment to that policy. So we have drafted an amendment to the ordinance, which I believe you've been provided with in your packets. If you don't, I have a copy here, which just adjusts the recitals to give a little bit of context to the addition of section d, which simply says that the general fund shall continue to provide ongoing financial support to the land use services program, but doesn't specify at what level. So that's just a change. It just means we go to a second second reading if you guys are comfortable with that.

Potter: Which would probably be a third reading, wouldn't it? [laughter]

Adams: Groundhog day.

Potter: Any questions from the council? Thank you, ty.

Kovatch: Thank you.

Adams: Thanks.

March 23, 2005

*******:** So we need to vote on the amendment.

Leonard: I'd move the amendment.

Potter: Second?

Adams: Second.

Potter: Karla, call the vote.

Adams: Aye. **Leonard:** Aye. **Sten:** Aye.

Potter: Aye. [gavel pounded] Karla, please call -- read item 244. This is a second reading. Let's take a vote.

Item 244.

Adams: No.

Leonard: Well, i'm concerned, notwithstanding some of the prodding I made about the -- what appears to be a lack of collaboration with d.h.r. and the union representing folks at o.n.i., i'm going to refer to something here that I -- that was not given to me by the union, but on my own, I went through the collective bargaining agreement, and it says, before requesting the reclassification of any position, proposing a new classification or abolishing a represented classification, the union resource director should discuss the effect thereof. My understanding of the circumstances is that did not happen, and as I recall when I asked about these questions a couple weeks ago d.h.r. referenced the state statute, o.r.s. 243, as the process they would rely on to straighten this out. I've had varying degrees of success since arriving on the council to urge management just in general and labor to work more cooperatively. Where i've had the most direct impact obviously are the bureaus that i've overseen. We've seen, I believe, resounding success from that happening, a more efficient organization, more local employees, more dedicated employees. My position here is not the union position. It is a -- what I consider to be a progressive management position. It is now we get the highest and best use out of our employees by treating them fairly, which means in every respect we consult with them, listen, and adopt good ideas where there are good ideas. By my action today, I will defeat this proposal. My direction hopefully will be -- or the direction taken by d.h.r. hopefully will be to go back, look at this, sit down, hammer out an agreement. I will remind those at d.h.r. when we reclassified the crime prevention specialists, we made them represented position. I refuse the process to allow the process to go into an adversarial positions, because there's nothing we should be afraid of, and everything to gain by being cooperative. No.

Sten: Aye.

Potter: Aye. Sounds like a tie. So that means it fails.

Leonard: Yeah. [gavel pounded] item 245. This is a vote only. The second reading. Let's take a vote.

Item 245.

Adams: Aye. **Leonard:** Aye. **Sten:** Aye.

Potter: Aye. [gavel pounded] this is our last item for the morning. We're recessed until 2:00 p.m. This afternoon.

At 10:15 a.m., Council recessed.

March 23, 2005
Closed Caption File of Portland City Council Meeting

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

Key: ***** means unidentified speaker.

MARCH 23, 2005 2:00 PM

[Gavel pounded] [roll call] [gavel pounded]

Potter: Please read the item.

Potter: The city attorney as office, please describe the hearing and how it will be conducted. Would you also further explain for everybody's benefit the ex parte requirements.

Linly Rees: I will do so. This is an evidentiary hearing. This means you may submit new evidence to the council in the support of your arguments. This evidence may be testimony, letters, petitions, slides, photographs, maps, or drawings. Any photographs, drawings, maps, or other items you show to council during your testimony should be given to the council clerk at the end of your testimony to make sure they become part of the record. We will begin with a staff report by the bureau of development services staff for approximately 10 minutes. Following staff report to the city council, we'll hear from interested persons in the following order. The appellant will go first and will have 10 minutes to present his or her case. Following the appellant persons who support the appeal will go next. Each person will have three minutes to speak to the council. The three-limit time limit applies whether you're speaking for yourself or on behalf of an organization such as a business organization or neighborhood association. The principal opponent will then have 15 minutes to address city council and rebut the appellant's presentation. After the principal opponent, council will hear from persons who oppose the appeal. If there is no principal opponent, the council will move directly to testimony from persons who oppose the appeal after supporters of the appeal conclude their testimony. Again, each person will have three minutes each. Whether you're speaking for yourself or on behalf of an organization. Finally, the appellant will have five minutes to rebut the presentation of opponents of the appeal. Council may then close the hearing, deliberate, and take a vote on the appeal. If the vote is a tentative vote, council will set a future date for the adoption of findings and a final vote on the appeal. If council takes a final vote today, that will conclude the matter before council. I would like to announce several guidelines for those presenting testimony and participating in the hearing. These guidelines are established by the zoning code and state law and are as follows. One, testimony must be directed to the approval criteria. Any testimony and evidence you present must be directed toward the applicable approval criteria for this review, or other criteria in the city's comprehensive plan or zoning code that you believe apply to the decision. B.d.s. staff will identify the applicable criteria as part of their staff report to council. Two, issues must be raised with specificity. If you fail to raise an issue clearly enough to give the council and the parties an opportunity to respond to the issue, you will be precluded from appealing to the land use board of appeals based on that issue. Three, the applicant must identify constitutional challenges to 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 council to respond, the applicant will be precluded from bringing an action for damages in circuit court to challenge the conditions of approval. After I finish those comments, the mayor generally asks about conflicts of interest and ex parte contacts. I will note that our office has been made aware that both applicant and the appellant in this case had made some contacts, so I think you're asking me to describe what our rules are for ex parte contacts under city code?

Potter: That's correct.

March 23, 2005

Rees: Ok. Under city code, any contact with a member of the decision-making body by a person interested in the outcome of the appeal is considered to be an ex parte contact. That contact can be direct or indirect. Therefore, if someone were to meet with a staff member of a council member and that staff member were to communicate that information to a council member, that would be considered an ex parte contact. Ex parte contacts, the reason we ask that they be disclosed on the record is we're trying to make sure it's an open hearing and everybody knows what information council has when it makes its decision. So at this point in the hearing the mayor asks for conflicts of interests and asks councilmembers to describe any ex parte contacts they may have had with people interested in the outcome of the appeal.

Adams: Can I ask a clarifying question? Conflict of interest, declaring conflicts of interest and declaring contacts are two different declarations?

Rees: Absolutely a conflict of interest is more in the nature of a financial type interest in the outcome.

Adams: Does any type of ex parte contact require a member of the council to recuse themselves?

Rees: Not unless it results in some form of disclosure of a conflict of interest or actual bias.

Adams: Okay.

Rees: That's fairly rare.

Adams: Thanks.

Potter: Thank you. Do any members of council wish to declare a conflict of interest? No council members have a conflict of interest to declare. Do any members of council have any ex parte contacts to declare or information gathered outside of hearing to disclose?

Adams: I do.

Potter: I think I do. [laughter]

Leonard: I'm not sure if I do.

Potter: As a point of clarification, if there was contact made with the staff member but the staff member did not discuss that discussion, do I still --

Rees: It is likely not to be an ex parte contact, but our advice has been more disclosure tends to be better. If you want to say simply, my staff spoke with x person, they did not disclose the contents of that to me, that's entirely appropriate to do at this time as well.

Potter: Is my staff person here?

Adams: Veronica is here.

Potter: Veronica? Did you have conversation with anybody in particular?

Veronica Valenzuela: With the applicant and appellant.

Potter: Both the applicant and appellant. Did you decision close any of those conversations to me?

Valenzuela: No.

Adams: I have a couple to disclose. My staff met with representatives of the developer on march 15 at 3:30. They met with representatives nwda on march 17 at 4:00. However, they did not discuss with me the -- anything relating to those meetings. I do have direct ex parte contact the following ways -- dave heater, who is one of the architects on this is a friend of mine, and I think we discussed this project in passing about a year ago at a party. Frank dixon, and -- frank dixon and I discussed this last friday, that it was coming up before the city council at a function. And then I was buying a sandwich at the foothill broiler last saturday and the owners of the foothill broilers talked at me about this project. But rest assured I come into this hearing unbiased and ready to hear all sides.

Leonard: And a member of my staff may have talked to somebody. If we did, I am not aware of who it was or what they talked about. Ty is the acting director of b.d.s., so it's possible he talked to one or both sides.

Potter: Does anyone in the audience wish to question myself or council members regarding the declared contact?

March 23, 2005

Leonard: I would be happy to recuse myself.

Adams: Fat chance.

Potter: No one has indicated they want to question myself or commissioners about our declarations. Do any members of the council have questions or other preliminary matters that need to be addressed before we begin the hearing? Ok. Staff, please come up. We're beginning the hearing at this point.

Tim Heron, Bureau of Development Services: Good afternoon, mr. Mayor, commissioners. It's a pleasure to be here this afternoon. To my left is design commissioner chair mike, and design commissioner chair paul schlessinger. I'm going to make a brief presentation and they're going to finish the approximate 10 minutes with some thoughts of their own. Essentially this process began in 2003 in many ways with a recent approval to incorporate a portion of the central city that was not originally a part of it, this area here shown in red as a part of the central city plan district and the goose hollow subdistrict. It was upzoned, you see -- to cxd, our highest density zone in the city. The immediate site in question that received the height bonus shown here in the red dots was also approved to have -- to request a 75-foot height bonus. To the north of the site is the alphabet historic district. To the south is the kings hill historic district. This site functionally is wedged between them and is certainly a transitional site as you enter into the now new central city portion of the city of Portland. A quick aerial view, i'll follow this with photos. The site is dashed in red, the immediate site of the development is in the red shaded area. The uptown shopping center site with the uptown condominiums above, just note the red arrows, the direction the photo was taken from. This is a shot from everett walking towards the site and existing surface parking lot. And the last photo showing the adjacent hillside below the uptown condominiums and of course the surface parking lot at 24th place and westover. The immediate area is certainly an eclectic mix of historic homes, both small and tall, with various materials from wood siding to stucco, to masonry. The historic envoy on the upper right is certainly one of them. Approval criteria were the central city fundamental design guidelines, the goose hollow subdistrict design guidelines, the bonus height request and modifications through design review. The project itself was a story condominium to you we're attached 4 1/2 story townhouses, four levels of structured parking are completely -- two are above ground. Plaza level exists above part of the parking structure as well as a public plaza along northwest westover road. And the site falls within the allowed four area ratio for the site. Quickly i'll go through the process. This project came in the door in front of myself on october 16, 2003. It was a single building, it was fronted entirely on westover, approximately 12 stories tall with the parking garage aligned and quite visible from northwest westover road. At this hearing the design commissioner advised, had some concerns, the applicants came back for a second d.a.r. and it took this form. And that was to break this building into more two masses, one tower element that was taller, about 14 stories, however aligned with northwest everett, which also is aligned with the more standard Portland city street grid, east-west and north-south. The smaller forms were the 4 1/2-story townhouses fronting along westover. After this the applicant went back, put together their application submitted april 21, 2004, and on june 17 and also september 9 they returned. Staff had originally had concerns as did the commission, the form of the tower in the townhouse increased in bulk and mass and was not a step-back as originally professed by the commission as a concern. So we took a unique step, though allowed by code, and that was to set up a public meeting with a design commission subcommittee. These meetings were notified to the public, attended by the public, and attended by four design commission members. And in those two meetings, they were more informal, around table discussion, far less formal than this setting and the design commission hearings. We developed and agreed upon 15 design principles to further the discussion about height and how this tower fits onto the site. We discussed the revised building footprint. You see a diagram of this here. That conformed with the unique street and site configurations. The towers' setback was increased up to 50 feet. The massing of the tower itself as well as the townhouses stepped down to the historic alphabet district to the north. The rooftops were sculpted

March 23, 2005

or more expressive, if you will, and the parking entry was recessed from westover road approximately 55 feet. I'll take a moment here to go into this specifically. This is -- this text to the left is an excerpt from the revised zoning for the bonus height request. It states although the subsection allows the review body to approve bonus height, they may also reconfigure the building, reducing its height and may approve all, some or none of the height proposed. Specifically proposed are the following -- the building mass that steps down to the historic abc district with a tower form set predominantly behind the 4 1/2-story townhouses. The building steps back as it rises to respond to the hillside behind it, and other residential towers in the neighborhood, particularly the historic envoy. The rooftop was sculpted and well detailed. It had a strong contextural response to the historic district, the quality of materials were well crafted, particularly at the ground level of the building. That the tower align with northwest everett, the city grid, and was a symmetrically balanced terminus as a part of that alignment, and that the pocket parks and landscaped walkways had amenities such as benches, landscaping, water fountain, and adjacent retail spaces to activate all corners of the site. The final proposal which was unanimously approved by the design commission on february 3 before you here, responded to all those concerns. Finally the commission did approve all 14 stories. The 4 1/2-story townhouses, the four levels of underground parking, full approval of the 75-foot height bonus for a total 150-foot-tall building. And approval of related modification requests for parking and loading. The appeal by the northwest district association two issues were presented that the design commission erred in granting the approval of the height bonus, that the current design and height were not compatible with the historic district and failed to enhance the character of the area as a whole. Before council today are the following alternatives. You can uphold the design commission's decision and findings. You can uphold them but also modify the findings and require additional conditions of approval. You could grant the appeal and deny the proposal, or request the applicant to modify the proposal in order to meet all the approval criteria. That's the end of my presentation. I'm happy to answer any questions and i'll just yield the remainder of my time to the men on my left.

Potter: I'd like to ask you a question. On the public process, on october 18 and november 3, how did you advertise that and where was it held?

Heron: We advertised it through a public mailing, and that mailing was sent out for both hearings, meeting our typical mailing response of 20 days prior to that meeting. All included in the original mailing list were mailed a copy of that letter and notified. At that point I also had more -- a lot closer conversations with a particular smaller group of neighborhoods that I was very accessible and available to, and frankly had more intimate notification of those processes and so on.

Potter: Did the appellant specifically receive a notice?

Heron: Yes. The northwest district association always did. I have to mention, the city attorney swore that I should do this prior to starting and now I didn't, so I would like to mention that I do have all the files related to this case over here, and that I am placing it for your review and also for the public's review. That's it.

Potter: Ok.

Mike McCullough: Thank you. I'm mike McCullough, an architect and presently chair of the design commission. I want to make some brief comments about this process and tell you how seriously we took this project and how seriously we take our charge as protector and defenders I guess of the public realm in the city. We're seven design and construction and development professionals that serve on a volunteer basis. We all believe that Portland has a lot of unique characteristics, some of which get jeopardized at various times, and we try to defend them. There are really three issues here. I think from the design commission's standpoint, burnside and the seam of burnside and how it connects to the park and the downtown is an incredibly important and delicate part of the city, and we took it very seriously. So we looked at this project as part of a larger urban design context. It's a transition up to the park, and a transition to a very delicate and important neighborhood. Secondly, we went into a very extraordinary process for this project. This

March 23, 2005

was 16 months in the review process. I think it was extraordinarily candidate -- candid. I think the commissioners did all their best to weigh in on these issues, and we tried to essentially invent a process that would get to the bottom of what the issues were and include everyone in that process. And then thirdly, I'd like to say that there's a lot of discussion about signature buildings and the important of signature architecture in Portland, and I think this project represents one of the balance kinds of positions which is more of a fabric building than an object building. We weren't looking for a particular unique kind of spaceship here, didn't seem like the right thing to do, and I think the design team and the neighbors and the staff have all been on that wavelength and the commission feels very comfortable with this building as being essentially something of a background building and blending into the neighborhood. So just in summary, I wanted to say that we took this very, very seriously and created unique processes with which to review it. Thank you.

Paul Schlessinger: Paul schlessinger, planning commissioner, and also liaison from the commission to the design review commission. I'd like to frame my comments around the process that this project took in front of both the planning commission and also the design review commission. We looked at it in respect to the comprehensive plan, the central city plan, and also the northwest plan. Planning commission first saw inkling of this project when the northwest plan was brought to us by planning bureau. At that time it was a large rectangular building taking up a fair amount of the project floor plate. Design review first saw the project during various design requests by the developer. The commission then reviewed the condominium project at formal hearings in front of the full design review commission. This is along -- this was a long process, as stated by tim. It was also vetted in front of the bureau staff, and also the neighborhood, both at design review commission and also at other meetings. At that time, we veered off the still -- though still within the code, and the design review commission felt along with the developer that special meetings to really look at and really come to a hopeful conclusion for this project. This was done within two meetings that included the design review commission members of four, the bureau staff, and also the neighborhood. All parties being able to sit around the table at that time and voice concerns and comments specific to this project. From those two meetings, the project was then again brought formally back to the design review commission for a final unanimous approval. All of this again within the public purview, and all within the code set up by the city. In my mind, both as a planning commissioner and a design review commissioner, this was a viable public process, it was fully vetted, more so than other projects that have been in front of both planning and design review, and I feel very positive as a commissioner that all parties involved did have a stake in the process and also feel very positive about the public process that this important project for the city that it went through. The project did meet, does meet the guidelines that the city pushes forward for projects like this. The design review commission reviewed this and did vote unanimous for approval of this project, and do feel that the city council should be supportive of this project and moving it forward. Thank you very much.

Potter: Does the council have any questions? Thank you very much. We will now hear from the appellant, if you will please come forward. Since the staff and the design commission took an extra six minutes, we will give you in addition to your 10 minutes an extra six minutes.

John Bradley: Thank you. I appreciate it. Good afternoon, mayor, council men. My name is John Bradley, I reside at 2350 northwest Johnson. I'm speaking on behalf of the NWDA board and its planning committee. I am here today -- here today to oppose the awarding of an extraordinary height bonus granted by the design commission for the uptown tower. I call this bonus extraordinary because it doubles the allowable height for this site and its base zone from 75 feet to 150 feet. It is our contention that to award an extraordinary height bonus we should in and always have an extraordinary building. We do not have that building yet. A history of how we got to be where we are now would start with the northwest district plan. At the time of its adoption, we supported the rezoning of the tower site, but opposed any bonuses being allowed for that site. We were overruled and assured that the design review would prevent a building that dominates and

March 23, 2005

overwhelms the surrounding historic district. Mayor Katz even went so far as to write a letter to the design commission empowering them to not look at this bonus as a buy right bonus, but as one awarded for height compatibility and step-down and steps down to the historic district. If this was to be a quid pro quo, we're not there yet. The NWDA has reviewed the current design for the uptown tower using four broad sets of design criteria. The chapter 33 code, next, the design principles wisely laid down by the design commission early in its deliberations on this building, the central city design guidelines, and the Goose Hollow design guidelines, and lastly, some concepts that are inherent in good design here in Portland. From chapter 33, the purpose for design review is that it ensures that development conserves, enhances, and recognizes the special design values of the site or area. The conservation enhancement and continued vitality of the historic, scenic, architectural cultural values of each district, and that perhaps most importantly, that certain types of infill development be compatible with the neighborhood and enhance the area. From the central city design goals, enhance the character of the central city design districts, and relate to scale and character of its setting. From the Goose Hollow design goals, preserve and enhance the community's history and architectural character. So, does this building in accordance to project design goal c3, quote, compliment the context of the existing buildings by using or adding to the local design category? Does it enhance or complement or preserve? Here we have to answer no. If you'll take a look at some of the photos I have included in your packet, you can see what our area looks like. I have -- I should note here I took these photographs from the bottom of the uptown condominiums, so these photographs are actually taken -- taken looking down and they're below the height of the top of the building. As it is currently proposed. Precast concrete decks, punched bronzed aluminum windows and champagne-colored metal panels are not part of the local context, nor do they add to it. The overall feel of the building is institutional and that feeling is exacerbated by its height and looming prominence over a historic area comprised of much smaller scale development. Next are the stated design principles laid out by the design commission. Here we call out three items. Is this an exceptional design? An icon? Does it acknowledge the northwest neighborhood character and does it have a good strong roof? To us this is not an icon building. Even the design commission itself has now referred to the tower as a quote unquote, fabric building. The current design elements are not in character with the neighborhood context. The context of this building should be the Pearl District, not the NWDA -- not the NWDA's historic design district. I ask you to look again at some of the photographs and drawings I have provided and leave it up to you to compare what the tower looks like to several developments that are currently in existence in the Pearl District. The roof itself is neither thoughtful nor expressive and will be seen by people from the uptown condominiums. Does the increased height of this project better meet the applicable guidelines? Does it step down enough to the historic district? Does it ensure height compatibility? Again, sadly, no. The town homes are located away from the base of the tower and do not mitigate its height. One last item I should mention for good design in Portland, I believe we should have a building that is at least partially green. This building is not green at all. It has no lead score. You will hear today how much work has gone into this project, how it has been vetted repeatedly, how it has improved over its first iterations. As you hear these things, I ask you to remember that the bonus height is not an award for participation, it is an award for a product that fits the stated goals and criteria. In this case, merely better, mediocre or a fabric building is not good enough. I would also like to go off script here and say, you have to consider this building set a precedent for the entire area of the uptown shopping center. It is entirely feasible that the uptown shopping center at some point in time will be demolished and that we will see two or maybe even three other towers. We have no master plan for this area, and therefore, we don't know what's going to happen there. Those were discussed in hearings. I yield the rest of my time to Don, a member of the planning committee and architect.

Donald Genasci: My name is Donald Genasci, I live at 2217 Northwest Johnson Street, Portland, I am testifying on behalf of the Northwest District Planning Committee, of which I'm a member. I'm an

March 23, 2005

architect and I teach for the university of Oregon, Portland program. Exmayor vera katz as you've heard already this afternoon, wrote a letter of october 14, 2003, to the design commission on behalf of the city council that clearly states that the housing bonus height above the base cx zone allowance of 75 is not right. The design commission and ultimately the city council can require reconfiguration of a building proposal, including reducing its height and may approve all, some, or none of the bonus height requested. Approval of the bonus height must be consistent with limiting shadows on residential neighborhoods, ensuring building height compatibility, and I simply refer you to the model to make a comparison between the proposed building and the existing historic neighborhood, step-downs to historical districts are also required. The current proposal for the uptown site does not fulfill any of the criteria for approving the bonus in spite of what you heard earlier. The height set out -- the bonus height set out in title 33, the central city design commission principles, the guidelines, and the above city council document. The shadows calculated april to september, which is when it counts, do engulf adjacent historic houses over a significant portion of the day. The proposed 150-foot height does not constitute compatibility with the 30-foot height of the historical houses across the street or even as far as flanders street with its historic registered homes. While there is a partial step-down provided by the five-story westover portion of the building, these townhouses which are along here, more than 40% of the westover frontage has 120-foot wall of building directly adjacent to the street and to the historic houses. So there's a significant gap where the townhouses stop and the full building is presented to the street. According to the design commission's own criteria for granting the bonus, fulfilling a number of principle conditions must be adhered to. Number one, an exceptional design. John has already commented on this, and this is the kind of building that you can find all over Portland. It's a basic tower with some townhouses attached. There is very little inspiration here and the tower is overwhelming with little to do with the scale or the quality of the context it could go anywhere there is e.x. zoning. The master plan should anticipate future development. What master plan? Acknowledge -- number four is acknowledge the three very different sides of the site. West hills, alphabet district and shopping center. The alphabet district is, quote, acknowledged with a scale of 12-floor wall over 40% of the street length adjacent to the houses. West hills are acknowledged by obliterating the views of the apartment houses on the slope above. Number five, step-down to the historic alphabet district across westover road. No, this simply implies making significant architectural gestures to improve the scale relationship between the tower and the adjacent housing. While the townhouses help, this project proposes again a 12-foot wall of approximately 120 feet over 40% of the westover adjacent to the alphabet district. Multiple buildings are more fitting than one large mass. I think what we have here is essentially one large mass. Acknowledges the character of the northwest neighborhood context? Hardly. This tower, which is the major part of the development, has nothing to do with the scale or character of northwest neighborhood context. The tower will blight a significant portion of the neighborhoods in order to maximize returns on investment, which happens not to be one of the principles. Proof that the tower is too tall for the site is that after all of the time, and we've just heard 16 months, and the meetings spent in the examining of this project, the developer and architects have not been able to meet most of the principles outlined by the design commission. The process the design commission used did not lead to a building that will be compatible with historic buildings in our neighborhood, and that has to be the basic criteria. Otherwise, it's fundamentally changes this part of our neighborhood. This project will damage the adjacent historic buildings and significantly reduce neighborhood livability. What this process proves is that a developer with enough money can stone wall the design commission for a very long time. The design commission did not exercise its mandate to temper the height to preserve the qualities of adjacent buildings. We looked to the design commission to protect our neighborhood from excess development. We were told when we were developing the northwest district plan and accepted the central city plan zoning that we would be protected by the d overlay and the design commission's ability to modify overbuilt proposals. This did not turn out to be the

March 23, 2005

case. In order to test alternatives, we have made a rough alternative example which would house 100 units, more or less the same as in the tower, I think it's four less, with an average size of 1,000 square feet. What we discovered was that if you use the site efficiently, the highest portion of the building would need to be eight floors. Not 14. While other portions of the adjacent neighborhood could be -- while other portions adjacent to the neighborhood could be as low as four or five floors.

In other words, it wouldn't have to be a monolithic building. This would require a housing bonus of five to 10 feet. And it would not overshadow or overwhelm the adjacent buildings. The process having failed, we now find ourselves asking you to exercise your judgment and authority to significantly reduce the housing bonus to be recommended for this building so that the redesign will benefit rather than detract from our neighborhood. We are not against development. We expect and welcome appropriate development throughout our neighborhood. However, we are not the pearl district. We are an historic district which is far more fragile. Appropriate development is spelled out in the title 33 zoning code, the central city design guidelines, and the principles developed by the design commission. We are simply asking that this design process adhere to the zoning code, the design guidelines, and the agreed principles. The preservation of unique qualities of Portland neighborhoods is the issue here. If the existing planning laws, guidelines, and processes do not protect us from excessive and unimaginative development, Portland will become less and less a livable city. The quality of buildings in places do matter. We must have density with compatibility to ensure the long-range survival of our unique community. Thank you for your consideration.

Adams: Did the four neighborhood representatives on the joint committee that came up with the 14 design principles, did they agree to those principles? If I got the numbers right.

Bradley: No. There were two people who went consistently to those design charrettes, and you'll have to ask them. They will be testifying later.

Adams: They will?

*******:** Yes.

Adams: From staff, could I get a copy of the points? This design you came up with, why -- in your best guess, why wouldn't the developer come up with something like that?

Bradley: Do you want the cynical answer?

Adams: You have the floor.

Bradley: You can make an argument for the fact the design review went on when jack onder sat back with his partners and they went through a pro forma. The profit for this -- the profit for the building is now we see it, is in those top penthouses. This is -- these are -- these are multimillion dollar penthouses. This is not a place for children.

Potter: I'd like to ask you both a question. Were you both aware and did you attend a public process meeting of october 18 and november 3 that was referred to by staff?

Bradley: I did not. I was not here.

Potter: Did you?

Genasci: I did not. I have attended all of the formal design commission hearings, and spoken against the tower repeatedly. I did not attend the ad hoc design commission hearings.

Potter: Mr. Genasci, did you attend the meetings?

Genasci: I did.

Potter: Thank you.

Adams: One other question. You talked about how the developer stone walled the design commission, but i'm -- how is it that the design commission was stone walled by the developer? One of you said that. How is it that the design commission was stone walled by the developer?

Genasci: In the sense that -- this process went on and on and on, and the developer would come to the design commission, the design commission would offer a certain amount of suggestions, and then the developer would go away and there would be a little bit of change. But --

March 23, 2005

Bradley: The real problem here is there was nothing like this really ever considered. If we're going to have a plain building, this is a plain low building. And fits much better into the neighborhood, specifically because it's got a lower height. What we see here is a problem where we have a very plain building that doesn't fit in, it's of extraordinary height, and it's on a piece of property that is already significantly elevated above the rest of the district.

Adams: So you wouldn't actually want the alternative to get built, were you making a point.

Bradley: We are making a point, yes.

Potter: Other questions? Thank you.

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

Potter: We will now take testimony from supporters of the appeal. Is anyone signed up to testify in support of the appeal?

Moore: We do. Come up three at a time.

Potter: You each have three minutes. When you testify, please state your name for the record.

Leland Stapleton: Mayor Potter, commissioners, my name is leland stapleton. I appreciate the opportunity to say a word about the tower proposal. I'm here as an interested neighbor, but i'm also a board member of the neighborhood association. I have participated in a design review process including attending the subcommittee meetings. I was one of those four neighbors that participated recently. I have appreciated the willingness of the design commission to accept my comments at the various meetings, and to listen to my testimony at the several formal hearings. However, throughout this entire process no alternatives without a tower was ever proposed or even considered in this process. I want to indicate at the outset that I personally do not have objections to housing at the uptown shopping center site. Over the years even with different owners I envisioned housing and retail embracing the entire site, in fact. It is too bad that a master plan of the entire uptown shopping center could not have been mandated when the zone change occurred. It could have dealt better with the design, traffic, and other issues that are coming about. But instead, the current owner of the property has chosen to sell off the property in a piecemeal basis. The development proposed does not blend with the existing shopping center and historic neighborhood. There have been or will be others who have articulated objections to the development and I do not wish to repeat what they have stated. One issue I do wish to comment on that i've addressed in the subcommittee meetings and at the public hearings is that handicap access through the site will be difficult or nonexistent. Stairs only and no public access to elevator assist not sufficient to meet pedestrian standards in the code for handicap accessibility. The developers said you can go around the site on public sidewalks. That is not a reasonable alternative when it would require someone to walk or use a wheelchair for almost two blocks. To expand on that, since you see the site, if I could take a moment, the propose has stairs up between the building and the existing shopping center. The existing shopping center has stairs through this portal between the two buildings. There's only stairs through this site. There is no ramping or any sort of lifts for the handicap. To add a little comment in that regard, when chico's moved their location from across westover up to where storables was in the back, I addressed some of the concerns because I had some friends say how do I get up there if i'm parked down by the old elephants location? And meeker representing the property owner said, oh, they could walk around on the sidewalk. Outside on burnside side of the building. That's all well and good except for the east side of 24th place has no sidewalk. So you'd have to cross up the hill on burnside, cross 24th place, then come back down 24th place to a crossover essentially in the middle of the shopping center, then into the site. So I really feel that the handicap accessibility through this site, since they are -- the developer is envisioning public access through the site to get up to the park, is real important, but they don't provide that access. And they even had the gal to suggest at one of the hearings, well, when talking about -- well -- at least the owner --

Potter: You're going to have to wrap it up.

March 23, 2005

Stapleton: -- suggested that they could drive around to the other side. The process has been a lengthy one but I believe more time should be taken to make sure a correct decision is made, that's why i'm recommending the council should continue the hearing and go to the site itself and examine the site in relationship to this proposal. One last comment, it doesn't fit, don't permit. Thank you.

Potter: Thank you.

Chris Smith: Chris smith, 2343 northwest pettygrove street. I'm a member of the northwest district association, but i'm testifying today as an individual. I will say as a member of the board I had the opportunity to vote to endorse this appeal and I fully support the appeal as it's been presented by our planning committee. I'd like to take my time and put this decision in the larger context for you. I really see this as what I hope is the beginning of a healing in the relationship between city council and our neighborhood after the disastrous process we had with the northwest district plan. I'll remind the council that the plan was over 10 years in development when our committee of volunteers stayed with the process even when the city defunded neighborhood planning, and when we were ultimately able to bring it back to council, we had a very complete plan for how we would transition our neighborhood to include even more high density mixed use very vibrant kind of character extending it to the north. But at the same time respecting the fine grain texture of our neighborhood. We're certainly not antidevelopment. There's lots of opportunity for development in the northwest district plan, we just want to make sure it conforms to the character of our neighborhood. Unfortunately when the plan got to the city and ultimately to council, a number of things that were added that were directly contradictory to the spirit of the original plan from the neighborhood, these include office space on vaughn, which luba has already remanded to the city because it will create a number of transportation problems that the city did not plan for. Because of the parking plan which I spent two years on myself, and which the court of appeals has indicated in all likelihood the city has not considered the impact on the historic district sufficiently. That has to go through luba again, but I believe it will be back in front of you. Because the plan did not put in place the policy and regulatory framework for a park in the new dense area in the transition area that we wanted to develop, and because the plan created the height bonus for this parcel. There's only one member of the city council that voted for that who is here today and I think commissioner leonard you have learned a few things about our neighborhood since then. I really hope council will see this as an opportunity to begin to reconnect with our neighborhood and hopefully get to a neighborhood plan that will not have to be the first neighborhood plan in the history of Portland that the neighborhood opposed it. Let's start fixing it. Thank you.

Potter: Did all three of you folks attend the public hearings or the design commission hearings?

*******:** I didn't.

*******:** I think I attended all but one.

Stapleton: Yes.

Smith: I was only lightly involved in this process.

Potter: Thank you.

William (Bill) Hatch: Mayor, commissioners, bill hatch, I own a four plex on westover, right across the street directly across the street from the proposed entrance to this building. For one thing, when I attended some of the meetings of the planning, I did propose a step-down design of my own to the owners and to the designers of the proposed tower. They kind of looked at it and I don't know where it went from there. But anyway, I did propose a step-down, and i'm not sure if it looks like whatever was proposed here, but one thing that bothers me on this is that they did not achieve any step-down design as far as i'm concerned. I'll make this short. In the planning commission's recommendations for the modifications, they are asking for an audio visual warning system at the exit. No matter what kind of design ends up here, this warning system is going to be right across the street about 60 feet from bedrooms, and I don't think that's going to be a tolerable

March 23, 2005

situation as far as an audio -- an audible warning system for my -- from my perspective. I thank you for listening.

Potter: Any questions? Thank you very much.

Potter: Thank you for being here today. When you testify, please state your name and you each have three minutes.

Graham Covington: Graham covington, 2630 northwest beuhle vista terrace. I'm here as an individual. Thank you for your time. Since this decision was made and it had been communicated in the newspaper, i'm here to complain about the process. There's been lots of discussion about public hearings, mailings, and what have you. I was unaware of any of those and didn't ref such mailings, so to the extent that they were intended to go to folks who live in the neighborhood, they didn't come to our house. Secondly, the notion that this building, quote unquote I just heard this afternoon, blends into the neighborhood, is I think at best arguable. The notion of 16 months of design and review and to determine in the end that it blends in, I would hope the council would go and look at this area in the northwest Portland area where this tower is going to blend into the neighborhood. It would encourage me to know that you've been there and you've looked at what happens on a saturday afternoon or sunday afternoon and tell me that -- and conclude that it blends into the neighborhood. The notion that has been fully vetted, I don't know what the fully vetting processes look like. I haven't been involved in it, but i've discussed it with many. I am a little disconcerted by -- this is my word -- the cozy comment that commissioner adams made about an architect friend that somehow has been involved in this. I'm not making a major issue, but I don't like to hear it, and it bothers me some. It doesn't surprise me that the foothill broiler talked at him when he was there. I'd like to say this. The traffic congestion issue in northwest Portland is at best severe. It's part of our -- the texture of our community, but I can't imagine how this increased density is going to do anything but exacerbate an already difficult traffic situation. The just plain folks that live in the neighborhood, friends of mine and neighbors, are not here to raw pose this. A cynic would ask the question, why is this hearing happening during spring break when so many people I have called are unavailable to come down here? The merchants i've talked to in the northwest Portland don't want it either. And i'd like to know at some point how -- where in the world the notion of a bonus height comes in a neighborhood which is characterized by buildings that are much smaller than this one. So my recommendation and request is that you folks deny the project and grant the appeal. I think that was number three in the list of the so-called design council's set of options that you had available for you. Who wants to live in the shadow of a tower? I don't think any of you do. So why would you ask somebody else to do it? Who wants to look down on a so-called expressive rooftop? I don't think any of you do u. So why would you ask somebody else to do it? And who wants another pink elephant in that area that looks like the envoy? Certainly the envoy was used as an example, but i'm certain the people in this city do not think the envoy is the kind of architecture we want to espouse.

Lorraine (Lorri) Covington: Lorri covington, i'm here to read pam tease's, a neighbor and friend's letter she wrote, because she's home sick. My name is pamela tease. I am a lawyer, mother of three, and wife of 29 years. I the have resided in northwest Portland for that same time period and have been an active member of the community, including president of the p.t.a. at chapman, president of the stanford parent club of Oregon, and a member of the board of directors of the Portland opera association. It's fair to say i'm committed to making Portland the envy of other mid population cities. It's my hope that this review will be a scrupulous attempt to determine what is appropriate in design, impact, and scale for the space proposed and that the members of the council will truly consider the wishes of the community. I trust it's not window dressing to apiece a population that is clearly worried that the only intent of the council is to increase the tax base and fatten the Portland coffers. I wonder if any of the members of the design committee live in northwest Portland. If they d. I'm sure they would agree that the towering structure proposed by jack onder is clearly out of scale and would have a negative impact on the major arterial that's

March 23, 2005

would serve the area. Burnside is already clearly overburdened, as is westover, 25th, cornell, and lovejoy. These streets are not equipped to handle the volume already. The notion that those who will inhabit the condominiums will not be driving elsewhere is nonsense. Another major concern is the precedent you will be setting for the area. It's my understanding that a member of the Portland development committee -- from a member of the Portland development committee is looking to vancouver, b.c., as a model. This would not -- this would be short-sighted. Vancouver is flanked by the openness of water and has wide arterials, capable of handling the increased building height. Portland would be suffocated by such a plan. The present structures would similarly choke the area, restricting sun, warmth, and air to the surrounding community. The design itself is uninspired and I would agree with john bradley that it is recycled pearl district. These are building that's have no relationship to the neighborhood structures and soar skyward. Please consider what was the unique village of northwest Portland and retain that character. Developers move and move out, take their profits and leave. I would urge that you listen to those who have been left behind.

Respectively submitted by pamela tease.

Tony Koach: Tony Koach, I live at 4109 southwest condor in Portland. Mr. Mayor and council, thank you for this opportunity to present some testimony. First of all I don't live in the neighborhood. I'm speaking today as a professional architect as well as someone who loves the vitality and excitement that designers and planners and developers and investors bring to our city. For this particular project I believe the design commission has erred in granting approval for the project as it is currently designed. I'll address the approval criteria, stated in the zoning code section 33.510.210e, the bonus height option for housing. Paragraph 4 b states if the site is within 500 feet of an r zone the proposed building will not cast shadows that have significant negative impact on the dwelling units in the r zone lands. You've heard testimony before that there's clearly a shadow impact if you look at the sun angles. If you look at the configuration of the building the widest axis to the building actually intersects the winter sun angles as opposed to a different kind of orientation. So there's room for that to be moved or modified. Paragraph 4 f states, approval increased height is consistent with the purposes stated in the subsection, 33.510.205a which also states, the maximum building heights are intended to accomplish several purposes in the central city plan. These include ensuring building height compatibility and step-down historic districts. We've heard already testimony about the step-down effect. It's a subjective kind of criteria and judgment call to make, but as you can already see, there's definitely room between a 14-story building and the 75-foot minimum if there was no bonus added to it. Just some room for -- some change there. The footprint of the tower maximizes the additional portion of the site. If you look at the five -- 4 1/2-story condominium block, the rest of the site is taken up by the tower. The tower actually gets quite fat as you look at its footprint as opposed to being narrow or orienting a narrow access throughout its footprint. Finally, paragraph one states the review body may require reconfigure of the building including reducing its height. You may approve some, all or none of the bonus height as requested. I'm not sure of the -- all the different configuration heights that the design commission has considered, but it's obvious there are alternative configurations that can still be looked at. I respectfully ask city council to support the appellant's appeal of the design commission decision. Thank you very much.

Potter: Any questions? Thank you.

Adams: I guess while people are coming to seats I can clarify in terms of mr. Covington's concern about my architect friend, david heater and I, mr. Covington, have been friends for over 13 years, he's a p.s.u. student, so long before I was a city staffer and long before he was working for this architectural firm.

Potter: Thank you for being here. You each have three minutes and please state your name for the record when you testify.

Sharon Genasci: Sharon genasci, 2217 northwest johnson street. I am an exmember of the nwda board and a present chairman of the health and environment committee for the northwest district

March 23, 2005

association. I'm here to talk about this proposal in our neighborhood because it's extremely important. My husband and I moved to the northwest district because of its beautiful historic architecture and the old trees, the whole setting, the trees, the houses are very beautiful. And anything like this which would threaten the integrity of that beautiful historic district is a very serious matter for us. We do see our district as very different from the pearl, which has a different character, and we think it's important in any city to maintain individuality of the different districts. We lived in London for many years, and we loved the fact that you could go from one part of London to the next and you would have a whole different character. And that's what we want to see continue here in Portland. And we see this as a beginning of something very disastrous for our neighborhood. Thank you.

Karl Kolbeck: Mr. Mayor and council, I want to thank you for having this opportunity to be here today. I've got a handout if you don't mind if I give to you that I'll read first. My name is Karl Kolbeck, from Eugene, Oregon. Before I begin I've got a handout. It's OK I'll give it to you and I'll refer to it during my testimony.

Potter: Please give it to Karla.

Kolbeck: This is the first opportunity I've had to express opposition to the proposed 24th place condominiums at 1-39 northwest 23rd place. Live in Eugene, Oregon, and I'm in the process of purchasing a condominium at Hilltop at Uptown Condominiums, which is located directly west of the proposed 24th place condominium. My concerns are about the Portland Design Commission's decision to approve the 75-foot bonus height which allows the construction of this building to a height of 150 feet. It is my understanding that this bonus height is for the residential areas and the rooftop mechanical area will exceed above and beyond the 150-foot total residential height. The exact increase in this rooftop mechanical area I am not sure of per se, however, in a June 17, 2004, staff report and recommendation to the design commission, there's a statement regarding the rooftop mechanical area coverage above the height limit which indicates that there is an increase allowed in a maximum 10% mechanical equipment coverage to 24%. The 24% allowable increase from mechanical area coverage above the approved bonus height to 150 feet adds further considerable height to the structure. Based on the architectural rendition that's were available when I reviewed this file, it's clear the placement of this tower sits directly east of the Hilltop condominium, especially buildings number 310 and 232. This clearly will obstruct views in my estimation from all units in buildings 310 and 232. It is my understanding that in 1988 when the central city plan put bonuses in place, it was under the stipulation that those bonuses would not interfere with existing views. This information made available to me through a January 20th, 2004, Portland Tribune union -- Tribune editorial about development in the Portland area. I unfortunately wasn't able to find specifics regarding the bonus height definition, however it is quite clear allowing a total height of 150 feet residential plus the increased mechanical will clearly obstruct views to the east from the units in these condominiums. This will include invasion of the downtown skyline as well as Mt. Hood, which in turn will depreciate the value of these properties. To the best of my estimate from a rendition submitted May 13, 2004, to the Portland design commission, which I provided to you, the hillside from the west side street, 24th place street adjacent to the 24th place condominium proposed structure, is directly in front of the condominium units is approximately 105 feet tall. This would place the 12th floor level with the grassy knoll at the front of the Hilltop condominium units. With 24th place approved to 150 feet, there is an additional 50 feet above and beyond the hillside which would based on this rendition in my estimation, put the top of the parapet of the 24th place condominium equal to the roof heights of the Hilltop condominium units. I find it quite interesting in a February 3, 2005, final decision and findings of the Portland design commission, there's a statement indicating on page 18, c.1, enhanced view opportunities, to, quote, size and place, new buildings to protect existing views and view corridors. It is quite clear that the approved bonus height does not protect the existing views from the condominiums. Under the design commission's --

March 23, 2005

Potter: You're going to have to wrap it up.

Kolbeck: From the design commission findings, it indicates the tower is, quote, oriented to maximize the views for the individual units and increase the desirability of living in the central city. The units on the south side of this proposed tower would have views of mt. Hood and downtown. Yet in exchange the view --

Potter: You're going to have to wrap it up.

Kolbeck: With that said, I have complete opposition to this increased bonus height and I want to thank you for your time today.

Bing Sheldon: Bing sheldon, 3033 northwest quimby. And I think sam, you know me too. I'm not going to talk about the approval criteria. I think the nwda's presentation hopefully will convince you that this site is -- because of its adjacency to the historic neighborhood, there are very specific provisions which have been referred to, the shadow issue, the step-down issue, that are in the code. And the applicant has to demonstrate that he has ameliorated these impacts on this historic neighborhood, which I don't believe this proposal does. I think a more interesting question is how did we get here? Because you've heard this has been an exhaustive process, and did I participate in most but not all of these meetings. So I have been an observer, I guess is fair to say. And I guess my take on it is that in the council hearing there was a great deal of testimony about the height bonus. I think the nwda did rely on specific promises made by this council that the bonus would have to be earned. There was an enormous amount of discussion about the height above 75 feet, and there were at least one hearing, there may have been two, that exhaustively explored the height above the 75 foot. And the letter that was referred to from the mayor is accurate, that it placed a burden on the design commission to ensure that this project would more than meet the standards. It had to go beyond that in order to qualify for what was called a bonus. This is not an outright. Ok, so how did we get here? In the early discussions with the design commission, there was a sort of freelancing discussion amongst the commissioners about what did they believe about a point tower on this location? Because there had been a number of people who showed lower scale developments such as the one you saw today, the nwda presented. And the question was, should the design commission consider a tower at all? And the discussion generally ranged that if it was a point tower and utilized extraordinary architecture, none of the commissioners had any opposition to a point tower. They admitted the proposal that was in front of them at the moment was not a point tower. So it was really sort of a theoretical abstract discussion about, could a height of 150 feet work on this site at all? And the question was answered that yes, it could, and would if it were a point tower. I submit this proposal is not a point tower.

Potter: Thank you. Questions?

Adams: Can you define for me what you believe to be a point tower?

Sheldon: Well, I guess i'll give you my take on it. It is usually a tower, very slender proportions, some of the -- I suppose you could call the towers in the current urban renewal, the south auditorium urban renewal project, there are three of them, they would probably qualify as point towers. But that's certainly a very subjective term. I don't think any architect would describe this as a point tower. I don't even think the design commission members would describe it as a point tower. This is a slab rotated to align with the city grid.

Adams: Thanks.

Potter: Other questions? Thank you for being here. You each have three minutes. Please state your name when you testify.

Marty Davis: I'm marty davis, and I am going to read a letter written by jessica giannini, who resides at 2675 northwest overton street. She was not able to be here today. Dear mayor Potter and city council. I am writing to register my opposition to the uptown tower high-rise. As a 10-year resident of the northwest Portland alphabet blocks and the mother of two children, I feel this development will severely affect the quality of life we have come to appreciate in our neighborhood. The reason for living in this beautiful historic area will be destroyed by this

March 23, 2005

development created on you of -- out of greed. High-rise buildings belong in a downtown settle. Not in a residential neighborhood. This particular intersection is currently a traffic nightmare and is dangerous for pedestrians, especially for children trying to cross the street to go to the ice cream shop in the uptown shopping center. The addition of this building will only make this bad situation worse. The increase in automobile traffic, the blocking of the naturally beautiful views of Washington park, and the danger to children walking to the ice cream store and schools are just a few reasons why this should not be approved. Like many Oregonians, we chose our home and to raise our family in a residential community that has a historic heritage. There are too many families fleeing the city and our public school system for the suburbs. Please don't give us more reason to do so. The damage that will incur by approving this project is irreversible. Please do not vote for this. Thank you for your help.

Potter: Thank you.

Sonyo Trytko: My name is Sonyo Trytko, I live at 2346 Northwest Glisan in apartment number 43. Thank you for allowing me to voice my opinion today. Portland is a great city. We are all fortunate to live here. The city's characteristics draw people here from all over the world. Growing up in northwest Portland and having lived in other cities, I have come to appreciate all that Portland has to offer. In my opinion, one of our most enduring qualities is our neighborhoods. They have a heart, a soul, a life, just like you and I, they are individual. People are drawn to them because we identify with their unique characteristics. As an uptown resident, I lived there for many reasons. I enjoy the mix of backgrounds and cultures my neighbors have to offer. There are students, families, seniors, both rich and poor, artists and professionals. I love the spirit of this community. In my opinion, this project does not reflect the spirit of this historic neighborhood or its residents. The charm of its old homes and buildings may not be exclusive to the uptown area, but a project of this size would surely blemish the local aesthetic of any of our older Portland neighborhoods. Not to mention what the businesses will endure. I am disappointed that the design commission would even consider approving a tower of this size and magnitude to our -- into our unique neighborhood. Like anything else, there is a time and place for this project, but not here, and not now. A development such as this would be expected even celebrated in areas like the Pearl or South Waterfront, where similar projects have already been erected or planned. But the construction of a high-rise of this size and design in this location would appear out of place and poorly planned. If the project's vision is to change the face of northwest Portland, that goal will be achieved. But it will cast a large dark shadow over the heart of this community. Please do not approve the 24th place condominium tower. Thank you.

Potter: Thank you.

R. Dee Haflich: Good afternoon, Mr. Mayor, city council members. My name is R. Dee Haflich, I live at 1719 North Skidmore. I'm here on the behalf of Denny King, who is unable to be here today due to a prior commitment out of state. He prepared a statement he asked me to read. Dear Mayor Potter, city council members. I'm a Portland native, born in 1993. As a child my parents drove across the river Sundays to take family to Henry Teally's restaurant in uptown Portland. We also marveled at the beauty of the turn of the century homes and Teally. My mother's request would be to drive past the Wisteria house to see if it was in bloom. It bloomed several times each year. As an adult I lived for many years in Willamette Heights and would walk past the Wisteria house on my way to work at my restaurant. For 34 years as the owner of the veritable quandary I have tended the garden around my restaurant's 1885 brick building. To delight the passerby and my customers. Like the Wisteria house, I've tried to create a little oasis in the middle of the city. My mother recently passed away and just shortly before she mentioned to me that she had read in the paper that a proposed giant condominium was threatening her favorite Wisteria. In her memory, I am compelled to speak out. Mayor Potter, it is the little things that make a city great. I'm opposed to the city granting permission for a height bonus that would enable this tower building to be constructed on this small parcel. The tower does not fit in scale or design to the surrounding structures. The

March 23, 2005

fact that it will deprive sunlight to the well loved wisteria and surrounding gardens of the turn of the century homes is just not right. Density is a noble goal, but this project is ill conceived for our northwest neighborhood. This is a colorful neighborhood with a past. A neighborhood of outlaws, lumber barons, victorian painted ladies and flop houses. Small apartment houses and turn of the century homes all surrounded by the beauty of Washington park. Approving the height bonus that would allow this tower could destroy what has taken a century of history and culture to build. I urge you, send the development back to the drawing board. Towers, live in the pearl. Not in our historic northwest. Thank you very much, respectively, denny king, 1030 northwest 12th, number 507, 97209. Thank you for your time today.

Potter: Thank you.

Doug Metzker: Mr. Mayor, commissioners. I'm here today as an interested citizen. My name is doug metzker, i'm a third generation Portlander, my granddad was fire chief of vanport. My dad passed prime minister of the royal rosarians, and i'm a long-time business owner here in town. I'm not an activist at all, but this struck me as important enough to come down here and talk to you a little bit. It seems to me we're wasting our last opportunity here to design something interesting for the people that come into downtown. This is I think the most dramatic street approach to the city of Portland. All the others are boring and this one comes in from a forest and all of a sudden explodes at the city. I don't think anybody's here to argue for the preservation of a parking lot. I know this is going to be developed, but the scale of the neighborhood needs to be appreciated, needs to be considered. 150-foot tower is just completely inappropriate. I was up at the site the other day and looked around, and I think there are examples of what does and doesn't work in this part of town. If you look to the southeast, there's a huge gray monolithic apartment building called villa st. Claire, and it's -- nobody would argue that's an appropriate bit of development. I'm going to have to argue with mr. Covington, I think the envoy is a paige richardson example of site specific architecture and works beautifully there and is in complete keeping with that neighborhood. So, i'm just putting my vote in for the appeal of this decision, and I hate to see money and profitability be the deciding factor at the expense of all the people that live in that alphabet district. Thank you.

Potter: Thank you.

Laurie Holland: Lori holland, I live at 2360 northwest westover road. Mayor Potter, city council members, thank you for allowing me to speak. Like you, mayor Potter, I love Portland. I ask you to take a drive with me. Just imagine for a moment that we are driving down from the crest of west burnside, arriving at the graceful portal of northwest 24th place and burnside. We stop, looking east we see the glorious alpenrose of mt. Hood. To our right we see the original historic entrance to city park, Washington park, it's still preserved. To our north and east we gaze over the rich fabric of northwest Portland with its heritage architecture, so thoughtfully designed of two- and four-story residences and small apartment and retail buildings. First impressions count. We thank our forefathers for their rich vision, our neighbors for their preservation and conservation efforts, demonstrating a large number of small-scale amenities make a city fun. I am proud to live in this neighborhood that is envied nationwide for its livability and public transportation. The developers will argue that they have spent 16 months redesigning this tower. I can argue that I have spent 16 months attending their hearings. I ask you to seriously consider this fact. If the tower was appropriate for the site, it would not have taken 16 months to try to make it fit. One cannot stick a high-rise tower in the heart of our oldest historic neighborhood with its two- to four-story buildings and pretend it blends in. Our great architects and urban planners of the turn of the century had astounding vision. At that time they demanded urban density. Beautifully conceived homes surrounded by park land, forests, and farms. Northwest Portland has remained vital because our community has maintained our beautiful architectural heritage. We have the historic alphabet district and place to preserve our neighborhood. My home is in this district. Directly across from the proposed tower. It was built in 1906 by joseph jacob berger and is fondly referred to as the business tier ya house because of the almost 100-year-old wisteria that graces the front. The

March 23, 2005

developers have requested 100% housing height bonus. 100%. 150 foot tower at the base of the original entrance to Washington park. This is an extraordinary request. An extraordinary request requires an extraordinary vision and design. This tower is not it. I'm sorry. I am for urban density.

Good, thoughtful, infill urban density that does not disrupt the sensitive balance of our historic diverse neighborhood. This is an opportunity to demand a design of excellence. Our city right now is brimming with brilliant young architects with the creativity and talent to work on this jewel of the site at the heart of our neighborhood. Mayor Potter, demanding excellence would further your vision for our community. To respect the heritage courtesy of our forefathers and show how we can enhance it into the next century with careful creative planning and sustainable building practices using the vast amount of green products now available. I know that's your vision. Rain water management, combining small-scale development with retail and green spaces, it is not that hard to do. We have the talent, we have the pioneer spirit, we could set a nationwide model for sensitive urban infill. Winston Churchill once said, "we make our buildings and our buildings make us." please accept the challenge and send this design back. With inspired design, if I may quote Dr. Seuss, oh, the places we'll go. Thank you very much.

Adams: Thanks.

Colby Hilligoss: Mayor Potter and city commissioners my name is Colby Hilligoss and I reside at 2265 N Dekum Street. Here as an individual and concerned citizen as well. My wife and I both work in northwest Portland and our daughter attends Chapman elementary she's in kindergarten. She's five and a half years old and we choose to place her in Chapman because the school in the neighborhood that we live in doesn't offer the same quality programs that Chapman warrants. We're also proud of the parental and volunteer support that Chapman offers. In my opinion, it's one of the best schools that we do have in Portland. We do not want to commute from north Portland any longer so we're ideally looking for a home in northwest Portland. So we can be closer to our place of work as well as our daughter's school. There are many reasons to move to the special district, including Wallace Park, Washington Park, the zoo, the children's museum. The list goes on it's an extremely special area. We also enjoy walking our family dog around the historic Alphabet District to simply observe the various historical architecture and enjoy the numerous shops and restaurants. By granting a housing bonus of 75 feet over what is normally allowed in this zone, encourages high-rise developments, affordable only by the wealthy, completely leaves many, many families out of the loop. I think that that is not acceptable. We need housing for our families in northwest Portland, and we don't want to dodge moving vehicles while walking with our children to Ben and Jerry's to get some ice cream. It saddens me that the design commission would consider approving a project such as this. There are many alternative development options available. The historic Alphabet District is special and does not warrant a project of this magnitude. I could go on forever, but I won't. I will conclude by stating to please think of the families and the children before you approve this tower. Thank you very much.

Potter: Thank you.

Moore: That's all who signed up, mayor.

Potter: Ok. We'll now hear from the applicant. Please come up. You have 15 minutes, but because of the other parties having extra six minutes, I'll give you the same. You'll have 21 minutes.

Christe White: Thank you. While they're setting up the presentation, I'll begin. My name is Christe White, a land use attorney representing Jack O'nder and part of the design and development team for this proposal. With me is Jeff Hamilton from Anker Mosen. I'm going to talk a little bit about the process and respond to some of the issues that were raised, and then turn the presentation over to Jeff. We don't have time to give you the fullest of design presentations, so if there's any questions on design we'd be happy to answer it. Let me first say that this has absolutely not been a process for process sake as some alluded to. We could not have possibly taken the financial and other risks that are associated with such a long process if we weren't confident that the process

March 23, 2005

would work, that a better design would evolve and that all parties were operating in good faith and it that it would eventually do what it took to get unanimous design commission approval. It was a process, as some of the design staff and design commissioners mentioned, that worked the right way. It led to increased citizen participation, a more open discussion, and a better result. Now let me highlight some milestones along the way. I don't want to repeat all of the process points, but I think it's important to highlight some milestones. We had several meetings with the neighbors, both pre and postnorthwest district plan amendment and adoption. I want to reiterate that this property is not within the northwest plan district. It's within the central city plan district. It's also not within the abc historic district. It's adjacent to both of those districts, and both of those districts were used as context as we proceeded through this proposal. We had meetings, early meetings, about the vision for the uptown site. That vision is reflected in the northwest district plan and the central city plan district amendments that were associated with it. Those discussions were over zoning and height for the site. Those meetings continued through the adoption of the northwest district plan and proceeded through design development of the condominium project. As you heard, in october of 2003 we requested an early design advice request with the design commission and proceeded through two d.a.r.'s. There were significant changes to the design proposal during those d.a.r.'s, which mr. Hamilton will speak about and which you've already heard about. Importantly, we return to the design commission in a second formal public hearing on the proposal, and it was, I think, the watershed event for this process, because it was during that second hearing and getting prepared for the third hearing where I think there was a strong recognition by all of the parties that we needed to step aside, we needed to take a design time-out, if you will, and we needed to sit down in a more informal setting, around a table, look each other in the eye and say what are the issues on this property that we can't fully discuss in a formal design commission hearing, and that was the origin of the two work sessions with the design commission subcommittee. We welcomed and requested those work sessions and were happy that we got the amount of participation that we got. Why I call it a watershed moment is because we were able to step outside and above the design guidelines otherwise applicable to this site and understood our burden and the design commission understood their burden, that we had to step above those design guidelines and think about exceptional design on this property. Therefore we came up with, together, a set of -- I believe there's 15 design principles for the property that may be hinted to in the design guidelines, but we were all willing to articulate them with more specificity. In our view, during those work sessions, there was total concurrence on those 15 design principles in response to a question asked by commissioner adams. We then took those design principles and went back to the drawing board and incorporated those design principles and let those design principles lead the next iteration of design. It was then that we came back to the design commission in formal public hearing and the design commission was able to, because of the exceptional design, embrace this design and give us a unanimous approval for the design. Having said all that, i'll return to it was not process for process sake. This actually resulted in a better design with more open and informal discussions with all of the stakeholders. I think there is a couple of issues that were raised here today that impact process, and i'd also like to talk about that. I started my comments talking about the northwest district plan adoption. As you know, those were code amendments to both the central city plan district, which affects this property, and the northwest district plan. And that code amendment, the city made a policy choice, that additional height was appropriate on this property because of its location along the burnside corridor, at this gateway, as you come down west burnside, because of the adjacent escarpment and hillside that is an old rock quarry and because of the three very different sides of this site that real height could take advantage of and come up with some unique architecture. That design was appealed to the land use board of appeals. The land use board of appeals affirmed the city's decision on uptown. The northwest district association appealed that decision to the court of appeals, and recently the court of appeals rendered its decision. With regard to this site, the court of appeals affirmed the city's and luba's policy choices with regards to the appropriate height on this

March 23, 2005

property and the ability to seek additional height on the property and affirmed that decision without discussion. Therefore affirming the policy choices made by city and affirmed by luba. What I would suggest to you, then, is that the design commission's 16 or 17-month-long design process is an implementation of those policy choices. I'm going to turn this over to jeff now, but before I do it I just want to mention a couple of points -- or address a couple points that were mentioned. The design commission, in its proceedings, was reminded in every hearing of its charge and its exceptional responsibilities in this matter, that it could award none of the height, it could award some of the height or could award all of the height, and would only do so if the project earned it. And as you heard, some people believe the project didn't earn it. The design commission disagreed. It reviewed proposals which are conceptual designs, and it decided to award the additional height. On the audiovisual issue, it was a condition of approval, and pdot has the discretion to impose either an audio or visual or both warning device sign if they think that there's a safety issue with the operation of the driveway. The driveway in the design before you has been pushed back 40 feet from the street, so it's yet to be determined whether pdot would require audio, require visual, or both, and we're to whatever has the least impact on the surrounding neighborhood. Traffic issues were raised. There was a very comprehensive traffic impact analysis conducted for this site under the land division decision for the site. This site has already been through a land division application and decision. That decision carried with it a traffic impact analysis that demonstrated that there were safety of all operations, and that all facilities would operate at acceptable levels of service. That decision wasn't appealed, but it was mentioned during the design commission review and the design commission was aware of it. There also was a master plan exercise for this site. I would say that was one of the strong directions of the design commission early in the process, that they'd like to see a master plan, see how this development scheme would either participate in or not preclude future development of the larger triangular site. Somebody mentioned rooftop mechanical and whether you'd like to look down on the rooftop. There is no adjustment to the rooftop mechanical equipment. It's perhaps a misunderstanding based on prior iterations, but this proposal does not. And with that i'll hand it over to jeff hamilton.

Jeff Hamilton: Thanks, kristi. Mayor, commissioners, my name is jeff hamilton with the architects. I'm going to walk you briefly through the different schemes that have been proposed. Only one slide each, and then go through the different design elements of the project and talk a bit about the design principles that were all agreed on. First of all, the image that's in front of you is the overall aerial view of the site and the neighborhood. And it shows on the left side, upper left, is Washington park. The king's hill heights and its highrise buildings to the lower left. And it shows burnside going up and down in the plan, right here, my arrow. It shows westover peeling off, going up to the northeast -- i'm sorry -- heads northwest. North is to the right in the plan. The commercial c.x. District is here. The approximately 150-foot-high and taller hill with all the apartments on it is behind the site, and the property we're looking at is right here. It's the existing shopping center, with its surface parking lots. This is the first design that was proposed. Tim put it up on the image board. It did represent a 220-foot-long building right on westover, which was a city -- central city guideline to build to the edge of properties. And it had retail at the base. The design commission, through the hearing, made two strong recommendations. One was to push the building back off westover, rotate it back, and look at doing two separate buildings instead of one building. We went away and worked on that advice. We came back for a second design advice request with this project. It was only about three to four weeks later. We met the conditions that were requested of us by putting the building on access with everett and looked at two different buildings. We gained approval of this in concept and were asked to go away and further develop it in preparation for doing the full design review hearing. We came back, I think it was about four months later, really worked through the scheme, design development, and the building came back with this footprint, two buildings. It did get a lot more modern. It lost a lot of the brick that we had. We got several recommendations to look at a more modern building, and we kept the lower stepdown building of

March 23, 2005

the townhouses in brick. We were asked -- we were told that the massing of the building was too large, the tower was too close to westover, the top should be setback and narrowed up, made more slender, and we were asked to look at the shape of the building and not consider it like a typical city block, but think more about the irregular-shaped block and let the building kind of conform to it. We went away -- we literally threw everything out. We started back at square one. We said, what do we need to learn about the neighborhood? What have we learned about all the hearings so far? We studied literally about four or five boards with this many drawings on them, looked at all different configurations for the building. Very quickly this was about a two-week process. We came back and met with staff a couple of times. We came in, and the highlighted building here in the center was the one that everybody kept gravitating to. Can you make something narrow and slender that fronts on the end of everett, becomes a terminus to the street and really represents a narrow front to the neighborhood. We were also asked to move the building back from westover. We kept showing it coming up and fronting literally to the property line. And we were asked to move it back about 15 feet or so. And to reduce the footprint of the building from 15,000 to 13,000 square feet to get a smaller, more point type of tower. So we met with staff a few times. We came back with this design, where our design approach here was to take some of the square footage out of the tower and put it into the lower building. The lower building got taller, 75 feet tall per the allowed code, and we connected the two buildings together, which we thought would help to make a better stepdown to the neighborhood. This turned the building slightly and did not represent a terminus to everett. You can see the corner of the building in the plan is facing everett, not the face facade of the tower. So we were told that we should probably step back one more time. And we stood up and said, what could we do to really better understand all the ideas that are coming out from this? Let's have a couple of work sessions and get everybody in the room, sit around a table and talk about what we have done so far and what could we do to move forward. The result of that was the 15 design principles that we've talked about. These are in addition to the city codes. We came up with all these. We spent about three hours coming up with all these. We literally talked about each one for quite an extended amount of time. We had no designs on the boards. The designs were all put away, just set aside, and this was all about what would we like to see on this site. I'm going to briefly mention, because this is the best place to do it, but a.d.a. Was brought up. The project we're proposing to you does meet uniform building code for accessibility. The site is a parking lot now, and it's very difficult to get through. You'll see by the design soon that we've represented about a 30-foot-wide plaza to get through, which really invites pedestrians to go through. There's a 20-foot height distance from the lowest part of the site to the highest. That's very difficult to do with ramps. It would literally take about a 400-foot-long ramp to do that. Currently the site goes up at an accessible 1 and 20 height difference, and that's a very walkable and good way to get around the property. I'm going to walk through a bit of an overview again here to look at the project and its context, and then walk you through about five or six of these principles that were most instrumental in forming the building and its position on the site. This now shows you the project with the actual tower here, as the tall building, and then the townhouses located here, and we talked about the neighborhood previously. So this is the context and the view from the apartments above. We actually went up several times to meet with them. We looked at the views, took panoramic photographs. We put up balloons from the site. This is the site right here, and we went into the configuration of the building, went to the four corners, and raised balloons up to the height of the building, and showed everybody what would be there. And this also shows, of course, the context of the king's hill neighborhood where there are several taller buildings. We talked about the fact that burnside is a -- an area where many taller buildings have been brought to throughout the city, and this is a gateway place of leaving and coming into the city. So it's really the at the edge of the neighborhood. It's not within the historic housing part burke it's within a commercial district. This shows some of the buildings that are around our site. The envoy, other apartment buildings in the eight to 10-story range, and shows townhouses and storefronts of the some of the

March 23, 2005

elements that we walked around and collected and kept track of as we were trying to design our buildings and looked at ways of integrating windows, bay windows, storefronts, use of materials into our project. So some of the principles, first one, knowledge of the three very different sides of the site -- west hills, alphabet district, and the view to the downtown. On the west side of the site, we brought the hill down into the site and made that our courtyard. We brought literally the stone and the trees and made the courtyard on that side of the project. On the historic neighborhood side, we put a 45-foot front to the building, stepping up to 55 feet, on about 2/3 to 3/4 of the length of the site. It's 130 feet long on a 200-foot front. We took elements from the neighborhood and made individualized housing with bay windows and single doors, punched windows. It's a much more historic front. Chimneys sticking up at the top. Little penthouse decks at the roofscape. And really accentuated. We acknowledged the northwest character, by doing the same thing, going around, looking at elements of the neighborhood and incorporating them in the design in the use of brick and the material palette. Number five was design interesting spaces that afford connectivity, simple way-finding. We did that through five or six different elements. We have a small pocket park, front door porch, provided 30-foot-wide pedestrian corridor through. We've made retail on all sides of the building, here, up here, and at the back corner, so it invites active uses completely around the building. And we've very carefully designed the pedestrian way-through here and a courtyard that's open to the public. So all areas are open. I'll walk you quickly around that. Here's the plan of this pocket park with a waterfall, front porch. This shows it in elevation perspective. This is that way-through. This is the automobile entrance that was on the property line. We moved it back 40 feet. Put a large landscape here so it screens it from view. Because of that depth back, we don't need the audible element. We've provided trees and plantings and that retail that I mentioned. There's the plan of it. Here's the elevation with the retail. And this is the elevation of the shopping center with planting against it. This is the courtyard at the back. Just a quick view. Townhouses. We talked about the stepdown. These two views show that stepdown. Here's the tower stepping down to the 45-foot height. And here's the townhouses with the height again, and how it really does screen the tower. You have to kind of take into account not just what you see in this one rendering, but looking from both ends of the site. You can really feel how this does screen the tower. The exceptional terminus through everett was created by following architectural principles of symmetry. There's a 60-footwide frontage, perceived by the neighborhood, it's not the wide facade of the building. It's got a bay window at the front and strong entrance element, and it does narrow down at the top and becomes more crystal, so it becomes lighter as it goes up from the stone base to the brick to the glass. This shows a view from the brewery blocks, shows the kind of density on burnside, how it builds up to the kings height, to do it right here. We believe this site is a perfect site for supporting regional density. It's got a hillside to build against, which does not obstruct views. There's only one of these apartments in the center that looks out the building, the rest are turned and look away from the building. These are the palette of materials that we're proposing. The tower brick, townhouse brick, the stone base, metal and glass for windows. This is the palette of materials for the landscape, showing a high level of detail for planters, brick, light fixtures, paving on the ground. I should take a minute, I know i'm almost out of time here, but one of the important elements brought up by several people was the shadowing. For every one of those design schemes we did a shadow study, which looked at several times a day and several times a year. In this last -- this is two views of a 75-foot building on the left and our tower on the right. It proves that by putting the building, the back of the building, more than 200 feet away from westover, we've pulled the tallest part of the building away from the shadow sensitive zone and here a 75-foot-tall building, which can be 85 at the low end of the building, casts a shadow at 3:00 in the afternoon. In the morning it goes to the hill, in the midday it goes west, and to the north here. In the afternoon it starts to creep across westover. And you hit the sidewalk and the fronts of the houses. And it literally laps up on to the wisteria and this house at this corner. In the design we've proposed, it's slender. This is south, slender direction, all of the shadow, all day long, is on our property. As you

March 23, 2005

get to 3:00, the tower itself begins to come across the street and touch the houses. Because this is only 45 feet tall here there's less shadow than there is with a 75-foot building.

Potter: Sir, you're going to have to wrap it up.

Hamilton: That's the last slide. So i'm done. Thank you. I didn't address leed. I don't know if you want me to do that.

*****: No, that's all right.

*****: Ok.

Potter: Questions from the commissioner?

Adams: Yeah. The issue of greed has been brought up and the reason for this being taller than the 75 feet. Is the developer just being greedy here?

Hamilton: Well, this is a program that's -- what I didn't mention, I would like to mention, we were asked to look at this in relative to the whole triangle. There's a triangle that's way below the allowable building density for that triangle. Once we've parcelled it off we're barely over 6 to 1 instead of the allowable 7 to 1. So we could build more units on this particular site, but we studied a master plan that allowed much more study for the whole triangle and other buildings. So I would say the answer to that is there's an allowable program that could meet the city's allowed f.a.r., and we would back it whether it was taller or longer. A taller building isn't done for greed, it's to give more public space back. If you filled the whole site with an 85-foot -- 75-foot-tall building, there would be no public place left. Like the pearl district, they're built to the property line. This gives more back to the city by only covering half to 2/3 of the site.

Adams: But better views are worth more money.

Hamilton: Within the building there are. You can see around this building better from the lower residential around it, because it's narrow, I believe.

Adams: Is there any public subsidy in this project?

Hamilton: No.

Adams: Ok. Maybe I misunderstood. Did you say that there was a master planning for this project site or for the uptown shopping center site?

Hamilton: There's not a required one. The city design commission requested that we look at it so we would not preclude future development in our study of the way we laid out the parking below grade or the way we designed the building. We studied all parking entrances completely around the triangle, burnside, studied how other buildings might be placed, how our pedestrian connections would be connected throughout the entire site, and did that with a model as well as drawings. We fazed it. We showed phases of the master plan. That was accepted by the design commission.

Potter: Mr. Hamilton, you started to mention leeds. I was going to ask that question anyway.

Hamilton: We looked at leed, as we do all of our housing projects, studied all the points, calculated how many points we're getting. We're doing a sustainable development, and we have some of the highlights of those points here, but we're not going after leed certification. We're doing the -- the building is oriented east/west, because that's the best orientation. It has more decks to the south because that screens the sun from heat gain. We're doing stormwater management. We're optimizing the energy performance of the building. We've gotten up to about 20 points. 26 are required for certification. We're continuing to develop that. We're just beginning our construction documents at this time.

Potter: How much of the stormwater will you be managing on the site?

Hamilton: We're taking care of all of it.

Potter: 100%?

Hamilton: Yes.

Adams: And what are the future plans of the present owner of the uptown shopping center? You don't know? This is being sold by scanlon or --

Hamilton: Right. It's purchased and developing just that property.

Adams: Ok. Does the shadow hit the wisteria?

March 23, 2005

Hamilton: Well, what we proved by our study was that a 75-foot building would hit it as early, because we stepped the building back 30 feet, and it's much narrower, it's would hit it as early, and probably last longer, because the 85-foot to 75-foot height along westover would consider for a longer period because of the width of the building. The answer is yes in both cases, it would in this and in the other plan as well. We have -- we have some of shows shadow studies here which we can share or get copies. There's more extensive versions of them in the book. I think those are in the record.

Adams: And respond to the criticism that this doesn't really step down. How does the building -- I mean, you've got two different buildings, two different elevations, but how does this step down from westover?

Hamilton: Well, the biggest move that was suggested and recommended strongly was to push the building back. We pushed the mast back -- the back of the building from the corner of westover and 24th clear to the back of the site, and then put this townhouse building in front of 2/3 of the length of the site. So that's hour stepping down. It's stepping from the tower to the 45-foot height to westover and it steps somewhat by virtue of pushing the building back 30 feet, creating a front porch. It steps visually in materials by creating a stone base with a brick/metal and then townhouses that step back at the top of the. So the top of the building is back about 40 feet from the property line.

Potter: Could you go over again the issue about handicap accessibility? It was pointed out several times, not in the building, but the surrounding area, that it precludes handicap access.

Hamilton: The building is fully accessible. It has a elevator and lobby. Visitors can come in accessible. There are stairs in front of the front entrance, but on grade to the water feature side of the building, as you go toward the townhouses. So getting into the building there's no steps to go up. For the neighbors to want to proceed up to Washington park, there is a 17-foot height difference between westover and getting up to the upper plaza. And that's done through stairs. As I said, to get a ramp through that area would take almost 400 feet in length. So we chose to use the sidewalk, which goes aren't the project, which is not unusual in any place in a city where there are hill developments.

Potter: Did I hear that --

Hamilton: So we meet code.

Potter: -- on the east side of 24th place that there was no sidewalk?

Hamilton: There is on our property, on the length, right here, it disappears behind the shopping center. There is none here, but there is here, on the west side of the street. I believe that's because of the width of the parking.

Potter: Ok, but the --

Adams: Width of the road.

Potter: But there's not one on the east?

Hamilton: There is on the west, but not on the east, except on our project it's on both sides.

Potter: Other questions from the council?

Adams: Umm, i'd like to hear more about return on investment. Who do I ask?

White: What's the question?

Adams: How much you're making off this project?

White: That's not for me.

Adams: Well, the question's been raised that this is as high as it is because of greed or seeking more money. I would like to hear from the developer a response to that.

Jack Onder: Jack onder, 1100 northeast glisan, suite 300. I can only say that we feel that this development could have been larger. We purposely pared it down, approximately 15% to 18% of what it had been. It's going to be a great project. It's going to be a high-quality project. It's going to be well received in the neighborhood. Our returns on this project are no more than the typical development of this type in the city. We also have, in our pro forma, we're taking 57 parking spaces

March 23, 2005

that are there in a surface parking lot now and we're replacing them within the building. So those will come back into the neighborhood. So to answer your question, I think it's a fair return. It's not any larger -- it's somewhat strained compared to similar buildings, but we're happy to be going forward with it.

White: Maybe I can add just a further point to that, and that is that greed, nor financial incentives, were the original objective of the city's decision to make the policy choice in this case that a nicely-designed building could be accommodated on this property, and of the areas near this burnside corridor gateway this was one site that they believe could accommodate additional height for design purposes, not for financial purposes.

Adams: And how would you respond to those that have criticized the top for not being a "fitting and expressive rooftop"?

Hamilton: Well, our approach was -- and we worked through 16 months of this -- was to lighten it up, make it more glassy and not as solid, to let it somewhat disappear and blend into the skyline by reflecting with the glass and not have as much masonry. It's a pretty typical thing to do with condos, step back and provide slightly larger decks for the people who live at that level. That works well with the idea of narrowing it up from 60 feet to about 30 feet wide. So it's very small for two floors. It's kept simple, so it doesn't draw attention to itself and say "look at me." we've completely cleaned up the roofscape where we've made the mechanical small and as far as away from the hill as we can do it, and made it very simple and elegant.

Onder: I would also respond to the suggestion that all the profit is in the penthouses. That's not true. We take great care to make every unit there as nice as possible, with as good of views as possible, and that goes down to the smaller building along westover. We've taken a lot of care with those units, and they will relate beautifully to the neighborhood, not our highest price points necessarily, but very precious. People will like to live there. I think it will be a good neighbor to the historic district.

Hamilton: I would mention, the rooftop does have two deck spaces, where the top penthouses can get up on to the roof, so it doesn't become a dead space to look out on.

Potter: I'd like to ask, earlier there was some discussion about it not being a point tower.

*******:** Right.

Potter: Could you tell me what your definition is?

Hamilton: Well, the closest place to us that is really doing a lot of point towers is vancouver, b.c. They're usually under 10,000-square-foot footprints that are quite tall, 20 or 30 stories tall, and typically they take two stairs, normally in a much larger footprint building, combine them back to back, and build a very narrow tower that sometimes has four units per floor, high end ones that have only two or even one unit per floor. This building was talked about a point tower, trying to get a narrow front to the building and trying to get the square footage down from to under 14,000.

*******:** And it's 62 feet.

*******:** It's somewhat of a point tower compared to if we'd built a 75-foot building that filled the entire site.

Adams: What's the width of this building?

Hamilton: 60 at the front and 150 in length, I think.

Adams: So a point tower that you referenced earlier in vancouver is how wide?

Hamilton: Oh, they're often 70 or 80 by maybe 90 or 100. 7,000 to 10,000 square feet. And they typically do exactly what we're doing here, by putting lower elements around them to help screen the height of them. It's a zoning code in vancouver to do that. Tall buildings shall have townhouses that wrap at the base of them.

Potter: Other questions?

Adams: Questions for the design folks.

Potter: Ok, thank you very much.

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

March 23, 2005

Potter: We'll now take testimony from opponents of this appeal. Karla, is anyone signed up to testify?

Moore: No one signed up.

Potter: Ok. We'll now here the appellant rebuttal. Please come back up. You have five minutes.

Bradley: Thank you again for taking the time to listen to all of this. I'm just going to go down point by point, try and make this brief. First of all, jack mentioned the fact that 57 parking spaces were being returned to the uptown shopping center. That was a requirement. It's not like it was a gift that he went out of his way to do. Second of all, I really want to stress the fact that the design commission hearings were a part of the process. And there's no question that we got a better building from the first go-round. My -- and everyone's idea that's been expressed today -- is that it's not a good enough building yet and that it doesn't fit into the neighborhood. As for the luba appeal, all the luba appeal said was that it was ok to think about granting a bonus. It didn't say the bonus was -- should be given. It just said it's ok to think about granting a bonus. And that's what we're here to discuss today -- is this bonus appropriate. And i'd like to read -- there was also a couple of things about the fact that this is a point tower versus a nonpoint tower. And I don't know what drawings you've had access to, but that's one side. The orientation up here, so this is basically what you would see as you look as you're driving up part of burnside, and you looked over. That's not a point tower. That's kind of wide. I'd be happy to let you look at those. And I guess one more thing, if I could. I'd just like to read from the design review notification and their general findings and decisions. "it is important to emphasize that design review goes beyond minimal design standards and is viewed as an opportunity for the applicants to propose new and innovative designs." that really goes to the heart of part of what we were talking about here. This is not a new and innovative design. This does not add anything to the fabric of our neighborhood. It does not pay homage to the historic district. And as a matter of fact, the net sum of this building is as currently presented, it detracts from what we have in the area.

Adams: Could you give me more of a sense of what would pay homage, the kinds of designs that would better pay homage to the neighborhood?

Bradley: You know, i'll let our architect answer that and put him on the spot. First of all, you have to pull the whole building back so you don't get any shadows. I think that's clearly number one. Number two, you have to come up with a building that doesn't look like it belongs in the pearl district. Everyone has said that time and time again. I think if you look at the drawings I presented you, this is a pearl district building. We're not asking you to pass judgments on whether this is a pretty building. We're asking you to pass judgment on whether it's appropriate for our neighborhood. What i've tried to show is that this is appropriate for the pearl district, not our neighborhood.

D. Genasci: Density that this building achieves, by using this very large slab building, could well be achieved by simply having a site which was more officially used, that is to say that there was more building on the site that arranged in relation to the property lines. This building basically, in a sense, is the worst possible solution to the site because it does provide a huge amount of shadow that will not be there perhaps at 12:00, but it might be well be there between 1:30 and 3:00, because that's when the sun is really going to get behind this block. And that's when it's going to overwhelm the neighborhood. It seems to me that the stepdown is a major aspect of this, because what title 33 says in the transition between the central city plan and an adjacent neighborhood, that there should be a significant recognition of the difference in scale between these two areas. This building does step down part of the way, but if you look at the elevation, which is before you, it clearly does not step down for close to 40% of the length along westover. So you might say it's a 45% or 50% stepdown, but it isn't really stepping down. You're going to have a massive building facing those historic buildings. That's the interface. I'd also like to talk about some of the earlier meetings, where jack onder came to the northwest district association and showed us his proposal. In those early meetings, it was strongly suggested that a tower was an inappropriate form and that a building

March 23, 2005

that was more in the character of the neighborhood, that is to say the kinds of buildings which -- like the american, for instance, which is on 21st, which are six to eight-story buildings that do fit into the neighborhood would provide the same density for this site, but it would do it in a way which is part of the tradition of northwest neighborhood. It's part of the character of northwest neighborhood. This is a kind of -- kind of building that you don't find in, say, for instance, european cities, in the inner core of the cities. People build in a much -- just as dense -- in just a dense a way, but they do in order to provide continuity for the street, do it to provide a pedestrian scale to the street. This building does it for about 50% of westover. If you go around the back, see the building in the back, that's not a shot you've seen so far, but it might be interesting. This building is huge on the area which would be basically the west and southwest side of this building. It's the full 14 stories facing those areas, which according to a master plan, which I would describe as token, the -- but does exist -- that the interaction between this building and later buildings will be pretty significant. I would also like to say something about the sort of rooftop. The idea that all these apartments are going to be looking down on this building. It would be a simple thing to develop a green roof for this building. That might take care of the extra five point that it doesn't get to leed. I have no idea. But the point really is that this -- this roof is unexceptional, it's absolutely a standard roof. It's a kind of roof that you'd expect to find in most highrise buildings, but not highrise buildings where there's going to be a significant population looking at the building.

Potter: And I don't know that you folks stated, this but I wanted to find out if any of you folks or folks from the northwest district association participated in creating the design principles.

Bradley: Again, you're going to have to -- I was not there. Lee stapleton was there, and lori holland was there at all of the -- the design -- at all of those ancillary meetings that took place in the afternoon. Part of the problem with the design principles is there are certainly some that I would have put in there that are not in there. For example, the shadows. Second of all, precluding -- when you looked up at the slide presentation, every single one of those buildings was in a tower form. We've tried to show here that there were other ways to do it. Another one of those things, in the principles which we've just kind of brushed by, one of the founding principles was, "an exceptional design, an icon is anticipated, given the exceptions requested and the inherent defining visibility to the site." well, we went from an icon to a fabric.

Potter: Did anybody else participate in the -- in the creating of the design principles?

Hamilton: I participated in one of those, but it was after the design principles had been determined. I personally don't have a lot of problem with the design principles. It's how these principles are actually being interpreted. It's the sort of -- the idea that one can talk about stepdown and then look at 120 feet of building frontage, looking at westover. Where's the stepdown?

Potter: He's examining a letter. Folks, just hang on for a second.

Adams: I think my questions are for staff.

Potter: Thank you very much.

*****: Sure. Thank you.

Potter: Could we have the staff come back up, please? Go ahead.

Adams: This issue came up while I was not a staff member of the mayor's office, so I wasn't here to sort of experience it as the process went along. This october 14 letter from mayor katz to the chair of the design commission, what's the -- what's the point of this letter and what's the legal status of this letter in terms of how binding is it on us in our decision making?

Jeff Joslin: Jeff joslin, bureau of development services, lead staff for the design commission. There was particular attention focused on this, you know, relatively matter in the context of the larger district plan. Quite a bit of testimony over -- over more than one hearing --

Adams: Can you get closer to the mike?

Joslin: I'm sorry. The mayor in particular was focused on the importance of design quality as -- as part of the response, as this unique overlay was being applied to this particular place. It's unique in that it is the only place in the central city where only this particular bonus is -- is accessible in order

March 23, 2005

to achieve this additional height. What in effect functions as the purpose statement, the underscored language, was added for that purpose, to specifically direct to the design commission that there was an expectation on the part of council that they would -- they would apply particular scrutiny to additional height requests for any site looking to take advantage of this particular bonus. There was a further desire on the mayor's part herself to underscore this in a unique manner, and so this letter was submitted to present this concept and the specific piece of regulation to the commission in a way that, you know, frankly to my knowledge had never occurred before. As far as legal status, it - the letter is -- if you read it -- really doesn't add anything in my view substantive to an understanding of the new regulation itself. It simply introduces it to the commission, the fact that it has the mayor's signature and came from her certainly underscores the heightened concern, which I think was the message that was intended. There is no legislative or regulatory effect attached to the letter itself.

Adams: Is it fair or not, that she seems to be inviting the design commission to tear the proposal apart and do whatever it thinks is appropriate and is reminding them that they have the right to do this?

Joslin: I don't know about the tearing apart part, but I think the intent was to --

Adams: Then use fancy words.

Joslin: Yeah. To, again, sort of fully emphasize that they expected as much discretion as was appropriate to be asserted by the commission when reviewing proposals, making use of this bonus.

Adams: And the design commission, did you -- I mean, we're hearing conflicting things here. You said that this was an extensive process that included a lot of outreach and consultation with experts, etc. We've heard from the neighborhood, some concerns about that. How would you like to respond?

McCullough: In two ways. First of all, I think the design commission took the letter from mayor katz extremely seriously. Not only because it was unprecedented, but she was pointing out the reality of the situation, which is that this is a very, very important site. So the commission, from the very beginning, I think, paid special attention to the charge that was given to us, and tried, again and again, to get the community -- the design guidelines, the designers, and the developers, to take a comprehensive look as possible. There was a lot of discussion about a master plan. And we, as the commission, I think it was fair to say, were kind of adamant about getting a master plan for the entire site, but were frustrated because the site was, in fact, divided. Sort of the southwest section, which remains vacant, obviously has a big part to play in the overall triangle. And so without having the full leverage to look at the whole site, we kept encouraging the design team to anticipate that, and they did to their credit show a couple of schemes, a couple of master plan schemes, that showed what eventual development could be. So number one, we took the mayor's caveats very seriously. Secondly, we tried to work as much of a master plan as possible. Third, we developed more and more exceptional processes to allow for more community interaction with the design team and with the design commission. And as you've heard over quite an extensive period of time. This is -- this is -- the design commission doesn't do this all the time. There's a huge amount of time and effort put -- put into this.

Adams: So who wants to summarize the community outreach and the nature of it? Where's that at? Where can we view that in our information here?

Heron: As far as noticing and --

Adams: To a lesser degree, what -- sure, noticing, coverage. What kind of community meetings occurred, how were they attended.

Heron: We have a full record of everything posted and notified. I have an extensive email collection.

Adams: How many public meetings were on this?

March 23, 2005

Heron: Well, we had two original design advice requests. Those were public hearings. And then we had the actual design commission hearings. There were two of those. We had the two public meetings that were both notified and attended by a smaller group. And then of course the final two design commission hearings, all of which are in the record and noted.

Adams: And in that pile, how many people attended these meetings, approximately?

Heron: At average, I would say it varied from six to perhaps 20.

Adams: Six to 20?

*******:** Uh-huh.

Adams: So the -- from the staff's point of view, the basis on which we're to make our decision today is what exactly? Each one of these are slightly different.

Heron: It's your decision as far as this final proposal before you?

Adams: The appeal before us.

Heron: Well, I guess I would -- I would coin it as saying that this design commission had seriously considered former mayor vera katz's letter, as well as the upzone for the site, and that potential of 150 feet could be available. We went through an extensive process. I'd point out a typical design review of a development of this size might take four months. This one took 16. And that's certainly just that public process level. I know there was longer development involved. And I think on that, the commission took it very seriously and ultimately voted unanimously to approve it in total. So in my opinion, I would uphold it.

McCullough: If I could add one comment. I think that the design review process in the city is inherently a public process, and to the -- to the degree that we don't get public participation we all as commissioners lament that. We would like to see as many people there as possible. Design is an extremely important part of the public process. So in this case I feel as though the design commission did everything possible to extend out into the community, extend the time to reach out and to in fact invent processes to incorporate more of the neighborhood concerns and planning issues than we do on nearly any case.

Joslin: I'd like to make an additional point as well. It's been suggested that this was a stonewall process, or to use my own terminology, sort of war of attrition process, where -- which suggested that the same project, or some iteration of a particular approach had come back time and time again until it finally sought approval. That was not my perception of this process. The design commission consistently at each of these meetings was extremely explicit about the ways in which they thought the project needed to evolve. They were substantial changes at each of those steps. There were responses at each of those responsive moments was at times more successful than others. The commission continued to hammer on the project and the design team. The project got consistently better with each -- with each meeting, and I think, you know, in my view it was clear every step of the way, that until the project was -- was entirely approvable, consistent with the approval criteria and acceptable, the commission wasn't -- wasn't -- wasn't intending to be lax in any way in the way they viewed the project. For me the true testament is the final deliberation of the commission itself. You've received an entire transcript of that. I've been leading the design review function for over a decade, and I will tell you that that was some of the most elaborate and extensive testimony i've witnessed on any single project. Extremely articulate, specific about the ways in which the project had risen to the occasion, and I think that, for me, is one of the best records of the ultimate result.

Potter: You've mentioned that it's an extraordinary public process and the timelines were extended because of that, that I think it was mentioned that this was within the central city plan rather than the northwest design plan.

Joslin: Right.

Potter: That the appellant stated that it was not a green design, but the other folks said that it did have sustainable development, characteristics to include such things as onsite stormwater control. There's I guess a distinct difference of opinion over the shadow. Do you folks have any discussion

March 23, 2005

about the shadow effect, the larger building? Yeah. I think jeff hamilton of the development team spoke to it quickly, but I would point out that this tower and this building in its form is set back in such a way that the shadow impact is minimized for its height compared to what would otherwise be allowed to be constructed along the edge of northwest westover. The allowed height by right is 75 feet. The height at the majority portion of westover are the 45-foot-tall to 55-foot-tall townhouses. The tower element being set back, and certainly the bulk of its mass on the south end of the site dramatically reduces those shadow impacts. So as far as the statement in the approval criteria to significantly limit the amount of shadow impacts across westover on residential properties, we felt was met, and the commission supported, and again I would say that shadow studies were studied on every variation of this scheme with that specific approval criteria in mind. So it was an integral part of the design placement of this building on to the site, and we felt it satisfactorily met that approval criteria.

Potter: There was some discussion about the view obstruction from the apartment complex above there.

Heron: Uh-huh. I would point out and clarify that some of that testimony misinterpreted the intent of the guidelines about protecting views. That statement is to designated and protected views from public viewpoints, not necessarily from private viewpoints, to which the views were specifically talked about to that, however there was, again, significant discussion of what that view would be for those private views. And that is where the discussion about expressive rooftops, active roofscapes, green roofscapes, and a mechanical system that met the requirements, provided active space, if not a personal tree or planters at the rooftop, so that that foreground view for those units that this building would be in front of had a view that was worthy and not a leftover top of a building space. So it was addressed in the criteria was found to be met.

Potter: Just one other question. This was taken to luba?

Heron: This project was not. The northwest district plan was appealed to luba.

Potter: Ok. And then it went to the appeals court from there?

*******:** Uh-huh.

Potter: The appeals court ruled that it was within the city's right to determine policies such as bonus heights?

Heron: Correct.

Potter: Ok. Commissioner?

Adams: I'm just -- it's been quite a week. It's only wednesday. Normally when we get these, and i'm still new at sitting up here, so forgive some housekeeping questions. Normally when we get something back from the planning commission, we also -- planning commission -- we also get a write-up from staff that directly addresses the reasons for the appeal that responds to the reasons for the appeal, in this case those submitted. Did you provide that? Is that the normal tradition for the design commission? Because I don't have it.

Potter: It says "nature of opposition, section five of the memorandum, dated march 16."

Adams: I've got john's. I've got the appeal. Where's the staff response? Oh.

Potter: In this area here.

*******:** Typically in --

Adams: I don't have this.

*******:** Ok.

Adams: So I need to -- I need time to look at this. Sorry. Talk among yourselves.

Potter: Any other questions from the other commissioners?

Adams: So the height is totally at our discretion, right?

McCullough: Correct.

Leonard: Above 75 feet.

Heron: Correct.

Leonard: 75 feet is allowed by right.

March 23, 2005

McCullough: Correct.

Adams: Ok. That wasn't very helpful.

Potter: Any other questions of staff or the design commission? Thank you.

*****: Thank you.

*****: Thanks.

Potter: This is now the time for council discussion. We can offer amendments, conditions, other language to be incorporated in the council's decision. We can deny the appeal, deny the appeal but ask that new information be considered, or ask for amended language, or the council grants the appeal. Discussion.

Adams: Well, you old timers that have been on the council a while, I want to hear from you.

Leonard: Well, I mean, you can have a discussion, disagreements as to whether or not you like the building. I don't think a valid argument is this has had public process. I think it was not two years ago, close to two years ago, when we started considering this here, and it received an extraordinary amount of attention then, and has up through now. So if a concern on anybody's part is public process, in my opinion it's received an extraordinary amount of scrutiny.

Potter: Well, I think the reason they took it to us was because they couldn't agree. So we have to make the decision for them.

Adams: Well, the design commission was one person against or --

White: No.

Adams: It was unanimous?

*****: It was unanimous.

Adams: The design commission couldn't agree with neighborhood leadership. [inaudible]

Potter: Do you want more?

Sten: I don't, no.

Potter: Do you, commissioner adams, require, request more information?

Adams: I just wanted to clarify, if I might, on the mayor's remarks, the disagreement here is between the land use committee of nwda and the design commission, correct?

Joslin: Correct.

Adams: Not the design commission was unanimous?

Joslin: Correct.

Adams: Ok.

Potter: So we need a motion. Other than the one in our chairs.

Sten: Well, I will make a motion. I'll probably make my comments more as we vote on this. I've been thinking a lot about this. This is an unusual one for me, because I generally like to -- I generally as a rule defer to the design commission, and in this case I just basically listening and looking at this do not think the height fits. I think it's -- it does not meet the basic guidelines. I think it's a well-designed building, but I look at the first one, and say is it an icon, the goal agreed to, and it is not.

Potter: So is that a motion?

Sten: Well, discussion.

Potter: Ok.

Sten: I will move to grant the appeal.

Potter: Do I hear a second?

Adams: Second.

Potter: Discussion? Karla, call for the vote.

Adams: Aye.

Leonard: Aye.

Sten: Well, I guess I'll just elaborate just a little bit. I want to thank the design commission for a very good process, and it gives me great pain to vote otherwise, because I generally like to defer, and I do think the design commission did a great job in approving it. In retrospect, looking at this,

March 23, 2005

and looking hard at it, and having been on the council when we had a very heated discussion about how much height bonus to give, I think there's too much height bonus here. I'm glad it was given as a bonus, because the council is not obligated to do it unless it fits and improves the character of the neighborhood. I can't get my brain around how this design of the many, many that are available is the best in terms of meeting those goals. I just think it is not. And I think the design commission did a terrific job in trying to make this height work, but I ultimately don't think it does work. So I vote aye on my own motion.

Potter: Well, you know, I try to use some of my old police investigative techniques, and listened to both sides very carefully, and try to figure out if there was differences, and obviously there was a ton of differences. I think this is an exceptional part of town, and as one of the appellants testified, each neighborhood is unique, sort of a pearl on the necklace of Portland. And I think that that's very important. On the other hand, I also believe that the folks who have worked on this, as well as the staff, have gone out of their way to try to make this an inclusive process. So I am very torn on it, as to which way I should go. I think the neighborhood deserves to have influence in this. I think it needs to also be balanced out with a developer that spent a lot of time and money and process going through this. I know that there are three aye votes there. And I know that some of the neighborhood people would expect me to side with them each and every time, but I also have to use my own judgment. I feel that -- that the construction should proceed, so I would vote no.

Rees: Mayor, before you bang the gavel, please -- [gavel pounded] -- had a request from the applicant, which is one of the options, entirely for your consideration, because the applicant it's not appropriate for them to speak at this time. One of the options, I believe, proposed by staff was to send it back to the design commission for additional work. Is that correct, staff? And I will simply put it out there, because the applicant has requested it, and I don't wish to have procedural error for us not to consider that request. I put it out there for your consideration.

Potter: So you say that this creates a procedural error or does not?

Rees: No, no, no. Simply the applicant would like consideration of that, and because that was communicated to me, I need to make sure you have heard that request. And you may consider it and do whatever you want with it.

Leonard: Being in the majority, i'd move to reconsider our vote, make such a motion.

Adams: Can we do that?

Potter: Would we then deny the appeal, but ask new information be considered as --

Leonard: No. We just move to refer it back to design commission and let it come back.

Potter: Ok. And then that would also include a continued conversation with the northwest district association as well?

Rees: Any proceedings in front of the design commission would, I presume, have to be noticed as any other hearing would be.

Adams: We can put the condition on -- we can make that a condition, right?

Rees: Yes. I don't think you would need to, but, yes, you certainly could.

Adams: Oh, ok. Second.

Potter: Discussion?

Sten: I guess I need a little clarification on what the practical meaning of that is. I mean the applicant doesn't have to reapply and speeds things up for coming in with a different design or does it mean --

Joslin: Correct. It would allow them to, in effect, continue the process that's been ongoing before the design commission through additional continued hearings.

Sten: And if we didn't allow that, they would still continue the process, but we'd have to go through a whole other application process of some kind?

Joslin: Correct.

Sten: I don't have an objection to that.

Leonard: We need to take a recall on the move to reconsider.

March 23, 2005

Potter: Roll call.

Adams: I'd like to -- the conversations to continue as exhaustive as they are. I'd like the conversations to continue and come back to us. Aye.

Leonard: Aye. **Sten:** Aye. **Potter:** Aye.

Leonard: Now I will move to refer this matter back to the design commission.

Adams: Second.

Sten: We just did.

Leonard: We voted to reconsider, so that it's before us again.

Potter: Ok.

Sten: I don't know if you want to hear from the neighborhood. I'd be interested in a limited opportunity to hear from the neighborhood.

Potter: Yes, please. Do you want to come back up front, sir?

Bradley: You know, I would like -- I think this is marvelous compromise, but I would like to know what you all have in mind as the end result for this? Because if we go back and we end up spending a couple of more months, rearranging the deck chairs in the titanic, we will not have served any purpose. So might I ask each one of you, if I could, what you found this building had that was not in keeping? And I don't want to box you in with the criteria, but I just want -- would like some general direction, given the design commission, because otherwise -- I mean, we got the same cast of characters, and unless we get some new direction, I think we're just going to spin around again.

Adams: Sure.

Bradley: Thank you.

Potter: Ok. And commissioner adams volunteered to be the first.

Adams: More height at the back. Less height at the front. More stepdown to westover. I don't care about covering up the hillside. I do care about the stepdown to the neighborhood. People that live across the street are going to be impacted no matter what. And they purchased their houses knowing that this was a parking lot, available for future development, but I think I would like to see less height closer to the street and more height in the back, stepdown. I like the two distinct building designs. I think that the design of this is good, but it's the masting that leaves me concerned and the way that the building is masted from westover to the -- toward the hill.

Leonard: I would agree.

Sten: I guess i'm less convinced that you can meet the criteria for the bonus height at this site, period. I'm just not convinced. [inaudible] you know, so i'm open. Again, i'll leave it to the design commission to make a proposal, but as one vote -- you know, the height is abstract until you see the drawings when we work. You know, this bonus height was put in largely because of a push by the goal of a building this high. I don't think there's anything wrong with that, but I was on the council when this happened, and that's how it got legislated in, and we had a hard conversation about whether we should give this bonus or not. I voted to give the bonus based on the argument it would only be available if the design showed it was warranted. I had no way of knowing until I saw that design whether or not it was going to meet my criteria, which I got to very slowly, because I really, really didn't want to get to the point of being the design commission, which is part of why I was hesitant to set up the structure in the first place. People might recall I voted against the northwest plan at the end of it, because I thought there were a series of issues that needed to be worked out between the neighborhood and the various business interests, because I saw -- correctly foresaw a series of battles coming forward from this plan that are playing out at council. I don't want to be too long-winded to your question. Having given that opportunity to get there, i'm not going to say you can't build to that height and equips me, but right now I don't see how to get there. I think the height is too tall. It's not a matter of materials. The materials and all the other pieces are brilliant. I think the layout is just fine. I don't have any objection to the street front being pushed forward, but I can't get my brain around how 14 stories is in context of the general vicinity around. The envoy doesn't count. It's not part of the context of this particular part of the neighborhood.

March 23, 2005

Potter: Was that a motion?

Sten: I didn't think we were voting.

Adams: We're commenting.

Potter: Commenting. Well, you know, I don't have great hopes for this process either. And I think that we've -- we've heard this same argument, just in different areas, about the difference in how neighborhoods see a problem, and how developers see it. And often at the end i've concluded that - - that if there was just a way to engage the neighborhood in a more dynamic way, that perhaps a solution could work out. And in south waterfront, at least a process was worked out, where we could gain something for the neighborhood. I haven't heard anything at all on this particular instance where that's even an issue, that it's strictly about this piece of property and how the neighborhood sees it, and how the developer working through this process, and with the pre-- the other council providing support for the additional height, it makes me feel like -- that we're not just solomon with a baby, but the baby's half dead already. And that really presents a difficult issue in terms of how we're going to vote on this. And I -- I will -- that's my concern. I think you would ask how we view it. I would hope that both sides could sit down again. What is the process now, after our vote today? Does it come back to us again?

Leonard: Get it back again, i'm certain, to vote on the next iteration.

Adams: I think that --

Leonard: And I will send the message that while on a close call I did defer to the motion made that -- that i'm very sensitive to what mayor Potter is saying here, and if the neighborhood takes this as an empowerment to stop the project it will influence how I vote the next time.

Adams: I think it is possible to get the density at this site. It may not be at the same height, same configuration, but I think it's possible to get the density. [inaudible]

Potter: Ok. Thank you, sir. The testimony is up here. So what do we do now? Take a vote?

Rees: Commissioner leonard made a motion on the table.

Potter: To refer it to the design commission, who will then bring it back to us. Is that correct?

Rees: Well, may I clarify that?

Potter: Yes.

Rees: Would it only come back here if it's appealed again.

Leonard: That's why I said I -- i'm assuming that it would.

*******:** Ok.

Leonard: I'm also hoping that with what the mayor's saying, my reinforcement of that, a consensus will be reached.

Potter: Did you second, commissioner adams?

Adams: I did.

Potter: Call the roll.

Adams: Aye. **Leonard:** Aye. **Sten:** Aye.

Potter: Aye. [gavel pounded]

Moore: Do we need to set a date to come back?

Rees: It won't come back here other than on an appeal by one of the parties.

Potter: Ok. That concludes the meeting. [gavel pounded]

At 4:54 p.m., Council adjourned.