

mobile food establishment, there's no permit, whether it's based on a particular location or a movement that would go through, like, a building permit review or get a temporary use permit. That was the practice many years ago, but is no longer. It is enforced by our health department if there is -- if there is a violation that might occur on a particular property, we might have our solid waste services code enforcement division go out and look. If there was a code violation for a proximity, maybe operating too close to a neighborhood, but I did get a copy of the packet from the gentleman, I'm going to share this with david lurie with our austin county health department, representative and director, and bring those items to his attention and see if we can take care of some of the issues that have been brought up this evening, because those do appear to be violations of our codes. council member martinez? I just wanted to suggest that we put this on the next public health services subcommittee and give an update to that committee if at all possible. I'll pass it on to david. thank you again. Council, further questions, comments? If not, I'll entertain a motion regarding this public hearing. Motion by council member morrison to close the public hearing and approve the ordinance on all three readings. Seconded by council member cole. Further comments? Hearing none, all those in favor please say aye.

Mayor wynn: aye. Opposed? Motion passes on a vote of 6-0 with mayor pro tem off the dais. Thank you all. So for folks that are planning their evening, that leaves us with two public 63 is the continuation of the public hearing and potential approval on second and/or third readings of what we generally refer to as the waterfront overlay. Again, we have about 13 folks who want to give us testimony. If everyone speaks for their allotted time it would be about an hour's worth of testimony, and then i suspect there would be council dialogue after that, probably a brief staff presentation, and then on 61, the public hearing regarding the bicycle plan -- remembering, that the legal advice is that we aren't prepared to take action tonight because of a qu in a level issue that I suspect will be fixed by our next meeting, the 11th, but we do want to be respectful of everyone's effort to get down here in time tonight, and so our recommendation is that we conduct the public hearing, only. There is 40-some-odd speakers to speak. There's a couple hundred folks who signed up not wishing to speak but giving us their opinion about whether they're in favor or not. If all those folks were to speak and use all their allotted minutes, there would be about 220 minutes' worth of testimony. So you can do the math yourself, figure out how long we might be here. So again, I -- if I had to bet, I would think that we're going to spend the next hour or so receiving testimony and deliberating the waterfront overlay and then we will conduct the public hearing regarding our bicycle plan immediately thereafter, so if you want to take a break or take a walk or get some fresh air, you're welcome to do that. So that brings us to item 63, our public hearing regarding the -- the continuation of our public hearing and potential second or third reading on what we call our waterfront overlay combining district, and again, welcome a brief staff presentation. Good evening, mayor and council. Robert heil with neighborhood planning and zoning. This is item 63. It's a continuation of the public hearing, and to approve on second or second and third readings the ordinance amending title 25 relating to the waterfront overlay combining district, in chapter 2-1, relating to the waterfront planning advisory board. We -- you have held part of the public hearing at a previous council comege. Council meeting. The ordinance that was part of backup reflects the actions you took approving it on first reading, and staff is available for -- for questions from council but we don't have additional council presentation this evening. thank you, mr. highly. Questions of staff, council? Comments? If not, then I recommend we just continue along with our public hearing. Looks like the

same folks that gave us testimony the first time around want to give us additional testimony, and we will just take these -- I'll just take them in the order that the computer tells me they've signed up. Our first speaker is mr. jeff jack. Welcome, mr. jack. A number of folks wanted to donate time to you, and i know the last time you got a number of folks that had sort of a sequence of testimony. You're welcome to do that or switch around or -- thank you, mayor. Tonight we have a lot of other people here that want to have an opportunity to speak and I'm going to speak to save town lake just a just for a moment, and how many people signed up for me? yeah, so, per our rules, the maximum number of folks, four people, have offered to donate you their three minutes, presuming they're all here. So is gardner sumner here? Welcome back, gardner. How about -- looks like devota swinson? I'm asking because our rules are you need to be present in the chambers in order to donate your three minutes to a speaker, so we try to follow those rules. Devota swinson. How about jean mather? I saw her earlier. Welcome back, jean. And steward werbner. Stewart is here. Stewart werbner. Sorry, I don't see stewart. So that leaves you with up to nine minutes if you need it, and you'll be followed by patricia seeinger. Thank you, mayor. I don't think I'm going to need all of it. Last time that we were here I think we hit most of the points that we wanted to make, and I'm really here tonight to speak for somebody else. Last time we had a public hearing there was a comment that was made about the folks that opposed this ordinance, that they had found a member of the town lake corridor study task force that had created the guidelines for creating the waterfront overlay ordinance back in the '80s who suggested that the ordinance needed more flexibility. Well, we were fortunate to ray reese who was the chair of the town lake corridor study, and he has sent a letter to you, which I've just passed out, and I'd like to read it into the record. Honorable mayor and city council, greetings from rural italy where I'm currently living and working. I am an austinite, and i look forward to returning to austin and tramping around the lake again. The lake formerly known as town but now called lady bird. I was chair of a council appointed town lake corridor task force in the mid 1980s. As such I helped write the guidelines that led to the waterfront overlay which you are considering at your meeting today. I learned just recently that the original language and provisions of the overlay had been substantially changed for the worse under the guise of a document simplification. I am appalled that something like that could happen in austin. It smacks of stalinism, a rewriting of history, for reasons of political and economic gain. You have the opportunity to repudiate this embarrassment by restoring to the overlay the language and purpose which was first endowed by the dedicated citizens and city staff who painstakingly drafted it 23 years ago. I urge you to do so without compromise. Since the original overlay was itself a product of compromise. I argued at the time, for example, against a maximum height allowance of 96 feet. I suggested 72 feet, which is the standard in similar situations in europe, because europeans demand human scale in the buildings around them. I urge you in particular to take no exception in the overlay for so-called pud's. The original document made no such exceptions. It was written with the understanding that the public space and the lake corps der not available for any price. And a pud is a way of buying out the intent of the city code. At the very least, if pud's are to be excluded, you should require a super majority council vote for their approval. Just as barton springs is the soul of austin, the lake corridor is the heart of austin. It is sacred and irreplaceable. I repeat that it shouldn't be for sale at any price. Thank you and warmest regards, ray reese. [Applause] while the overlay was worked on over 23 years ago, i think by the emails that you've seen -- and by the way, the city's length of stay was down for a while, so you probably didn't get all the emails you might have gotten today, but you can hear the community out there say, let's protect this

lakefront. We've all said it. We think it's special. We need to protect it. reese's point is that back when we did this we already decided to make some compromises. Let's stick with what we've got. Let's make sure that it holds fast, and let's make sure that the waterfront stays as beautiful and scenic for today and for tomorrow. Thank you.

Mayor wynn: thank you. [Applause] council member morrison? jack, town lake, and I think a lot of people know that there's a pending lawsuit that's currently sort of on hold, and I wonder if you have any comment as save town lake about the outcome of this action by council and what kind of reaction regarding -- with regard to the lawsuit save town lake might have, if you -- whatever you might be interested in sharing with us. Well, I appreciate that. As I think the council knows that save town lake is in litigation with the city with regard to the 1999 recodification of the land development code due to the fact that we believe that it violated the state statutes on open meetings. We put that lawsuit in abeyance to give the waterfront overlay task force an opportunity to work through this problem and to make recommendations to you. The recommendations of the waterfront overlay task force are very clear that the intent would be to put back the regulations that were in place in '86. If that were so, then our lawsuit would have no merit at the time because we would be back to where we should be. The issue of the pud's complicates it a bit, because the original ordinance very clearly said that the waterfront overlay superseded all aspects of the code, including pud's. Therefore, that presents a problem to us in our litigation, that we would hope that we could have a solution that didn't require us to go forward. However, we understand that the council has created a new pud ordinance. It's supposed to be sprong stronger than the old one. We believe that if that is the case, that any project that truly was a significant community benefit that could be so great to require a waiver of any portion of the waterfront overlay, would require a super majority, and if the council so decided to make any pud that requires a waiver to the waterfront overlay, requires super-majority, save town lake would feel comfortable in withdrawing our lawsuit. thank you, mr. jack. jack, council? Council member shade. one of the jobs of this -- of the new -- one of the -- I guess it's section 24, part b, is directing city manager to provide recommendations on whether pud's within the -- should be required to meet additional requirements. This will be a task of the -- is that right, that this will be a task of the board and the staff to be looking at pud's and whether or not they may be -- how they may be -- how they fit into this waterfront overlay now that we're looking ahead instead of only behind? Well, I think that is a clear charge that is laid out, but we don't know what the conclusion of that will be. but it will involve a public process and it will involve the opportunity for people to look at this issue much the way that people -- I mean, your -- the task force did not get to address this issue. That's correct. so they didn't get to look at the bonus provisions and that is going to be part of the charges of the new board. And on behalf of save town lake certainly well we would be willing to wait and see if we end up with doorns that's as strong as -- ordinance that's as strong as what the citizens had in '86.

Shade: that's great. Thank you. thank you, mr. jack. Our next speaker is patricia seeger. Welcome, ms. seeger. You too will have three minutes. Good evening, mayor and council members. I am patricia seeger and tonight I'm here represe 2222 come coalition of neighborhood associationsment we are also known as cona. We are a group of 7 neighborhoods between 2222 and park corridors. We have over 3,000 households that I am representing tonight, and i am here to tell that you we care about town lake. We care very much about town lake. There is some rumor going around that this is the central austin

issue. I assure you, we in the northwest care about town lake. We hike, we bike, we canoe, we picnic and we just go there to enjoy the natural beauty. Tonight when you're looking at the recommendations, please consider saving this lake for all of austin and its visitors, not just for a few but for everyone that could possibly come and enjoy this little gem in the middle of our wonderful city. That's all I have to say. Just remember, all of austin values town lake -- I'm sorry, lady bird lake. Mayor wynn: thank you. Oh, did I say town lake through that? I'm very sorry. Lady bird lake. And one other thing. This is one lady we're saving. Thank you. Thank you, ms. seeger. [Applause] our next speaker is daniel yan es. Welcome back. You'll be followed by scooter cheatum to be followed by melissa hawthorne. Thank you, mayor. I'm daniel yanes, and i coordinate the review committee for the govall neighborhood. My neighborhood is river bluff neighborhood association and we are on the north shore of the river between pleasant valley and 183, so we're very much interested and concerned in what happens with not only town lake but the whole river corridor. I want to tell you that I'm a performance artist and i have a studio on the east side. It's a very big room, wide open because we dance, practice there, music and everything, and when people go -- come to my studios, they start running around, especially children, because it's wide open, it's a big space, but then people always also say, you know, i have a piece of furniture that would look beautiful right there in this space. Well, I have to keep it open in order to live and work in the space. What I'm saying is that whenever there's an open space there's a tendency to plug it up. So town lake is no different. Beautiful, wide open. That's part of texas, wide open skies, different from any other place. It's not only a recreational place but I know that it's -- it also has to do with mental health, our mental health and our spiritual health. So the green, the open space, the fresh air, the lake, the views, then for the well-being of austin. So similar to my studio, because it's an open space, everyone always wants to clutter up, and that's -- clutter it up, and that's the wrong thing to do. So I'm suggesting to you-all that you strengthen the waterfront overlay ordinance, and actually, i take a much harder line than mr. jack does. I think that there should be no exemptions to the waterfront overlay. It is part -- it is one of the tools that protects our section of the river in my neighborhood, in my neighborhood plan. The waterfront overlay has protected overdevelopment in my area time and time again. I would hate to see that lost in any part of lady bird lake. I love to say town lake. [Laughter] and just as a parting thing, mayor. I know that you're outgoing mayor, and I appreciate the service that you've given. I don't always appreciate like your votes but I like you as a person and I think you've been one of the most fair mayors since frank cooksey, and I appreciate that. [Applause] thank you, our next speaker is scooter cheatum. Welcome, scooter. You will have three minutes to be followed by melissa hawthorne. Good evening, mayor and council members. We've heard from the northwest, now from the northeast. I'm here tonight to speak for the northeast austin business and community alliance, which is made up of businesses, neighborhoods, churches and schools, leaders in those parts of the community. We've been following the progress of the waterfront overlay issue for some time now, and conducted a vote on february the 28th, 2009. Motion passed unanimously to of save town lake organization and uphold the height, in the original ordinance as well as the other aspects of the ordinance and once again there's a broad group in northeast austin who use lady bird lake and many who have been here for most of their lives, 30, 40, 50 years, and have lots of experiences there that they cherish and I sent you a letter several weeks ago reinforcing -- reinforcing this, but I want to just read to you for a minute the last paragraph of the letter. Lady bird lake is our most cherished open park, and it is a defining element in austin's character. Scenic vistas and parks in austin should be measured differently than those in distinctively urban cities like new

york, where multi-story buildings march along the central park. In austin the interwoven elements of the winding colorado river, deep-cut cliffs and escarpment and extensive bottom lines define a topography different than anywhere in north america. It beckons. Please safeguard this gem. Thank you. Thank you, mr. cheatum. [Applause] mayor, council people I appreciate your time and i hope this isn't going to be the longest three minutes of the evening. I got to austin -- I lived in houston and I'm not a big fan of the hard edge and i came down here in college and I came up here for the weekend and I went home and packed everything I owned and moved here the next day. I loved it. I remember coming downriver side drive. I got pulled over because i was gawking at the lake. we still have the video of that arrest, by the way. [Laughter] excellent. I think that was before the traffic cam. So I was really lucky to be on the task force that looked at the waterfront overlay ordinance. It is a very complicated piece in that it all works together, and I'm also a member of the barton hills neighborhood association committee on area development, and I believe you got a resolution from the barton hills supporting the majority report of the overlay task force. You know, I'm probably one of the more liberal members on the majority report side. I like everything, but I do see a great deal of value and balance here at the lake. It goes through wide ranges and sections of topography and uses, and they're all different. All the little subdistricts are different. I think they're -- once the bonus provisions are created, that there will be some incent for a real community benefit that are not just dressed up code requirements offered in the terms of community benefit. They'll be real. You know, the trail going through as opposed to just tokens, and I think that often that we look at things -- I know that when i was on zoning and platting commission, that there was at least one variance from waterfront overlay, if not two, that I was on the yea side to approve, and now that I see them, you know -- until you see something sometimes that full-scale model, you really don't realize the impact, and when you talk about some of the taller buildings, those are buildings that will outlive us all. I mean, you're not just talking about our lifetime, you're talking about our children's lifetime once you get a hundred year building up there. And I really hope that you guys support the lake and support some of that passive space as well as the balance of building there. Thank you. thank you, ms. hawthorne. Our next speaker is bobby rig by. I'm sorry I didn't say that earlier. You too will have three minutes to be followed by sara campbell, to be followed by steve beers. I thank you. I'm bobby rig by. I just wanted to -- I won't take the full three minutes. I wanted to point out that the whole reason why lady bird lake is so important is its -- that its proximity and the resulting density issues from encroaching on it have everything to do with where downtown is and of course downtown is there because of lady bird lake. So it's the actual main reason, and it's kind of pegged its value. So I think the biggest issue is the pud being able to -- being able to have the pud trump the waterfront overlay is, I think, a mistake because a pud would be something that you can create a comprehensive plan, ten acres is required, i think, but -- and there's going to be improvements on the pud ordinance, but i believe that the lady bird lake is something that's so big that the plan for it, the waterfront overlay, is much more comprehensive. So that's my main point. Thank you very much. thank you, bobby. So sarah campbell. Welcome, sarah. Let's see, is tony house here? Hello, tony. Welcome bark. Sarah, you'll have up to six minutes if you need it to be followed by steve beers. Okay. Thank you. I think I will not need six minutes. My name is sarah campbell and I'm the president of the south river city citizens neighborhood association, which is bounded by south congress, the lake, ih-35 and oltorf. We have roughly 3,000 households in our neighborhood association boundaries, and we have the stretch from congress avenue to ih-35 of the lake within our boundaries. And this boundary along with the iroc neighborhood area to the east are

really two of the most vulnerable areas for redevelopment presently. Srcc voted in full support of all waterfront overlay task force recommendations several months ago, and we believe that no part of the code should be allowed to trump the waterfront overlay. I've said this before but I'll say it again because it was a long time ago, austin is really lucky to have the waterfront that it does have and public ownership. So many older industrial cities in this country had to buy back waterfront land that had become derelict industrial uses. These are cities mostly on the east and west coast and working rivers like the mississippi and missouri, where derelict industrial uses had to be removed and converted to public parkland at great expense. We don't have to make -- we don't have to let that happen. We can acquire and maintain and keep this open area now. We don't have to make that mistake. Also, since we aren't -- we didn't develop as an industrialized city, we -- we don't have a lot -- I'm sorry, I'm getting off track. Anyway, we don't have a lot of old infrastructure to remove, but we also don't have to allow too tall buildings for our pud's to trump the waterfront overlay in order to get too tall buildings when we've got a code that keeps height at 96 feet. Thank you very much. thank you, ms. campbell. Steve beers, welcome, steve. You too will have three minutes to be followed by lofton smith. Thank you, mayor, and thank you for your service to our city. I hope you have a -- good luck in everything else you do. I have no prepared remarks, but having heard some of the speakers here I wanted to point out that when this lake was first conceived, when actually it was first dammed up in that part of the colorado river creating the lake, my understanding is it was basically a disused floodplain, a very trashy area, not an attractive area. It was because of the vision gauge crenshaw, among many others, that created in gem of a public area. I think what we've seen since then is that you can make a lot of private profit and create a lot of private value but crowding in close to the public area, and I think we also see that without orderly regulation that the public space will tend to be privatized. If they don't take land out right, they'll block access to land, and they'll be leapfrogging one building taller than the other blocking its view. So I think that the problem is clearly laid out. The solution was laid out back in the '80s, but then we had that inadvertent repeal, which I understand it, this is a restoration of previous law in substantial measure. But I think we've learned even some things since then, which is that this -- the price of keeping this thing is eternal vigilance, and that it will always have eternal pressure. As long as there is that buck to be made. So perhaps with the experience of the last ten years where we see not just tall buildings on town lake shores but encroaching on zilker park and so forth, is that we need a structure that -- when there's the hurricane of money blowing through, that it can bend but not break, not be too brittle. So I think it's illusion to think that you can decide case by case exceptions under such pressure, so i would really urge, if you do leave pud's in this ordinance, that you have the super-majority requirement, that there be 6 out of 7 votes, so that they have to meet a truly superior bar in order to get any sort of exception. And I'd also urge, like, as -- you know, after today, that you look at things like, perhaps, transferring unused height allowances out of the waterfront area, maybe look into that, or look into ways of retiring them with some sort of incentives, because this is what we have and we need to take care of it. Thank you. [Applause] thank you, mr. beers. Let's see, so laughton smith. Hang on, mr. smith. You'll have up to six minutes if you need it to be followed by shelly meyer. Thank you, mayor wynn and members of the council. I'm speaking to you tonight representing the river walk condominiums at 500 east riverside drive. To be respectful of your time and avoid redundant messages it's my privilege to speak to you for our entire homeowners association tonight. Thank you for the tonight to speak regarding the waterfront overlay task force and its recommendations. I'd like to recognize the work of council member martinez,

his staff and the task force for the work they've done on this project. It's been 23 years since the 1986 code was written. And ten years since the most recent interpretation. Much care was taken in each of those instances, and martinez' efforts with our continued discussions, we will make for a current and fair code with which to work. Let me briefly show you where we're located on the map. The map shows you our complex, which is pretty [indiscernible] centered. The 500 a is the east riverside address. I-35 would be to your right and south congress to your left. Travis heights would be to the south and obviously lady bird lake would be to the northwest. We have a diverse community of 142 homeowners, many different ethnicities, professions, ages and life-styles, some who have recently moved to austin and some who have lived here for 20 plus years. Those who have bought here did so for many reasons, not the least of which is long-term property value. As a board we have met with nearly all of you individually and in some cases your aides in the last few days. Meetings have been very productive and you've expressed concern over our position and optimism that we will reach a compromise. For that we thank you. Generally we're supportive of zoning heights around our lake so as to encourage the best development for the citizens of austin and to continue in the community use of our natural resources. However, we believe that by adopting the recommendations as written, the city is foregoing future community benefits forever. You can show the second slide, please. This diagram is the same shot, the same angle, the colors that it a little bit difficult to read, but -- let's see. What's the best way to describe it without pointing at it? The top left hand portion you show a white space. That's basically the center part of our complex. The green to its north is the 100-foot setback coming off of lady bird lake. To the south of that white space is the community setbacks that would require any sort of development to have because of the travis heights neighborhood to the south. To the west is east bouldin creek and to the right is the property owned by the county line restaurants and that office building. The reason I show this is to your left and across the creek is the cws development, which last year was approved as a 96-foot height variance. Just across the river and to the east is where we are, and we, according to the task force recommendations, would be at 45 feet. So even if you were to double our current 45 feet, we still aren't at the 96 feet, which cws was granted last year. And this is really all that we're asking, an additional 51 feet of space. If we were for some reason to redevelop or if some natural disaster came through and eliminated all of our buildings, we have either we build back in the current footprint, which you have the yellow buildings, the red buildings throughout, which then stay in that waterfront overlay, or we can redevelop according to the various zone heights and variances, but in doing that with a 45-foot height limit, it really limits a developer to do any sort of good work, and the city then loses that 100-foot setback in that park space, which could then be donated to the community. In addition, you also lose impervious -- the potential to remove impervious cover from our property, which a lot of our property is either building or parking lot, unfortunately. We were built in 1971. So that's basically an overview of the property itself. In our meetings with you the last few days, we were pleased to learn that consideration has already begun regarding our situation, and that tonight's meeting is only the second reading. That allows us three weeks before the next council meeting to continue our productive dialogue before the third and final reading. We look forward to that. Tonight we would like to make a specific request but before that we must recognize the initial discussions regarding the possibility of pursuing a pud as an alternative. We do not see pud development as an optimal solution, as we would face a significant uphill battle in this case. Before we could discuss preferred elements, such as lead green building design or donating additional land to the community, your commissions and the council would have to bless a

property, which is ours, that is half the size of the required ten acres that have already been established. So tonight our request is as establish the waterfront overlay board and have them look at specific cases where significant discrepancies exist between zoning heights of adjacent properties, 96 feet and 45 feet. In order to focus those efforts, establish a guideline that would target these rare cases. One such percentage mentioned in our meetings with you is 75%. That number has not been validated to determine its effectiveness outside of our circumstance. We do believe 75% is a good starting point, however. To conclude this issue is a river walk condominiums issue, but it is just as much a city of austin issue. If the ordinance proceeds as currently recommended, the city loses the opportunity to gain parkland, to eliminate impervious cover and to improve the quality of life for its citizens. At the last council meeting elinor McKinney spoke of the elaborate overtimes embraced in I is it in the city of portland in cases such as this. We ask you to work with us and develop a fair solution for all of us. Thank you. thank you, mr. smith. smith, council? Thank you, sir. Let's see, I had called shelly meyer earlier, so fred, you're our next speaker, and let's see, also lisa tucker was willing to donate time to shelly. Is lisa in the room? schmitt, you'll have up to six minutes if you need it ton followed by jose con tear con trair on,. Thank you very much, fred schmitt here, a wee bitty lady birth lake waterfront property owner and also river walk condominiums in the travis heights condominiums in the overlay zones. I was also one of the early org, and I am a vait supporters on the intense behind the levels task force work. Thank you for your thoughtful discussions and communications over the past week, on goals of mutual benefit we're trying to achieve. Clearly there are many things about this ordinance that are commendable but there still remains numerous problems in the details as currently written which require further work. It has been confirmed that an examination of the entire waterfront overlay area on a subdistrict by subdistrict basis, to include discussions with affected property owners for the purpose of rejustifying the 1986 ordinance subdistrict conclusions was never in the charge of the waterfront overlay task force. During their recently completed nine month review. It's not their fault. It just wasn't in their job description. The task force was only charged with a language comparison between the '86 ordinance and the '99 rewrite to identify the inconsistencies, which is the jeannie that is now simplistically trying to be sweetsed back into the 1986 bottle. But fast-forward 23 years. Austin is a whole different city now in 2009 with new people, a new sky line and yes, a new waterfront landscape too. The separate -- it deserves the scrutiny by of of of a subdistrict by subdistrict detailed review. We need to validate that the 1986 provisions make sense today, certainly and especially in each area where the proposed action would have the negative effect of unilaterally down zoning properties and removing incentives and opportunities for the city to achieve new community benefits, as in the case of all lake zoned properties, like river walk. The city would be wise to make absolutely certain it is prepared to walk away from any and all potential community benefits that might be gained from reserving reasonable and responsible height options, but still in keeping with the 96-foot or lower maximums as is the intent of this ordinance. This review has not yet been done, and it really should be. For complete clarity and understanding rather than simply accepting the thinking that existed in 1986, which might no longer make complete sense today. Speaking just in reference to our property alone, in 1986 there was no initiative to negotiate and extend the town lake trail eastward from its current terminus, but that opportunity still exists today. 1986 Riverside drive has not yet been designated a primary trction corridor to the central city, with an exciting urban rail project, plus bike lanes lining up to try to take their place along four lanes of traffic and a sidewalk on only one side of the street. Yet that opportunity is actively being pursued

today. So there really needs to be thinking about preserving options for the future, a future that really is already very much unfolding before us right now. Currently, however, these pieces are all rather disconnected. Different departments and different consultants are each managing the different projects, yet the same subject properties are affected. Hours is one of them. Even ahead of any potential future redevelopments of the river walk side, none known or planned at this time, today we have the boardwalk project actively in design on the riverside but not yet under construction, so there's still time, and there is a dedicated median urban rail project on the riverside drive side, plus the new bicycle plan that you will be deliberating, which designate riverside drive as a primary bike route with a dedicated bike lane. Who at the city is looking at all of these colliding factors in their totality. We, including the city itself, are seriously in need of intelligent and substantive dialogue now to move toward a win-win scenario which is not currently shaping up with the ordinance. Restrictive covenants are one potential tool that has been suggested. Perhaps that could lead to avoiding the big unnecessary investment of the boardwalk over the river while at the same time determining and reserving the space needed to accommodate urban rail and bike lanes through the redevelopment of the riverside corridor. Please approve only the reestablishment of the waterfront overlay advisory board with this ordinance as it moves forward, and then assuming the board will be made up of knowledgeable, reasonable, balanced representatives from all key perspectives, charge them with the thorough review of further subdistrict level details. At this time that means removal of the ordinance as written today the section 25-2-713-a-3 on variances, which states with respect to subdistrict regulations, quote, accept that no variance may be granted from restrictions on maximum height as well as part 8 through 20, until such time as those subdistrict detailed can be thoroughly reviewed. Also please add to the purpose of the wpab in section 2-1 already 187 b, the review of any and all development within the body of lady bird lake itself. Such projects would and should necessarily include the city's own underdevelopment boardwalk trail extension project, any similarly proposed construction within the river itself or its islands, as well as the absolute need not too far down the road for a pfluger style pedestrian bridge alongside longhorn dam to enable the expected flow of pedestrians at the lake to cross safely between the north and south shores without traversing on the dam itself. Thank you for your time and deliberation of this further complex issue. thank you, mr. schmitt. schmitt, council? Thank you, fred. Jose cantero, followed by roy waily, followed by nan clayton. I'm jose cantero with the greater east austin neighborhood association. The fact of the matter that I was not aware of this particular item and the issue that faces me or the communities that wemp never even informed or given a courtesy letter to the neighborhood. Other than we know that you have the grapevine newsletter that's put out by the so-called cesar chavez neighborhood plan. It's not really that because there's not really any hispanics participating in that plan. It's actually people working under the direction of watson and hopefully in the future we hope that not only will you pay attention to us people that are not -- are not satisfied with what's happening in our community, we're -- this is the jewel of east austin, the lakefront. This is what I call chicano park, okay? You call it lady bird lake, but it's chicano park. We're probably one of the only cities in the united states that has this type of jewel. This is where we were raised. But the controversy has always been the holly power plant. Now the fact of the matter after years of years of discrimination, the what's happened to the holly power plant, now is fixes -- i mean, bringing down the holly power plant, now the agenda for the city council is to create more condominiums in the neighborhood. That's what happened with the smart growth. This only is going to increase higher taxes for our neighborhood, and it seems that the manner

of this issue has always been, you do not support poor people, and this is a poor neighborhood. The fact that I was in the austin energy meeting regarding this -- this comprehensive plan, they did not consider east austin as downtown. We're not part of you in downtown. We don't make the money and we don't have the finances to promote this kind of initiative in this neighborhood. So I'm asked you kindly to back off and think what you're doing. Our income level in this neighborhood is \$10,000, and for us to start recognizing that these type of condominium coming in that's going to increase property values and drive us out immediately. And also it's an insult to see these condominiums built around our neighborhood and the only reason they're keeping them from crime prevention is you haven't put barb wires on tops of the roof. So they look like penitentiaries. If we had single member districts this would not be happening. Just remember, we're the only city in the united states that doesn't have single member district. Now, that's a big question you should ask yourselves, how soon we should have it so we can protect our neighborhood. Thank you, mayor. thank you, mr. cantero. Roy waily. Welcome back, roy. You'll have three minutes. [Applause] I haven't said anything yet, you-all. Settle down. [Laughter] I think it's your outfit -- oh, yeah. I'm styling, baby. My name is roy whaley and i serve as the vice chair of the austin sair sierra club and I am speaking as the chairman of the austin sierra club this evening, and I'd like to state first that the sierra club is pro density. We do believe in the power of the tool of density. We're anti-[indiscernible] and particularly over the aquifer. This is an opportunity to either preserve both or lose both at this time. We can continue to let unmitigated sprawl go across the aquifer and our black land prairies in eastern travis county, et cetera, and we can also throw away the town lake or lady bird lake that we have right now. We're pro-density but in the right places, and this is -- this is -- I don't want to get into golden gooz -- or geoses and golden eggs, but once it's gone, it's gone, and we have the opportunity now to sa, your bonus is that you're building on the shores of lady bird lake. You are going to build in the best part of austin, right here, and you'll always have that value. So we don't need to give anything -- they did not give bonuses to get people to move to sutors mill in 1849 in california. The money is already there and there will be a good profit there for whoever does that work. We do need to take consideration -- I'm saying take it as no amendment as proposed. And as far as the pud's, well, a super-majority can take care of that, and i think the riverside -- or river walk is a prime example of that. If you-all can sit down and see that there is a clear community benefit to changing that, then it would take the super-majority to grant that, and not some code that could be -- it's not a one side fits all situation. So you're the representatives, you-all have that responsibility, and not just you, but whoever follows you. I mean, they will have that as their temp let, to look at what really does constitute a clear community benefit, camping at 96 feet, but that would be the way that sierra club would like to see that go. And I appreciate your time. Thank you very much. thank you, mr. whaley. Let's see, nan clayton is our next speaker. No questions? questions for mr. whaley? No fashion advice I can give you? No? They make this in your size, mr. mayor. I'm sure they do. [Applause] welcome, nan, you too will have three minutes to be followed by steven title. Thank you, mayor and council members, thank you for giving me this opportunity. Having been here and participated in the 1996 ordinance, I'm very much in support of that one. I think it is a -- something that is important that we really don't need to keep changing our mind about. Let me give you a graphic example. If you haven't been to portland, oregon, you have certainly heard about it as the city of the future. I was there shortly after they took out the freeway along the river and made it a green area. The city of austin has that green area that they had to remove, and if we go in there and put in buildings and pud's and take it up to where we have a canyon instead of the wide open

green spaces that tourists and people from the legislature and all -- it's one of the first things they mention is that trail along the river, and how much they enjoy it. We have what portland had to remove a freeway to get. Let's not do the infill and do the exact opposite of what portland has accomplished. If we're going to be the city of the future, we must have green space in the inner city. This is here. We don't have to change anything. We don't have to buy something. We've got it. Please protect it. Thank you. [Applause] mayor wynn: thank you. Steven, you too will have three minutes to be followed by ronald murray. Good evening, mayor and city council. First of all I'd like to extend an appreciation or thanks for you-all to extend greater notification to the community. Obviously it has produced many well-spoken and thought-out input. Notification is always good, so thank you for that the other day. Next I have specific items concerning the ordinance. First of all, I'd like to address what the advisory board is. You have listed the advisory board as architecture, environmental protection, landscaping architecture, historical preservation, shoreline ecology, neighborhood conservation and real property development. I would ask that you insert owner or owners within the overlay, that at least one owner be representative - or represented within that plan, other than a developer. Next I would also add a subdistrict. We talk around -- we talk around the lakeshore, lakeshore. We keep hard of hearing about that, but oh keep hearing about that but we never hear about the lake itself. The subdistrict should include the territory within the water, the land under the water and any islands within the land -- you know, within the water. So I would ask that you insert a subdistrict to control buildings and -- anything built -- excuse me -- within that territory. Next I would ask that you define the words "bonus provisions" and "community " I understand the advisory board will work on what those are, but those words are not defined as what they they could be, what is a bonus, what could be a community benefit. And next I would like to talk to the issue, we've heard words like protect the waterfront, the scenic vistas, public views, open space, green space, jewels. We've heard these terms. Well, the greatest danger to the lake itself right now is the boardwalk project. The boardwalk is the highway in the water. How can everyone here talk about the scenic views and protect the land without protecting the water itself. So I would ask that you truly look at the board walk project and reevaluate those structures within the water. Thank you. thank you, mr. title. Let's see, ronald murray. murray, you'll have three minutes. Rond murray. Ronald murray I have a home on the east side of austin. I came to make a specific comment and observation based on views I took of town lake. I just got back from san diego just a week ago. I've been there for two months so I had no idea that this issue had to galvanized this community and hopefully the council, about the height limits and the overlay. I'm glad to see it, but I'm amazed. I thought there would be two people here. So obviously -- excuse me -- it's a lightning rod issue and it's brought out some very articulate and passionate people. My comment is much more strict. When I was -- I was so happy to get back to austin -- by the way, I should tell you, san diego is a fabulously beautiful city, but it is only -- it just barely holds a candle to austin. I was amazed how much i wanted to get back here. Such a beautiful place and i could hardly wait to get here, and one of the first things I did was take my run down the hike and bike trail, and suddenly, somehow or another, out of the ground has grown this ubiquitous concrete slab of some kind of building. I'm not sure what it is, maybe a movie theater, but it's a windowless, doorless slab of concrete and sits halfway between 35 and the dam, the eastern dam. And it's grown up down on the lakeshore with no -- i don't know what it is. It looks like a big concrete casket. So I called the city and asked, what is that building? No one seemed to know. Why is it -- why is it not mitigated with some kind of tree line or some kind of frontage, and what is it about that building that's so important? Because now

wherever you stand or run on the hike and bike trail, that is the thing you see across the lake on the riverside side. So it occurred to me that if we're going to continue building caskets over there, with people parking in front of them, that all of the to-do we're about tonight with the overlay and protecting town lake or lady bird lake, what is it all going to amount to? Now, what I did notice in san diego -- I went to several council members on some other issues -- the grandchildren of the people who protected their main asset, which is san diego harbor, any of us who have been to san diego know that, san diego is a beautiful place with a great harbor -- it -- the impetus to protect that started with the grandchildren of the current planning and zoning council. That's who's doing the job right now, and when people come to talk about an issue regarding san diego harbor, the whole town shows up. It's a lot of people. Well, that's exactly what we should be expecting our grandchildren to be doing about the current lady bird lake. So I'll make one observation. We should not, by the way, have any -- I'm glad to see this overlay in place. There shouldn't be an east town lake or east lady bird lake. There shouldn't be a west lady bird lake or north and south. If it's not fit for construction across from this building on lady birth lady bird lake, then it's not fit for construction cross of festival. That would be my first observation. And my second observation is we certainly have to mitigate, when I called the city, they didn't have any way now after the fact of granting this permit -- they have no way, apparently, to mitigate the back end of this awful looking building. I urge you to take a walk down on town lake on the hike and bike and take a look at what I'm talking about. We cannot afford to let our grandchildren say, well, what were they thinking back in 2009 and 2010, trying to protect large parts of lady bird lake when it just looks like hell? Thank you. thank you, mr. murray. [Applause] gavino fernandez. Welcome. Good evening, council, my name is gavino fernandez, and I come here to testify as a landowner on hasco two blocks north of the waterfront that we're so staunch advocate custodians in protecting that green space because of the neighborhood associations, the beach town lake see parnts martinez, and who the lake was named after by your support. These people took extreme measures to protect that jewel -- that part of green space that you see as you're traveling -- traveling in from san antonio going towards -- towards dallas. To your immediate right you see this beautiful green space of trees and park, and all of that was because of this -- this -- that neighborhood organization took a stand. We not only got arrested, some of our people got beaten up to protect and remove the boat races because we weren't only concerned about the deterioration of the natural space of the park but also of the gas that was being put into town lake. And one thing is I want to thank the rest of the community to finally come and join us in preserving and ensuring that this green space is preserved in our neighborhood. As you well know, it's because of all the neighborhood plans that have been put in place, a lot of it does call for density, and right now a lot of those properties on haskel are being sold and marketed as lakefront property. So we need to be real careful and be inclusive in this five member board, because board, and I spoke before the waterfront board, and I mentioned, I know it's not your fault, but not one of us landowners in that whole stretch, from i-35 all the way to montopolis, were put on that board, not one. So I ask, not you, but i asked my colleagues, my neighborhood associations, the sierra club, if that five-board member -- if you insist that there be a landowner, a homeowner from the north side of the river to be a member of that board. I'm asking you, because you-all are the ones that are saying that you want to be inclusive, and you're coming into our neighborhood, and what we need is for your support, just like you're supporting us now. But you need to go that extra mile on to ensure that representation on this five-member board does include a landowner that has been there and that has lived in this particular area, because we had a

vision of protecting this before it was a cool idea to travel east of ih-35. And we also are working with the holly power plant closure committee, and we just want to make sure that we're -- and we want to thank you, mayor, for your comments in ensuring that that parkland will remain parkland. We want to thank the whole council for that, for your commitment, and we hold you up to that commitment, and we do not feel that you should -- that pud should be exempted. And we should use funds, mayor, to buy from longhorn dam all the way to montopolis. That's one of the beautiful, natural stage green space in this community. Thank you, and I thank the neighborhoods and all the others for joining us and continuing to protect the colorado river, which is now town lake and lady bird. Thank you. [Applause] mayor wynn: thank you. Thank you, mr. fernandez. Let's see, gary -- gary is not clear here whether you wanted to speak. Gary hyatt had signed up, perhaps just to answer questions or to show off your fashion statement. [Laughter] well, I'm sorry -- welcome. So I'll just keep it real short and sweet. I'm current president of bouldin neighborhood association, and last time i got involved with this issue was I think meeting mayor watson for the first time as we discussed ice bats plans on auditorium shores, and that got me involved with me neighbors for the next four or five years, deciding what to do with auditorium shores, town lake park and et cetera. And as I watched the town grow, one of the things we did real well is we're densifying downtown. Folks need the open space, they need places to walk, walk the dogs, et cetera, and you-all are getting ready to kind of pull this all together again, and I'll have to agree with jeff and some of the other folks, that in my mind, part of this was done a long time ago so it's kind of a shame we're having to redo it again, but hopefully you-all will take the time to do this right, because this is one of the biggest assets the city has. Everybody knows the draw, and this is it. And after dealing with auditorium shores and dealing with a lot of developers down there, that was my education for folks that can look out over a green space and see basically an undeveloped spot. And it's like a total different mind-set. I guess growing up in texas, I kind of assumed people need elbow space, and this is the last we've got along downtown, and I don't believe from anything I've been seeing going on zoning-wise these days, that we're contributing back park lands as we develop, like we used to do in the '60s, so I'm sure we're going to come up shorter as we go along. I'll keep it sweet and short. You-all take care of the lake. It's going to be a big deal and our kids will really appreciate it if you do it right and they'll dislike it if we blow it. thank you, mr. hyatt. [Applause] let's see, tom cook. I may have skipped over tom accidentally. Is tom cook here, signed up wishing to speak. Welcome. You too will have three minutes. I won't take your three minutes, probably. I'm chairman of the board and one of the founding directors of save town lake.org. This has been an issue that we've brought forward to the community and have been working on this very diligently for three years, but within the first year i wanted to let you know that we raised over \$150,000 in less than 12 months. I'm sure some of the recent candidates would envy that. We had 1500 donors. We had 25,000 hits to the web site. It was very easy to galvanize the community behind something that the community holds so sacred. So I was proud to be a part of bringing this forward and making -- playing a part in making the community aware of kind of what had transcended -- or transposed since the '86 waterfront overlay. We are supported by a vast majority of community organizations, and in an unprecedented move the travis county democratic party pre-empted the planning commission and came out in support of the '86 waterfront overlay. I wanted to tell you one of the most effective tools that we used was an independent poll that overwhelmingly showed that likely voters supported the setbacks and the height limits, and probably the most important question in my mind is that that was -- that was posed to the public, the result was 87% of the likely voters in austin

said buy it if you have to to protect it. I think that says it all. People are willing to put their money out there as taxpayers to do so. I kind of looked at this thing when we entered into negotiations with cws as a business proposal, and i think the logic that -- from a business perspective, why would anybody want to develop a property that would be vastly looked down upon by the community, and i think that's what made them come to the table and reconsider pushing the envelope any further. In this regard forbes survey recently announced that we were number one attractive place to come in the down economy, and I noticed in the cnbc version of this they showed the wide open spaces around the lake as they kind of up and down panned down across and to the downtown sky line. So I think it's good business for us to protect this, and to put it in stone so that all developers know what to expect when they buy or invest waterfront, that this is sacred. So take make your jobs easier, to make the community's job and give us confidence that it's going to be protected, we would ask that you approve the ordinance. We'd ask for it to supersede the pud's, if not require super-majority, and let developers know this is sacred. It's only fair to the development community as well. Thank you. thank you, mr. cook. [Applause] so, council, I think that's all the folks who signed up wishing to give us testimony. A bunch of folks signed up not wishing to speak either in support or against, and we'll note those folks for the record. So, council, questions of staff or citizens? Comments? Mayor. council member martinez? thadge thanks, mayor. I want to thank you everybody for coming out tonight, not just for the testimony but all the work that's been put into this. You know, I realize that there are a lot of passionate pleas for wanting to make sure that there are some absolutes in the ordinance, and I understand why, you know, but I really think we have something that is an improvement and that we can work on to continue to improve, but, you know, I've said this before and I'll say it again, I don't believe in any scenario, and I think I've demonstrated this as a council member, that one size fits all. Doesn't mean that I agree that there should be development higher than 96 feet or 60 feet in certain subdistricts that have those limitations, but a pud doesn't supersede the overlay. A pud is simply a tool to make a request. What supersedes anything is a vote of this council, and I think this council has clearly demonstrated where our values are in relation to the waterfront overlay, protecting the shores of lady bird lake, and I think we have something that we can move forward with. Allowing a pud to be requested is simply that. It's a request. We spent a lot of time last year revising the pud ordinance, and we haven't even used it as a tool yet, and so I'm hesitant to add another layer on top of something that I believe is a vastly improved land development tool in terms of the new pud ordinance. Any request via a pud is going to come to this body first and foremost, and if it doesn't meet the intent and spirit of the new ordinance, which creates a completely superior development, then this council has every opportunity to say, you need to go back to work on it. It's not something that we the tear meets the tier 1 requirements and our ordinance. But at the same time there's a pud -- and many people mentioned wanting to create a higher threshold for adopting a pud in the waterfront overlay. But that tool already exists as well, and that is our planning commission. And quite frankly I believe that our planning commission members, you know, give a lot of time and energy as well. If a planning commission votes to not -- not to recommend a pud request, the only way it can be adopted by this council is by a six-vote majority, and that's what I mean by the planning commission is a tool to create that threshold, because if pc denies recommendation, they can come to council, but it has to be voted on by this super-majority that you-all are requesting. So I think some of those tools and hurdles are in place, and I believe that we can continue to protect the shores of lady bird lake but still have the option for request to be made, but it doesn't mean, by any means, that it's a foregone

conclusion that, you know, something is going to be built outside of the subdistrict's height limitations. It just means that you can make a request. And even if we were to create, even if we were to say 96 feet is the max in certain subdistricts, 60 feet in others, 45 feet in others -- even if we did that, it would only take four votes by any future council so undo anything we do here. So for those that feel like if you get everything you want tonight the problem is solved, the discussion is done and this will never have to be dealt with again, I think you're mistaking yourself. This council continues to change, just like we dealt with it in '86, and in '98, now we're dealing with it in 2009. It's not going to stop or go away. But I think we can improve it. And so mayor, I want to just move that we adopt second reading only tonight, and I'll move just so that -- so that we can begin the discussion among council, and second reading would be identical to what we adopted on first reading, but I believe there will be some folks making amendments. so we have a motion by council member 63 to -- I'm sorry, council member, did you propose to close the public hearing? Okay. Then motion by council member martinez to pass on second reading only that which was adopted on first reading. Seconded by the mayor pro tem. Comments? Questions? Potential amendments? Council member shade? I want to recognize the work of the waterfront overlay task force and recognize how important it is that we look backwards but also that we look forwards. And I've spent a lot of time with many of you in this room talking about the various issues, and I want to say up front that -- I want to say up front -- well, I want to say up front I would prefer we not pass this without having the bonus provisions already worked out, but I recognize that that's not really possible. To move the ball forward we have now come up with a way to get a new waterfront advisory board in place specifically to work out the bonus provisions, and they're instructed to do a number of things and I hope that we'll get into a discussion about all the things that they might look at. But understand that while I respect property rights, that's not what's motivating my interest in supporting some future flexibility. It's because community benefits need to be achieved, and I think there -- achieved, and I think schmitt made a very good case for that. We haven't looked at these heights. We haven't looked at whether there's any other ways to look at variances or community benefits. The community benefits that are discussed and contemplated in 95. Many of them weren't contemplated at that time, we look at now. I think the reason this keeps coming up, I know a lot of you have been here maintenance times on this, is because we still don't have what we want on lady bird lake, and I think that, you know, again, you know, I think that that's absolutely critical that we get what we want, and that's how you -- the provisions. That's the idea behind them. So again I believe there's the missing piece. Not having that figured out yet, I want to make sure we look at when bonuses have been used. We've had some excellent examples of the work of save town lake, really getting into some tough negotiations. I'm not convinced that we have always negotiated the best deals, but I certainly am committed to working as hard as I can to make sure that we do and that we really get the bonus provision piece done right, because this is a crown jewel of our city. But I also want to say that when I've been thinking about this and the idea about the super-majority, there comparison made to the aquifer and the sos amendment, and I thought about that and he want you to know that I realized that we don't want new development over the -- over the aquifer. So that's -- you know, the bar is set very high, and it's because we don't want development over the aquifer. I think when it comes to lady bird lake, it's a little different because we do want development, but we want it to be development that makes sense for our community as a whole. That includes height, but that also includes pedestrian access, it includes parkland access, it includes, you know, even some of the people in the audience here who are here for bicycle access, and we need the development community's

participation in that, because there's private property, and we have to have a way to get that. And so that's why I really hope that -- I'm really excited about the fact that we're going to put this board in place, and I'd like to suggest a couple of amendments right now with the ordinance. One of those being that in section 24, which is the part where we talked about the city manager being directed to really look at these issues from the '86 bonus provisions -- I'd like to actually insert, to be very explicit that the city manager are -- I want to add in section a -- let's see, explicitly state that city manager will work with the newly established waterfront advisory board, which is not stated explicitly. I would like to make sure that we add that. well, so council member martinez and the mayor pro tem, do you consider that a friendly amendment to our motion? and in addition to that I'd like to also look at the scope of the work of that board, and I think the planning commission made some suggestions about some items that somehow did not get added, you know, and i would like to know, maybe from staff, why they didn't, because I think we were accepting the planning commission's version of this on first reading, but i don't know why some of the suggestions of specific tasks were not added, and i may have missed something, but can you -- there was a whole long list of items that they wanted to be specifically addressed by the task force -- I mean, by the board, and I wondered where those are. The planning commission did make a number of recommendations of items that they suggested the waterfront planning advisory board look at when they develop the density bonus provisions. Those we felt would all be part of the task given to the waterfront planning advisory board when it was created, and we didn't see it as necessarily part of this ordinance, but once the waterfront planning advisory board was named, that that process of naming those members could include a resolution outlining what the council thought that their work tasks would be and what their -- what their scope of work would be. So it was just -- that's where we thought the scope of work for the waterfront planning advisory board would be discussed as opposed to in this ordinance. well, because we are specifically suggesting that they look at whether pud's need to have, you know -- they need to -- if they should be required to meet additional requirements, I think that it would be important to also ask that we include some of the other items. So I mean, I welcome any other suggestions. In particular I'd like to know how to address the loss of the entitlements to the elsmar project specifically, because I got a lengthy email from jeff jack about ideas he had specifically and I know they came up with some of the members who live in that condominium about impervious cover, you know, parking lots and underground parking. I just -- I felt like looking at how to deal with the entitlements and the bonus provisions specifically with those I zoned properties that are too small to be pud's that are in important locations along the waterfront should be explicitly asked to be included. So if we can do that, if you'd ac suggestion. yes, try to -- actually, how to -- so -- providing recommendations on issues, including but not limited specifically how to address the loss of the entitlement to the I zone project. let's -- make a motion, council member martinez, do you consider that to be a friendly amendment?

Martinez: sure. I just want to be clear this is for the waterfront planning advisory board to look at as a charge to come forward with -- right, just like they're providing recommendation on whether pud's within the overlay should be required to meet additional requirements. so mayor pro tem -- and so mayor pro tem, do you consider that additional charge to the board to be a friendly amendment? Council member morrison, comment? there might be some legal wrangling about whether it's a loss of entitlements, because whether certain entitlements existed at a certain time, and I wondered if we could change the

language to that to say something to the effect of change -- change in entitlements. I don't want to build into the language one particular perspective. Maybe we can get some help from legal, but what I was specifically trying to address were those properties where the waterfront overlay, you know, you gave us the comparison and there's a handful of properties here, the waterfront overlay maximum are lower now -- well, they were higher than the subdistricts and now they'll be lower, so I don't know how you want to - - maybe we could say just that, to look at the places where the waterfront overlay heights are less than the base zoning heights. Would that capture it? yeah, that's what I'm real really getting at. That's fine. And in addition I wanted to add the urban design requirement, that they look at how to incorporate urban design, how to -- how to incorporate that into -- design, how to incorporate that into plans that are submitted. again, council member martinez, mayor pro tem, do you consider these additional charges to be friendly? Thank you. So we have an amended motion and second on the table approving on second reading only. Further comments? Questions? Council member morrison. there are two topics that I wanted to talk about. One is the well-discussed pud issue. I think that, you know, generally it's very clear, it's been very well articulated, the importance of the protection of the lake, and I think that it's clear that our community takes that as a value, it's clear that -- I personally believe it's clear that this council that's sitting up here accepts that as an extremely important value, and I really appreciate that it appears that everybody believes that we need to move the ball forward, as council member shade said, by reinstating the limits that were originally in it. I also want to mention, i certainly appreciate the work that was done on the pud ordinance, and that was changed, I guess, last year before we were on -- I was on council, and I do think that it's going to be an improvement to our pud ordinance, but I'm concerned that in terms of wanting a higher bar for changing the waterfront overlay requirements in a pud -- I'm concerned about it being treated the same way as just any other development regulation, because i believe it really is something special. And I have asked several people, some of our best developer minds in the city, to give us some -- to come up with some ideas about what would be some ways, in addition to looking at the super-majority, to put in a higher bar, and I haven't -- I haven't gotten any ideas back. So I think that the super-majority really is something that we should consider. And one -- one thing that really drives me to suggest that we -- we do that tonight as a council is to think of the situation, a scenario where we do have a pud, and a council, perhaps different from us, has a 4-3 vote exceeding the maximum height of the waterfront overlay. That really is troublesome to me, because I think that we're saying that, hey, we're going to know when it's clearly superior, we understand how important it is, and thinking about a 4-3 vote, allowing that to go forward just seems very wrong to me. So I do want to propose an amendment that rather than having the waterfront overlay planning advisory board look at possible ways to impose a higher bar for pud's, that instead that we adopt as part of this ordinance a super-majority requirement -- super-majority vote requirement for pud that would be a variance to the waterfront overlay. [Applause] so we have a proposed friendly amendment regarding the concept of a super-majority vote of the council. Council member martinez? The maker of the motion does not consider that a friendly amendment at this time.

Shade: is there a second? Could I make that as a motion to amend? so we have a motion -- [laughter] but in a friendly way. [Laughter] everybody smiles. So we have a motion to amend by council member morrison regarding the requirement of a super-majority vote of council. and mayor I'll second that. seconded by mayor elect. [Applause] leaf if I could, I'd like to make a brief comment about it. I agree

with the statement made by council member morrison that there should be a higher bar. [One moment, please, for]

Leffingwell: Now, if this should become part of the motion and finally adopted, it's not set in stone. We do have and we've given direction for the waterfront advisory board to go and evaluate the whole question of heights in a p.u.d. This process will go forward. And when they do make that evaluation and they make a recommendation back to the council, I think it's very likely that we could revisit this entire issue when there's another method of ensuring that that high bar is in place. But in the meantime, before that recommendation and that analysis comes forward from the waterfront advisory board and some action is taken, I think we need to have a stopgap measure here to make sure that we don't have an unintended consequence, something that takes place that we can't take back in a few so for that reason I second and I will support the proposed amendment. Mayor Wynn: Again, we have a proposed amendment and second on the table regarding the requirement of a super majority vote of council. Further comments on our motion? Councilmember cole. On the motion to amend. Cole: Mayor, I certainly appreciate the comments and from mayor-elect lee leffingwell and councilmember morrison, but I really support the work that the planning commission does do, and a lot of times they spend many, many more hours on individual cases evaluating their superiority, and I would not expect that to be any different with their p.u.d. recommendations. So I don't think that in this case, even though the waterfront is certainly a crown jewel of austin, that we need a super majority requirement, so I will not be supporting the motion. Mayor Wynn: Again, we have a motion and a second to amend this second reading only, main motion. Further comments on the motion to amend? I'll just say, like all my colleagues, essentially I'll reserve the right to analyze this between second and third reading, but I too will not be supportive of the motion to amend. Further comments? Hearing none, all those in favor please say aye. To the motion to amend our amended main motion, signify by saying aye. Opposed? No. Motion to amend fails on a vote of two to five with the maker and the second shown as voting aye. That takes us back to our main and amended motion, second reading only. Further comments. Councilmember morrison. Morrison: I had one other item I wanted to talk about at the very end of our discussion last time. We added as an amendment part 25 talking about 's that are already -- 's that are already approved in the waterfront overlay. And I gather that it was meant, if I understand it, just to really sort of capture grandfathering 's to ensure 's aren't going to have to -- that are currently approved in the waterfront overlay aren't going to have to be changed to be legal. And having looked at the language, I was concerned about it introducing some ambiguity, so I wanted to add some additional words, suggest adding some additional words to it. So I'm talking about part 25, which currently says property located within a planned unit development on the date that this ordinance is adopted is not subject to the requirements of this ordinance as long as the property remains in a p.u.d. And I wanted to add on to that just to get things nice and clear instead of having it bring up questions later. As long as the property with no major amendments. Subsequent amendments of shall be subject to requirement of this ordinance and planned unit developments approved after the date of this ordinance shall be subject to the requirements of this ordinance. So my motion is to add that language. My request is that.

Mayor Wynn: So we have another -- we have another suggested amendment to our amended main motion adding that additional language -- I'm sorry, I need to -- would you mind reading it one more

time?

Morrison: Sure. Just to add on to the end --

Mayor Wynn: After it , show it ends now.

Morrison: Right. and i want to change it to in "the" p.u.d. With no major amendments. Subsequent amendments to 's shall be subject to the requirements of this ordinance, planned unit developments approved after the date of this ordinance shall be subject to the requirements of this ordinance. So we have an additional suggested -- requested amendment. Councilmember martinez. Martinez: I wanted to know what the intended effect of the language. When you use words like major amendment, I wanted to ask legal is there a definition of major and minor and what are those differences? Morrison: And also if you could talk about the effect of the language as it exists in the draft ordinance. I was concerned about ambiguity. I think I'll defer to my colleague, brent lloyd, who has worked closely with staff or to staff, whoever would like to address that. Robert hyle with neighborhood planning and zoning. ordinance refers to substantial amendments. And those are p.u.d. Amendments, which would require council action. So there is a differentiation in our code between minor amendments to a planned unit development and what are called substantial amendments. Those substantial amendments are ones that would require council approval. Morrison: So maybe i could change the word major to substantial. Martinez: I'll consider it friendly, mayor, on second reading. But I want to look at it between second and third. Mayor Wynn: Understood. Mayor pro tem?

McCracken: I think i ha logistical question, which is that the p.u.d. Ordinance sits outside of these ordinances, so to say that it would ever be subject to -- that a p.u.d. Would ever be subject to the waterfront overlay, that's ordinance works, is my understanding. So I don't understand how -- what this amendment would do, from what I can gather, 's in the waterfront overlay to being subserveient to the waterfront overlay ordinance, which is not currently part of the ordinance. Mayor Wynn: Mr. lloyd? Brent lloyd, city legal. And in general if a p.u.d. Does not address a particular requirement, then the land development code steps in to fill that gap. So essentially if the land development code will apply to the extent it doesn't conflict with a p.u.d. , individual ordinances include some kind of language to the effect that the land development -- to the extent the land development code applies, it applies as existed on the date the ordinance was adopted. Sort of a lock-in provision. My understanding in discussions with stakeholders and staff is that the proposed language as originally formulated in 25 would sort of provide 's that didn't have those magic words in their individual ordinances. So I don't know if that answered your question.

McCracken: That actually helps a lot, for starters. I think that to the extent that councilmember morrison's amendment speaks narrowly to that issue, then that would be fine but I do have a related concern, which are that there are some weaknesses that smz's amendments that -- that councilmember shade's amendment has addressed, which is kind of the lack of urban design, things like walkability and those issues. So to the extent that -- i want to make sure that this -- the waterfront overlay provisions, particularly when it comes to urban design issues, are not -- and their silence on urban design are not weaker than the design standards ordinance that councilmember morrison and I worked together to

create. That probably is some issue to be resolved and give us more details before third reading. Mayor, I saw that councilmember shade had a question. Mayor Wynn: Well, then we're still holding the question as to whether there's a second of the amended main motion, you accept that potential amendment while we hear from councilmember shade. McCracken: Right. Shade: There are two parts to this amendment and it sounds like to me what i just heard is the addition of the word "substantial" instead of major, as you were suggesting, so in other words, your suggestion remains in the pud with no substantial amends, subsequent substantial amendments to such a p.u.d. Shall be subject to the rirpt to the ordinance -- to the requirement of the audience -- the ordinance. [Laughter] there are people watching on tv that -- anyway. But the second part of your sentence, the second question I did not understand, which was what was to be accomplished by this second part. And your words were planned unit developments approved after the date of this ordinance shall be subject to the requirements of this ordinance. What is that about? Can you explain that? And what it is set to accomplish? Morrison: And maybe lloyd would like to add to this, but also my concern is that if we're talking 's in the first line that aren't subject to the requirements in order to be clear that 's in the subsequent 's are subject to the requirement. So if we have to say one, i feel like we have to say the other. They come together. Is that right? My understanding of the intent of the language and the effect it would have from a legal standpoint is that in general when a is being crafted, all elements of the land development code are somewhat in play and can be incorporated into the p.u.d. Or not based on the council's discretion. The language as I understand it would have the intent of putting the waterfront overlay requirements on different footing, that when ordinance is being developed pursuant to our process in title 25 that the waterfront overlay requirements could not be omitted or varied in the context of the p.u.d. Ordinance, is that a correct understanding of your language? Morrison: No, just that they would be part of the 's as always can wave -- a ordinance can always waive, as we're talking about now, the -- any piece of the code. So the intent would be then that the waterfront overlay be factored in as the baseline for purposes of determining whether the is superior development. Is that --

Shade: I think it really bothers me because the idea was that we were trying to make sure that the intent of that was to make 's that already exist exist in their own universe. I agree that if there's a substantial amendment and therefore there's , then that's a different story. I think this does that by adding the words substantial amendment. There seems to be no need to have the additional sentence. I'm not the maker of the motion.

Mayor Wynn: Councilmember martinez.

Martinez: Thanks, mayor. I think I'm supportive of the intent. I think it's just confusing. And mayor-elect leffingwell just tried to give me his interpretation of it, and that is if you have a , one that's existing today, but you make a substantial amendment, it then -- it then becomes a new pud, so to speak, and is subject to the new ordinance and the waterfront overlay. I'm okay with that, but the second part of this is what's confusing me where it says planned unit developments approved after the date of this ordinance should be subject to the requirements of this ordinance. It seems like it takes away all of the tools, all the land development tools that come with the p.u.d. So what I'm going to ask is that the maker withdraw the amendment and I'll commit to working with you on this for third reading so that we can -- I think we're in agreement, I'm just confused about the second half of your amendment and can't accept it

as friendly right now because I'm getting myself more confused.

Mayor Wynn: And my request is if legal could help not only my two colleagues, but all of us just understand the -- the true impact. And it might be that as the requesting councilmember, councilmember morrison, after seeing or hearing that legal analysis, very well may want to adjust, improve, delete elements of that. And if we could have -- i guess my request to all my colleagues is that if we could have any such -- any potential amendments like that for third reading prepared, and where possible have some city legal advice as to the -- where we insert it, what language I think would be best for us as we approach third reading. Morrison: That would be fine, mayor. And that -- part of the problem was that very first sentence that got put in. I think that in the end we really didn't have enough time to -- in part 25 to look at that because we know that it got introduced with a little bit of ambiguity that carried forward. So there's definitely something to correct there and I'll look forward to working with legal and the rest of the folks. Mayor Wynn: Again, so that takes us back to our amen motion. We have that and a second on the table. Second reading only. Of again, what was passed on first reading with some minor additions to the charge for our board. McCracken: Mayor, I had a question. Because it's second reading, it's third reading is JUNE 11th, I WAS OFFERING A friendly amendment to have third reading be back on JUNE 11th. Mayor Wynn: Right. So again we have an amended main motion -- [laughter] McCracken: The mayor and I are both deeply conflicted about this actually. Mayor Wynn: -- With additional direction of staff. Further comments? Smz, then -- councilmember shade and then mayor-elect. Shade: I had a question for staff. There was a staff recommendation that was about the makeup of the board that included a suggestion I guess that was or it wasn't in the planning commission's version, which was that the board include a representative of the parks board, the environmental board and the design committee. Can you speak to that and how staff came to that recommendation? Robert hyle with neighborhood planning and zoning. Since the waterfront planning advisory board is designed to be a board which looks comprehensively at everything along the waterfront, we felt that that would be the main and primary review board before planning commission and council for any projects that went to the waterfront, that were along the waterfront. Since projects would be going to this new waterfront advisory board that was really focused on the waterfront, we felt that it might not be necessary to also send them to the parks board, the environmental board or to the design commission. However, we still wanted to make sure that the parks board, environmental board and design commission were aware and had some input. And so one of the compromise suggestions that we recommended was that the waterfront planning advisory board include a member of the parks board, the environmental board and the design commission. That way there would not necessarily be an additional step, so since -- so you wouldn't have to have a project go before the parks board and the waterfront planning advisory board before it could go to planning commission. But that it go just to the waterfront planning advisory board, but that they have a representative from the parks board there. That was our staff thought on that. Shade: From a logistics standpoint, with that actually -- if we were to accept that staff recommendation, would that in fact be something that this board would then determine whether or not -- whether or not a proposed idea goes to three boards before going to the planning commission and then ultimately to council? Or no, this would just -- there's still no guarantee that by making this change it still wouldn't go to the other boards. Right now most projects that go before, say, the parks board, go as a matter of policy if not a matter of ordinance. This ordinance describes very particularly the projects along the waterfront will go

to the waterfront planning advisory board. That would be a matter of ordinance. Whether something goes to the parks board or the environmental board is a matter of policy. It's something that we might do if a member of that board requests it or if it seems like it's significantly -- often the planning commission would request that. So we might get a request from a planning commissioner. Before this comes to the planning commission, let's hear what the parks board has to say about it, but that is not a codified requirement as are the requirements of the waterfront planning advisory board. So it would not mean that something could not also go to the parks board, but it would not require it. Shade: I'll ask you if you would be willing to take as a friendly amendment the staff recommendation to include on the board a representative of the parks board, environmental board and design commission.

Martinez: Would those respective bodies be the group that decides who is their representative or who would select that person? The members of council, councilmembers would be appointing the waterfront planning advisory board and so it would be up to council when they were making their appointments to factor that consideration in when they were making their appointments.

Martinez: Okay. That's fine.

Mayor Wynn: Well, so do our makers consider it a friendly amendment to accept staff recommendation of including a member of the planning commission, environmental board and design commission as chosen by council to serve on that board? Councilmember morrison.

Morrison: I think we also have the model of the downtown commission that has actually appointments from the council as well as some of the boards pick one of their members to serve on the commission. And I wonder if it would make sense to think about that model instead of requiring that at least one of us appoint each one of those. Because I don't know how we do that without working together as a council in an open meeting.

Mayor Wynn: Further thoughts on councilmembers' -- I think it's a fair suggestion as well. I think we can work on this between sec and third reading, come up with the language. I'll accept this as friendly, but obviously there's moving parts everywhere on this thing right now. But I agree that we could look at a different model where those respective bodies choose the person they want to serve in that capacity as opposed to how council appoints it. I'm willing to continue to work on it.

Mayor Wynn: So again, we have an additional amendment to our main motion approving second reading only. Further comments on our motion? And again, we do have still -- which is why we have three readings at times, still a fair amount of work and analysis and dialogue between us and others before staff comes to us for third reading. And again, I would appreciate, and I think it would be a more effective force on third reading if as councilmembers or myself come up with some ideas, that we try to get them in writing just so we can have that actual language analyzed by legal staff before we -- Cole: May I ask staff a quick question? We talked earlier about a amendment and the fact that if we had , then it would not be subject to the waterfront overlay, but if there was a substantial amendment, then that would and it would be subject to the ordinance. Is that correct? My understanding of the addition is that the first part yes, if there's an that has been approved, it could be built out as was approved. However, if

the developer of came in for a substantial amendment, that that amendment would be subject to the waterfront overlay. Cole: The actual amendment? Correct.

Cole: Can you give me an example of what that type would be? An amendment would not have to address the entire , so perhaps they wanted to adjust the height in part of the p.u.d. They might want to add a use, which is otherwise prohibited in the waterfront overlay. So those might be amendments that would then potentially conflict with the waterfront overlay, so yes, other examples of substantial amendments are adding a land use that is more intense than the existing permitted use, increasing the intensity of a land use, amending a site development regulation like impervious cover.

Cole: I'll stop you there, but that's set out in the land development code. Thoorg. Cole: So I could visit with you about that if I had concerns about how that language is and would go on third reading.

Mayor Wynn: Councilmember shade. Shade: A bird told me that jeff jack is in the audience and would be willing to answer some questions related to my suggestion about -- actually, my question about the staff recommendation. And the bird tells me that he and I have discuss this had before, but I swear i don't remember if we did. So please enlighten me. Mayor Wynn: Welcome back, mr. jack. Thank you, councilmember. It was a brief discussion with regard to the makeup of the waterfront advisory -- planning and advisory board, and the issue was -- Shade: Did it involve water board torture, the discussion? [Laughter] because I don't remember it. I don't remember it. No, it simply was that the waterfront overlay taskforce recommendation was that there not be specific designees from the other boards or commissions. And there was a specific purpose for that. We understand that an issue before the waterfront planning advisory board that involved parks or involved environmental would have those boards and commissions review and have input into the discussion. What we were concerned with is that we end up having members of the waterfront planning advisory board whose primary focus is not the waterfront. That the planning commission, the environmental board and the parks board all have very specific charges and focuses. And they bring that then to the waterfront planning advisory board as opposed to being advisory to it, and we felt like that was something that we really wanted to make sure that the people that were appointed to the waterfront advisory -- planning advisory board were charged and particularly focused on just the waterfront. Shade: So based on your explanation, which I really don't remember us having that conversation, but I do appreciate you telling me about it. And I understand that and i also understand the comments that councilmember morrison made with respect to this being a seven-member board. I know some people think it's a five-member board, but it's a seven-member board, so it would probably be very complicated. Perhaps if it also doesn't prevent the project from still going before the environmental board and still going before the parks board, I'm going to withdraw my suggestion. And thank you for the additional information. Thank you.

Mayor Wynn: Any more little birds? [Laughter] shade shea sorry. Thank you.

Mayor Wynn: Thank you, mr. jack. So again we have a slightly amended main motion back on the table, second reading only. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on second reading only on a vote of seven to zero, and anticipate in the next meeting or certainly two third reading being posted. Thank you all very much. So council and folks, those watching

at home, that leaves us with one final public hearing, that being item number 61, which is our -- again, posted public hearing, we're posted for public hearing and possible action on our citywide bicycle plan. As I mentioned earlier for those of y'all who missed it, we have -- our legal staff has discovered a technical snafu regarding the date by which training had to be accomplished by certain members of certain boards and commissions, and therefore the legal advice today was for us not to take action on two earlier zoning cases that we postponed and unfortunately the bicycle plan but we knew so many folks were coming down here to give us testimony, we wanted to be respectful of that trip down here, so we're going to cut the public hearing, but again the legal advice is that we won't take action at this meeting. I do anticipate there being an item on the city council at our next meeting, which IS JUNE 11th. A little technical thing brought by the legal department that fixes the little glitch that they discovered. And therefore we could take action then or any time in the future. So with that -- and also know that I'm very appreciative, just to let folks know the box score here. We have 294 folks signed up. [Applause] let's see. 11 Folks signed up in opposition. Just a handful of them wanting to speak. I think literally 15 or 20 minutes or so worth of testimony essentially in opposition in some form or fashion or that's what they checked on their computer box. 282 Folks here in favor. And then we have one person from Switzerland apparently who signed up neutral.

[Laughter] and everybody being courteous to their neighbors and recognizing that the vast, vast majority of folks are here wanting to give testimony in favor of the plan, I think there's been some very civic minded supporters of the plan out there and they have suggested a speaking order for me to read out as opposed to on my computer screen that I think will get the vast majority of folks' testimony in favor of the plan. I think that will literally reduce the testimony by a couple of hours. And that will be greatly appreciated. But so as I sort of plug all

About it.

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