

anticipate some type of item coming forward as we ultimately conduct the public hearing. Further comments on our motion to postpone? Hearing none, all those in favor please say aye. Opposed? Motion to postpone item 62 and 63 passed on a vote of 7-0. Thank you all. Council, that takes us to our final public hearing of the evening. And again, if you're still tracking this, after we conduct our public hearing and whether we take action or not on this item, we still will then go into closed session later this evening to finalize the performance review of our city manager. Once everybody is really tired and in a grumpy mood.

[ Laughter ] so item number 64 then is our public hearing regarding what's known as the waterfront overlay. I guess we'll first have -- we have approximately 80 or 90 minutes worth of citizen testimony, but we'll first have a staff presentation. Welcome.

Good evening, Mayor and Council. My name is Robert Hyle with the neighborhood planning and zoning department. I'm going to walk you through a quick overview of the waterfront overlay and work that the taskforce has done over several months. And the draft ordinance that is before you this evening. The waterfront overlay runs from Tom Miller Dam past Longhorn Dam to the Montopolis bridge. It is divided into several different subdistricts which reflect the different character of the waterfront as you move along it. The purpose of the waterfront overlay is to provide a harmonious transition between the neighborhoods and the urban uses and the open space and parkland that are along the waterfront. And the overlay regulates permitted uses, site development standards, landscaping, a number of other issues. Here's a map of the waterfront overlay with the different districts. And also just for your reference, the names of the different districts. As I said, they range in character from very low density to downtown and also city hall. Council put together a waterfront overlay taskforce to look at some of the issues of the waterfront overlay. There were 15 members, the chair was Mandy Dealy of the planning commission. Several of the taskforce members are here this morning and will be speaking later. They met from April to December of 2008 and they delivered their final report to Council in December of last year. And there's a list of the members. They represented a wide range of viewpoints, neighborhoods and the different boards and commissions which interact with the overlay and waterfront. The taskforce after research, discussion and many months of meeting, came up with five top recommendations. The first recommendation -- they had many more recommendations, but these were the top five they brought forward to Council. The 1986 waterfront overlay came out of a town lake corridor study that was done in '85 and that provided a very thorough and comprehensive look at the town lake corridor. Their second recommendation of their top five was that there should be a waterfront planning advisory board similar to the downtown commission or the environmental board, but it would be focused on waterfront issues and would provide focused attention, it would be an advisory board again like some of the other boards and commissions that we have. The taskforce recommended subdistrict maximum heights. Again, the waterfront is divided into many different subdistricts and there are potential maximum heights that the taskforce recommended. We'll be talking more about that later. And the taskforce recommended that in those instances where the waterfront allows a maximum height that is greater than your base district zoning that there be a methodology for property owners to build higher than what their base district zoning would normally allow in exchange for a clear public benefit. However, there needs to be a methodology to discuss what that trade-off should be and the taskforce recommended that that methodology be developed and be clear so it can be applied. And finally, the

taskforce recommended that the waterfront overlay, especially since these ordinance ons are crafted to address the specific needs and character of the waterfront, that they should supersede other city design and land use regulations where they're in conflict. The draft ordinance which we brought through the boards and commissions and have presented to you this evening include four of those five recommendations. That was your direction in february. It includes all of the recommendations except the system to award bonus height provision. That system will be established later after the waterfront planning advisory board is established. So going through those five recommendations, the town lake corridor study goals, they were numerous and very progressive for 1985 and addressed things like environmental protection, preserving and improving the parkland, and also addressing complimentary development, wanting to make sure that the development that took place near the waterfront was supportive of the open space and park uses. The second goal was the of a planning advisory board. That would be a seven-member advisory board as is the standard now for citizen advisory boards appointed by Council. The members would be drawn from many fields including architecture, neighborhood conservation. This board would provide recommendations to city Council and other boards and commissions on issues affecting the waterfront. So what would this waterfront planning advisory board do? Again, they would provide recommendations on any project or policy that affected the waterfront, including site plans, rezoning applications, amendments to the land development code, changes in the comprehensive plan, including neighborhood plan amendments, and they would also review administrative site plans. They also would have the authority to recommend denial or approval of variances to the waterfront overlay. So the third recommendation of the taskforce was height provisions by the subdistricts. And this has been an issue that's been talked about by a lot of different stakeholders and has generated a great deal of interest. I will spend a lot more time on this. The taskforce recommended adoption of the 1986 height provision and that those be clearly stated as maximum allowed heights. Now, if these subdistrict heights are higher than the base district zoning would generally allow, then there would be bonus provisions that would allow you to exceed the height of your base district. If these subdistrict heights were lower than the base districts, then your base district zoning heights would be restricted. And the height provisions, the taskforce recommended should apply to all dwoiment, including planned unit development, p.u.d. So the 1986 height provisions. The waterfront overlay was originally adopted in 1986 and it had height provisions in there. The different subdistricts had different height possibilities which would allow, as I said, for greater height in base district zoning in exchange for a clear public benefit. However, in the 1986 ordinance, there was not a mechanism to award those height bonuses, so the height bonuses were stated. It could go just as an example from maybe 60 feet with gs zoning up to 96 feet, but there was not a mechanism in 1986 to award that. Consequently in 1999 when there was a plain language rewrite of the code, because there was no mechanism to achieve those height bonuses, those bonuses were removed. And the 1986 subdistrict bonus heights did not limit base district zoning heights. They provided a mechanism to exceed them in certain cases, but they did not limit the base district zoning heights. The subdistrict heights match boat nus heights in 1986. The height provisions will limit some heights currently allowed. And through bonus provisions, which will be developed later, the height provisions will -- could increase some height currently allowed as well. Those bonus provisions are not included in this ordinance. Council directed us to have that be one of the first tasks of the waterfront planning advisory board. And when the bonus provisions are developed, it's the intent that they be able to be granted without

requiring a zoning change. So that again to use an example of cs, you could build in excess of 60 feet without having to go through a zoning change provided that you met the criteria spelled out in the bonus provisions for providing a clear public benefit. The subdistrict maximum heights are listed here. They range from a low of 35 feet in balcones rock cliff to in some districts there's no maximum height. For example, the district on either side of city hall, mostly downtown area, north shore central and there's no maximum specified in the subdistrict. The subdistrict maximum heights are different again because of the character of those different subdistricts vary greatly around the waterfront. So what would the subdistrict maximum height do? The big picture, the waterfront overlay is about 1833 acres. Those areas where the subdistrict heights are greater than the base zoning is about 423 acres. These areas again are where the subdistrict height is greater than what's law loued by subdistrict zoning. These are the areas where the bonus provision could in theory be used, and it does -- there's a couple of it's based on current zoning. Current zoning could of course change overtime and does. And it also includes state-owned land, the u.t. Brackenridge site, which is 164 acres, which the state has its own approach to city zoning and negotiations with the city about development. Conversely, there are about 34 acres where the base zoning is greater than subdistrict heights described in this ordinance. So these areas would not be allowed to build to the full height of their base zoning. About 17 acres of those are zoned I, lake commercial. Not all of those properties would be able to build to the full height of their base zoning in any event. Some of them are -- would be restricted by compatibility standards. That would probably be the chief thing that would restrict them. But these are like I say, 34 acres, 17 of which are loaned I, where the subdistrict height is lower than what's allowed by the subdistrict zoning. There are a couple of caveat in there that the 17 acres that are not I, they include the long center, which is zoned cs 1 and could in theory build to 60 feet. But that's not really going to happen. It's not going to have to be -- there are changes proposed to the long center. It also includes the star riverside constellation project at riverside and i-35, which is already under construction and so it wouldn't be impact bid this as well. The bulk of the overlay, 1300 plus of the 1800 acres, would not be affected by the subdistrict maximum height. That's for a variety of reasons. Either they're in a subdistrict that doesn't have a subdistrict maximum height or because the subdistrict maximum height equal what's already allowed by base district zoning so it's a wash or the base district zoning is p because there's a great deal of parkland along the waterfront or it's already received planned unit development zoning. The fourth recommendation of the taskforce was for bonus provisions to be developed that would allow heights greater than base zoning in exchange for a clear public benefit. Those bonus provisions would not allow heights greater than the subdistrict maximum. And the ordinance that's presented before you does not include those bonus provisions. They again would be developed by the waterfront planning advisory board or some other group later down the road. The fifth of the recommendations from the taskforce, which was forwarded to Council, was the con 96 with other parts of the city code. Generally if there are parts of the city code that conflict you go with the more restrictive. However, there were a couple of instances in our design, commercial design standards where they called out the waterfront overlay and said these design regulations supersede the waterfront overlay. The ordinance basically removes those provisions that says we supersede the waterfront overlay and a couple other comments on conflicting with other parts of city code. This has received a lot of comment as well. The waterfront overlay as its drafted would apply to planned unit development agreements, however, it 's, planned unit development. ' much more of an issue, but if Council has questions we can balk it the why's of that. But pda's would

be covered by the waterfront overlay as 's would not. And finally just because it's come up in conversation and in the public testimonies, a property owner always has the right to go before the board of adjustments and explain the hardships that they have on their particular piece of property and the board of adjustment can grant waivers or variances to city regulations and that would include the waterfront overlay. So if there were provisions of the waterfront overlay for some reason imposed a particular hardship on a piece of property, that property owner has a venue to seek remedy. The schedule of review and adoption, we have -- we took the ordinance before the waterfront overlay taskforce. It's been working its way through several different boards and commissions. And on tuesday it went before the parks board and the planning commission, and we are here this evening at city Council. And we wanted to briefly talk about the materials because we did give you a lot of backup material. Some of that was because we were just at planning commission and parks board a couple of nights ago and so we've been hustling to get you updates, accurate information as quickly as we can. The draft ordinance that was in your original backup is the ordinance that was presented to the different boards and commissions and that's the one that's been available for comic blik comment. Also today you received an updated ordinance review sheet, which includes all the comments and action by staff and by the different boards and commissions. There is a markup version of the ordinance which we hope will be a useful tool for Council. It is the ordinance, and everything in the original ordinance is in black. And if there is suggested different language by staff or by a board or commission, that's provided in red so that you have it right there in the ordinance and can discuss that. There are also some additional information just looking at the different acreages and the different kinds of scenarios in the waterfront and some maps to help illustrate some of the key areas. And finally a hard copy of this presentation. So that's a lot of information, but that concludes my presentation on the waterfront and the taskforce and the ordinance that is before you. I'm available for questions. And there are several members of the taskforce that are also here this evening and a number of members of the -- number of citizens wholess want to speak. Thank you very much.

Mayor Wynn: Thank you. Questions for staff, Council? Council Member Morrison.

Morrison: I have one question. 's and pda's has been on the table and this is really the first time I've heard that pda's are covered by the ordinance. So does that mean that if there's an li pda in the waterfront overlay with a maximum height, we cannot approve anything over that maximum height in the pda?

The way pda's work, they work a little different than 's, so I would say the short answer is that unless you also alter the waterfront overlay, the answer is yes.

Morrison: Yes what? The waterfront overlay provides -- as it's written provides a cap on base district zoning. Even if that base district zoning has been modified by a pda.

Morrison: I got you. So in fact pda's don't allow us to modify overlays that a piece of property might be -- overlay restrictions that a piece of property might be in.

If the overlay worked the same way as the waterfront overlay does with base district zoning. So in this

case the ordinance specifically says that the allowable heights is the lower of that provided by the waterfront overlay or the base district zoning. So assuming that the other overlay -- there are lots of different kinds of overlay. For the waterfront overlay, yes, a pda, because it modifies the base district zoning, you still have that waterfront cap that would come in. Planned unit developments, though, change -- they run outside and are a different track because they have a different set of standards.

Morrison: Great. I understand now. Thank you.

Mayor Wynn: Further questions of staff? Before we hear from our citizens? So then with that, let's see, we will just start going through our -- this is just a public hearing, so we're not really taking these -- folks didn't really sign up for or against, but it might be that we mandy dealy first as the chair, and then we have a number of folks who want to give us testimony. Welcome Ms. dealy.

Thank you. My name is mandy dealy and I'm a member of the downtown commission and the planning commission, and had the honor of serving as the chair of this waterfront overlay taskforce.

Mayor Wynn: Actually, can you hang on. Some folks wanted to donate time to you. So to make sure you get your full allocation.

The taskforce strongly urges you to include 's in the ordinance and have our recommendations override that. And we also hope that you will take the other suggestions and recommendations from the environmental board, the design commission, the downtown commission and the parks board as well as the planning commission into consideration and include those recommendations. The taskforce didn't have the opportunity to see the recommendations from staff that are included in your marked up version. So the planning commission did not endorse any of those recommendations, and because some of them conflict with the taskforce's recommendations, I would ask you not to adopt those either. I believe, in fact, that there are copies of the -- of the marked up version that just include the taskforce and planning commission and other commission's comments without the staff recommendations. And that might be an easier way for you all to distinguish between the two. One of the reasons we really think it's important that -- 's be superceded by the ordinance that we are proposing is that it really offers even greater protections for the waterfront. There's just no way to express how important it is to make sure that we don't make mistakes along the waterfront? We've already made a few that we can't do anything about. So I think that it really is going to be critical for you all to look at these recommendations and understand that they grow out of the town lake corridor study and the comprehensive plan for lady bird lake that were based on sound design principles and development principles that are still considered to be very important today. I'd like to thank the members of the taskforce. A lot of them are here. And unless you all have any questions of me, I think that I will move on so other people can speak.

Mayor Wynn: Great. Thank you. Council Member shade.

Shade: About the advisory board and that recommendation, and how much time or did you guys research in the past when we've had the board and then it been abolished, it's kind of run its course.

What's the history behind that? Because I looked up, you know, the number of times that we've had a waterfront waterfront overlay advisory board and what they were responsible for doing, and it's very similar to what we're now going to be asking a board to do. So I just want to find out the history of that.

One of the main differences and one of the complaints that we've heard about the '86 ordinance and '89 ordinance was that they just didn't work. But part of the reason they didn't work, I think, was that there was never the formula developed for awarding bonuses and I think that is an absolutely key responsibility of the new taskforce. That should be the very first thing they do. And in fact, one of the planning commission strong recommendations was that we asked you all to approve the ordinance, appoint the new taskforce within two months and then give them six months to come up with the bonus provisions and the methods by which to award those. So there's a lot of interest in development along the lake, but I think this will give people the information they need about how to proceed. The fact that the former taskforce didn't ever do that is I think one of the main reasons that the previous ordinances did not offer the protections that they proposed.

Shade: They were supposed to do that. I guess that's what I'm asking is what happened?

I don't know what happened.

Shad I WANT TO LOOK Into that so that we won't run into the same thing again. They were supposed to have development standards and then they were supposed to have -- I'm looking at the -- what is established in 1985 and it was very similar to what we're asking for. And I just am curious as to what happened. And I think staff maybe should find that out and look at the deliberations that occur because I know that wasn't really in the scope of work, but when I read this specifically, they were supposed to establish what the standards were set forth and they were supposed to come back with that. And they didn't and I don't understand why.

I don't know why, but that was one reason we were strongly urging you to set a time line.

Shade: I liked that. I saw planning commission do that as well.

And have the commissioners appointed and give them specific direction and a set amount of time to come up with those provisions. I think that will assure that things don't fall through the cracks again.

Mayor Wynn: Our next person signed up is jeff jack. Welcome, mr. jack. Folks want to donate time to you.

We have an order that we're going to try to go.

Mayor Wynn: You better give that to me in writing right now or you're not going to. Could I have it in writing, please? That I can read, call the names, track the minutes and follow the law. If you didn't want to speak, you shouldn't have signed up first unless you bring me in writing the sequence that you want to proceed. The next person's name is either hal or lou and I can't read the last name. It looks irish. I

appreciate that. Hang on while I confirm minutes donated to that person. Following the ordinance and lou o'hanlon, welcome. You will have three minutes to be followed by danette clemente.

Good evening, Mayor and Council. I'm here representing the austin neighborhoods Council. I'm lou o'hanlon. I'm on the executive committee and I'm the northeast sector rep. We would just like to urge you to approve the taskforce -- the waterfront overlay taskforce recommendations. The austin neighborhoods Council in january of this year unanimously approved those recommendations and we would support any ordinance that includes those recommendations that includes the p.u.d.'s. Thank you for your time.

Mayor Wynn: Thank you. Our next speaker, according to this list, is danette clemente. And is claudeette lowe still here. Welcome. So you will have up to six minutes if you need it. Welcome.

Thank you, Mayor and Council Members. My name is danette clemente and I am president of the austin neighborhoods Council, but lou just spoke for the austin neighborhoods Council. I'm here tonight to speak as the parks board member of the waterfront overlay taskforce. I want to urge you to adopt the ordinance that is before you tonight with the inclusion of p.u.d.'s. And the parks board passed a resolution saying that. I want to read for you the third recommendation that was in the five primary recommendations by the waterfront overlay taskforce and that you guys directed move forward because it's a little bit different than what robert put up on the board. It says the subdistrict maximum height should be reinstated to the waterfront overlay ordinance and they should supersede any other provisions of the land development code. So given that, the parks board passed a resolution saying that we were in favor of the ordinance, but also that we suggested the addition of a code amendment 's may not supersede the reinstate the waterfront overlay height limits. This is consistent with the recommendation of the environmental board and also consistent with comments from commissioners of two boards that did not take action, the zoning and platting as well as the downtown commission. The reason for this is that 's will serve only as a loophole. So if you pass this ordinance, but you leave 's out completely, then you really have not gotten the maximum height limits back into the code because anybody who wants to come forward with just do a p.u.d. So I urge you to set a high bar there. In whatever way you see fit, 's just can't be used as a loophole. And I think there are several ways that that can be done. I think that you guys can work that out. Staff has suggested one way, I believe, in the ordinance, but if you don't set that high bar -- greg miller is here to talk about the cws project, but the reason that project was so successful was because a high bar was set. Some Council Members took the leadership and initiative to come out ahead of that and say we're not going to approve height limits above 96 feet. And because of that, then the community was at the table, we were able to negotiate and we were able to get a good win, win, win agreement with that project. So I would urge you again to set that bar really high. I'd be happy to answer any questions about the taskforce. We had nine months -- over nine months actually of deliberations. We did a lot of careful research. We took this task very, very seriously and we urge you to go ahead and pass this ordinance. Thank you very much.

Mayor Wynn: Thank you. Our next speaker is heather bailey. Welcome, heather. Let's see, some folks want to donate time to you. I saw Kathy tovo earlier. Is she still here? Our rules are you need to be present in the chambers in order to donate time. How about bobby rigney. Welcome. So heather, you

have up to six minutes. Welcome.

Thank y'all. My name is heather bailey and I'm a long-term austinite. In fact, I'm third generation. So this is a very important issue to me and my family. The river front is very near and dear to my heart and to my children's and I hope and appreciate the fact that you all are concerned enough to leave a long-term legacy to the folks that follow us. And that is town lake and the parkland and it's very, very critical to maintaining the character of our city. It is what makes austin such a wonderful, beautiful place. There's not a week that goes by that my family, my children were not down there at the lake. But I know that my personal opinion and my legacy is not what you care about. What you care about are numbers. And why is it important to austin? Well, the numbers say it's important to austin. I'm on the board of save org and we had an independent survey company, poll company, do a survey of public opinion. I'd like to read some of the facts that came out of that survey and I think they're very compelling on why it's important that you support this ordinance. First of all, one of the things that was polled said what percentage of the population agreed that town lake is a major part of the character of austin? 92.8%. Obviously the majority of the folks here. Way more than the majority. 79% Of those polled indicated that town lake should be protected from development to maintain its scenic beauty and openness. And I think openness is critical. Height limitations are critical to openness. 7, Basically 73% of those polled wanted height restrictions on heights of new buildings in development in that area. 6, Basically 83% of those polled wanted restrictions on how close new buildings should be to the river. 83% Of those polled disapproved of this -- of grant -- disapproved of the city Council granting any exemptions that would allow buildings to be built higher or closer to the shores of town lake. And 87% of those polled approved the city purchasing land on the shores of town lake to protect public access and preserve the scenic open space along the lakefront. The last item, given the current budget situation, probably isn't real practical, but I think in listening to what the public said is important to them. Bypassing this ordinance that a lot of folks have spent a lot of time on. And it has involved the public and it has involved diverse viewpoints. I think you will accomplish the goals of what you see the public wants, what people really care about in austin. So this is an opportunity for you all to do a really good thing, and I really am very, very thankful that you support the public process, that you allow people to come together and find solutions and continue down this path. It's a great way to do things. One other thing I'd like to mention is I've heard from folks, well, look at these other cities, they don't do thi yada, yada, yada. I travel a lot. You go to cities like portland, oregon and even omaha, nebraska has done this. They have create add vision where they have left openness, height limitations and that waterfront has become a key feature in those cities and it makes a difference. This place is my therapy. And in tough economic times I imagine it a lot of people's therapy. So please once again I urge you to vote for the waterfront overlay. And with the recommendations dealy and clemente also added to that. Thank you very, very much.

Mayor Wynn: Thank you, Ms. bailey. bailey, Council? Thank you, heather. Our next speaker is scOtt hindler. Welcome, scOtt. Is scOtt Johnson in the audience? So scOtt, you will have up to three minutes. Welcome. You will be followed by jeff jack.

Thank you. My name is scOtt hindler, I'm the president of save town lake.org. I want to urge you as mandy dealy and heather bailey before me did to adopt this ordinance and restore the height restrictions that were the result of a great deal of considered thought and study. We brought a lawsuit to



challenge the basis on how the height restrictions were deleted originally. That lawsuit is still pending. We have agreed to abate that lawsuit temporarily delay it with the stipending the outcome of this process, which we think is a much more constructive solution to resolving these issues. But if this process is unsuccessful, then we're going to be back where we started, with a lawsuit that frankly no one really wants and threatens to undermine the land use code. And you will have to start over. But the process that led to the deletion of the height restrictions requires that kind of a challenge. This is really a watershed moment for this city, for this city Council, and it will become a part of the legacy you leave this city from your service. I want to personally thank you for taking the time to serve our city. I don't think it's a very easy job. It's a very difficult challenge, but you have an opportunity here to create a legacy that will be lasting for the citizens of this community. And I urge you to do that. I urge you to get it right. Thank you.

Mayor Wynn: Thank you. Our next speaker is jeff jack. Hang on, jeff. A couple of folks want to donate time to you. Carol lee? How about tony house? Welcome, tony. Jeffrey gibson? Hello. And bobby rigney. Well, I guess you already donated time. Jeff, you have up to 12 minute if you need it.

Thank you, Mayor. Sorry for the earlier confusion. It's always interesting trying to herd cats in austin, texas. I want to talk about a couple of issues. There's been a lot of conversation about I zoning, and its effect on this process and what this ordinance might do. I want to remind the Council that when the I zoning was originally adopted back in the 70's, there was some confusion with regard to what actually got I zoning. The map that was presented to the Council at the time didn't match the meets and bounds for that project. And what happened was that the Council was voting on something that they thought was very small with the meets and bowntds were much larger. We ended up with a lot more I zoning than what the Council thought they were approving. We have a situation where in the '99 rewrite the provisions in the code that were adopted in 86 that superceded all of the base zoning that was in place got taken out as you've heard before. So it made a situation where we had a fix for the problem, but the fix got taken out in '99 by the rewrite. But the problem was in the '99 rewrite we essentially threw the baby out with the bath water because what we did is instead of going back and recognizing the mistake with the original I zoning and the fact we didn't have the bonus provisions met dolg spelled out we simply took the height out. It was a simple fix, but a fix that needed to be done. There are s ambiguities in the code and I think what we have to look to is the code and the particularly the areas of I zoning. Those areas, and I'm sure others will speak to this issue, that it doesn't really make it clear that those areas outside of the setbacks and that don't have the right to use bonuses are really constrained by the 96 feet. But I think again a strict construction of the code would say that you wouldn't allow properties to go up to 96 feet and not expect other properties to meet it. One other thing with the I zoning for the tracts that are further to the east, the crab shack track and the condos track, those tracts are fundamentally constrained by compatibility standards and the likelihood that they could ever use the I zoning is very minimal. There's also a lot of questions about what works. Greg miller will talk about cws in a minute. I want to talk about barton place condos. The condos there on barton springs road in the zilker neighborhood, this Council passed I believe unanimously. We ended up going with mf-3 that allows 90 feet in that subdistrict. We negotiated them to keep the restrictions of the waterfront overlay. They first wanted 200 feet and then 90 feet. But in the what we have is a project that keeps the scale of the restaurants row, which is a community benefit. It keeps some of the pecan trees that could have

been put cut down. It provides public access from our neighborhood across the track all the way to the parkland. And it gives 500,000 to maybe three-quarters of a million dollars for affordable housing.

[One moment, please, for change in captioners]

all of these commissions agree that we need to put back these protections for our lakefront. We wish that the pda's -- I'm glad to hear tonight that the pda's are covered in the ordinance but certainly the issue of the pud's is an outstanding issue because it does create an incentive for people to try to aggregate ten acres or more and do a pud to avoid the height limitations. The last thing I want to do is talk about the question that comes up over and over. Why setbacks? Why heights? Why so far back from the lake and why on barton springs road? I want to convey a personal story. As a young person I grew up in baton rouge, louisiana, and I had never traveled west until I was in high school and my family had an opportunity to get me to go to yellow stone, and as i traveled west out of louisiana through the -- you know, the forest canopy of louisiana into the big thick t I emerged on the west side of texas. As someone who grew up in texas you don't know what it means to emerge in texas where the expanse of our community is so visible. You could see in louisiana the sky between the big trees, but in texas you can see the sky. And we talk about the park being on the waterfront, and we talk about why we shouldn't have tall buildings. It has to do with what we are. We're austin, texas. We're not a river bank in newark, new jersey. We're not a shoreline in chicago or seattle. And we're certainly not an urban park in the middle of manhattan. The feel of texas is essential to the feeling that we have about our community and about our lakefront, and I think what we've done is realized that years ago when the '86 ordinance was passed, that to retain that quality that sets us apart, that gives us the accolade of being called river city, those scenic vistas to the hill country are so much a part of the grandeur of texas, and that if we begin to wall it off, would we be like newark, if we began to get the buildings closer and taller would we be like seattle? And when you look at the situation, the community is very clear that this is a special asset, and I think the poll data from, say, town lake clearly shows that. But is the combination of the lakefront, the parkland around the lake and that great expanse of sky that we have that sets us apart and gives us a sense of vastness that I think we need to keep in this community. We have lots of space to build more buildings. We have lots of opportunity to, you know, accommodate growing population. We don't have to do it right on the edges of our parks and our town lake. Lady bird lake is special. I hope that the city Council approves this ordinance tonight. We move forward and we point the waterfront advisory planning board shortly, and they can get to work doing the hard work of coming up with a bonus -- the bonus provisions addressing some of the issues that you talk about why it didn't happen in the past. I think today more than ever the community wants it to happen, and I think with your leadership it will happen. Thank you. thank you, mr. jacks. Our next speaker is greg will miller. Welcome, greg. You will have three minutes to be followed by mary arnold.

Thank you, Mayor and Council. I had the honor and pleasure to serve on the waterfront overlay task force myself, so I'm testament to the -- it was a very diverse group, and it was a -- an amazing process that we went through, a wide range of thoughts, considerations, i mean, developers were on the task force. I think we worked through a lot in that time, and i believe it was a fantastic outcome for everybody. And I'm in favor of this ordinance, and I was a part of this task force and came to realize, not only after going through that but after spending two years working through our own project, that this is

genuine austin care. This is not antidevelopment. It is about a proper use for this wonderful asset of this community, and we want it to be such for years and years to come. I would also say that you can be profitable at building 96-foot tall buildings. You could be profitable at building 60-foot-tall buildings. We've been developing and we've been in the real estate business for a long time, and you can have successful projects at varying heights and have a great outcome for both the developer and for the community. So I just wanted to conclude by saying after spending many years of working with the neighborhoods and the groups and the waterfront overlay task force, that i learned firsthand of the community values and the desire for 96 feet of height to be a cap in this area, and I would say that, you know, cws chose to honor the wishes of the community, and it would be great, and i would hope that you would do the same. Thank you.

Mayor wynn: thank you. Mary arnold? You too will have three minutes to be followed by elinor McKinney.

Thank you very much. Good evening, Mayor and Council. I -- if I run all through my three minutes, I hope Council Member shade will ask me her question about the waterfront planning advisory board. I'd like to read for you a letter that you received from sandra kirk, one of your planning commissioners, and it's so beautifully written and expresses so well the sentiments that she talked ab at the planning commission on tuesday night, so I think I'd like to read it out loud for you. Dear Mayor and Council, i want to encourage you to approve the five priority recommendations of the waterfront overlay task force that restore important protections from the 1986 ordinance. During your deliberations i especially urge you to deeply consider the ramifications of leaving loopholes in the current ordinance to allow developments to bypass height and setback restrictions for lakeside development projects. I believe that if we as public officials, servants allow other design criteria to supersede the waterfront overlay ordinance that holds projects to specific well-defined requirements, we fail to implement the will and community vision of austin's citizens. Please do not exempt pud's and pda's from the waterfront overlay or set forth a wide provision of variances. The planning commission public hearing on this issue last night was both thoughtful and alarming. As always, our discussion was earnest and thorough, but it was also alarming because many of the commissioners saw our hearing as an opportunity to support the recommendations but also to add provisions that inadvertently bypass those same requirements. You have the ultimate privilege of deciding how or whether austin protects and prefers the subdistricts of lady bird lake. For generations to come, both the north and south shores will be valuable and attractive to an array of developer, landowner and citizen interests. economy stabilizes, planning commissions and city Councils of the future will be repeatedly faced with a startling line of ad hoc projects, many of which will seek variances or exemptions to the waterfront overlay standards so they can follow their own wills and visions. Even though many of these projects would be presented as examples of modern sensitivity and exemplary works of architecture and commerce, at times they will surely represent overly intense developments that exclusively benefit and meet residential and retail users instead of the general public. In my value system individual projects and interests should not supersede the still widely held community vision of a moderately developed accessible lake. And I'll stop there. thank you, Ms. arnold. Council Member shade? I'll ask my question, which is -- i won't even repeat the question. You know the question. So you can answer it.

The waterfront planning advisory board, I didn't serve on that board, but of course I served on the parks board, the planning commission and the environmental board. During the time that the board was in operation from '86 to '91, you will remember that that was a rather serious economic downturn for the city of Austin as well, and I'm thinking that -- well, I know why it was abolished. It was abolished because one of the Council Members in '91 decided on cost cutting and abolished a number of different boards and commissions, which I think some of them should not have been abolished, as this one should not have been abolished. In order to have that board do what it needs to do, perhaps one of the difficulties that needs to be thought about and worked on is the kind of staff support that it needs. I'm assuming that it was the parks department that provided staff support for it before, and the range of issues that it encompasses are broader than just the parks department. There needs to be kind of a coordinated staff effort from watershed protection as well as parks, and perhaps neighborhood planning as well, because that board has such a broad feel. And also, I hate to see any board or commissioners appointed to it because they already have busy jobs. Maybe former boards and commission members could serve on that, but thank you very much. I have another question for you. Just so that people know that, you know, this idea of variance, though, was even contemplated back then, I mean, because the charge of that board when it was created was specifically to receive and consider requests prior to submission to planning commission from public and private developers seeking variances from and exceptions to the zoning land use and design standards set forth. So I mean, I think it's important to recognize that wherever you might have been in this phase, and I realize you've been here through it all, and I appreciate your long-term service, as you know, but that, you know, there is this debate, it's been ongoing, about you know, how to achieve the best that we can for what is, I think, everybody in this room, or at least 90% of the people surveyed, as was said earlier, you know, considered the sole -- one of the -- part of the heart and soul of Austin. I think the bar should be very high as well. I agree with that. It's just a question of how to achieve that bar so you incent the right behavior. And so the next question I'm going to ask you, and that's what I'm grappling with, is what is what's the magic of the '96, where did that come from, why '96 feet? We have zoning categories in the 90s but not 96.

That was part of the possibility of putting in the bonus to allow it to go up that far.

An extra six feet?

The exact 96 feet I'm not sure where that came from, but certainly that was in our understanding of the 1986 ordinance, that was one of the maximums. Could there were some subdistricts that didn't have any maximums at all. It just seems like such a curious number now that I'm looking at it with new eyes. We had zoning categories -- of course we've talked about I which is 200 but the other categories, and Dave Sullivan asked a lot about this at the planning commission meeting, and, you know, there's this -- 96 is a weird number, not 90, which is consistent with our zoning categories. I don't know if anyone on the staff knows that but I'm curious.

I can't answer that.

Thank you, Mary. Elinor McKINNEY, OUR NEXT Speaker. You have three minutes to be followed by

roy waily.

Thank you, Mayor, members of the Council. I'm a design commissioner on the waterfront overlay task force and a landscape architect, and I'm actually -- here tonight as a landscape architect, really, as well as my service. Federal Olmsted was the architect for Central Park, and if you go back in the archives of those minutes, he defended Central Park from encroaching development many, times. He put his reputation on the line. There were times that people did not want to listen to him, and yet the legacy of the park is there today. I believe that you-all are at the same point in time today to take care of the lake, to protect it, and to set a baseline. In terms of what we're talking about, setting a baseline and then looking at what bonus provisions could be allowed, that's what we need to do. We need to start somewhere. We can't just say it's whatever, and then we go from there. No, we need to set a baseline. As many of you know, I went to Portland and worked with the staff and the architects and developers on their design and planning commissions. What they did was they used their bonus provisions on the waterfront to craft a sustainable vision and resulting positive development. So that is what they did. They set baselines and they worked with it. It was amazing to me, in Portland, is that the -- Portland, is that the neighborhood and the development and the community and the architects worked together. I spent my first three hours talking to everyone and after three hours I said I'm seeing something different than I see in Austin. You-all work together. And they said yes, we do. We create a vision together and we work together. To a T. There wasn't one member that didn't say that. I would hope that we could do that in Austin. It hasn't been what we've done in the past, but I would hope that around our lake, on our waterfront, that that would be what we could do together. And I do feel like we need a waterfront planning advisory board. What has happened is that it's gone to the planning commission, and we need people that understand the ordinances. When we went through the ordinances there was a stack this tall of information. We could hardly get through it and understand it ourselves, much less a planning commissioner has many more items to learn. You need a board that can understand all those ordinances, how they interface with each other and how they connect together for the lake, for the vision of the lake. This is why we need a separate board to be able to look at it, understand it, understand all the nuances of anything that's coming before them and then ultimately before you. In terms of you know, what you were saying about the waterfront planning advisory board, Council Member Shade, I really feel like that the staff needs to be directed to develop these bonus revisions with the assistance of the board. Volunteers cannot do this by themselves. It needs to be a staff effort working in conjunction. So that would be part of that. Thank you very much. Thank you, Elinor. Welcome, Roy. You too will have three minutes. Let's see, you'll be followed by, looks like, Richard Gravois. Sorry if I mispronounced that.

Howdy, all. My name is Roy Whaley and I serve as the vice chair of the Austin Sierra Club and I am speaking in that capacity this evening. Jacks did not clarify in his remarks is when he and his family headed west, if that was by car or covered wagon.

[Laughter] otherwise -- otherwise, I found his remarks very clear and to the point and very elucidating. One thing, when we have people come visit us here in Austin, most of us do a couple of things. We always take them to Barton Springs and down to the shores of Lady Bird Lake. And sometimes show them the vistas of the hills out west. We show them the best that we've got. And we have to preserve both of

those, and we can do that by writing strong ordinances and sticking to those ordinances. We need to protect barton springs, and that means protecting the aquifer, and we'll be dealing with the pud on that later on this year, in all likelihood. Sierra club believes in density. We think it's a very good tool for helping control sprawl, and that's the best we can do, is help to control sprawl, but it's a matter of where we put that density. You don't take the tenderloin and throw it in with the stew meat. You protect the best of what you've got, and that will be town lake, or lady bird lake, pardon me. And the aquifer that feeds barton springs. Therefore, part of what's so magical about going downtown and seeing the -- is seeing the space around the lake, and people comment on it all the time, how beautiful it is, and we need to have those setbacks. We need to follow the recommendations of the waterfront task force, waterfront overlay task force, and when it comes to the ordinances and variances, there are lots of places for people to ask for variances. We've got a lot of area throughout the central business district and other places that we can have increased density, and then we can get to work on maybe not rubber stamping every subdivision that comes through town on the outskirts of town also, because that's a long drive for those folks to come beautiful lake. Please, let's put some strong enforcement behind this, and I thank you for your time. I hope I find you all healthy this evening, and i hope you-all stay healthy this evening, especially those of you on the campaign trail. Thank you very much.

Mayor wynn: thank you. Council Member Cole?

I had a quick question, mr. whaley. Let me ask you a quick question. I don't remember if anyone from the sierra club actually sat on the task force.

No, ma'am. well, let me ask you this --

for some odd reason sierra club doesn't get called in on a lot of the task force.

[Laughter] I'm really -- i know that you support density and I understand that the sierra club supports density but doesn't want to support density in the waterfront, but I'm real curious about how the heights were put in without the community benefits and I've always known the sierra club to care a whole lot about the community benefits, especially as they relate to the lakefront, and so that that analysis is being contemplated in a two-step process, and I'm kind of wondering your feelings on that. I'm kind of -- do you have any thoughts?

This -- we're very limited in the park space that we have, and we have to protect that vigorously. Now, we are in favor of density, very much so, and we will ask our friends in the neighborhoods where our membership lives to start making some concessions with compatible density in the neighborhoods, would be our hope on that. So that we can preserve the lakeshore for everybody. so your comment is that some of the bonus provisions could be gOtten through compatibility waivers, I guess?

Yes, yes, that there are other opportunities for that, but that we have to be very strict on what we do here. I mean, just by virtue of the fact that you're down there on the lakeshore, that is a bonus right there to whoever is developing there. I would also very much caution against the pud's being exempt from those height limits because we get into the -- affordability is very important to all of us, and the

sierra club certainly sees that. We don't want people to have to move to the outskirts of town or completely out of austin to be able to afford to live in austin, and if we take the very best, I don't care what kind of height variances we give, it's still going to be boardwalk and park place of austin. It's going to be the most expensive property in town. There's not going to be any affordability there. We will be giving away something that we can never have back, and that happens often enough in this world, much less this town. thank you, mr. whaley. Our next speaker is richard -- Council Member martinez? whaley, I appreciate all your comments. I agree with you. I would never throw in my tenderloin with my stew meat.

[Laughter] but sometimes rafg a --

and you should never throw the baby out with the bath water. They go in separate places.

What we're talking about here is trying to achieve a balance and sometimes wrapping a piece of bacon fillet min I don't know works for some folks. You're saying this is a crown jewel and nobody disagrees with you. It's how we go about doing it and having that conversation and i appreciate Council Member Cole's question to you, because I think that's exactly what we're trying to get to. What can we do as a Council to establish the community relations and values that we want but at the same time achieve goals of density and appropriate growth, and we'll continue to have that conversation.

Well -- thank you, mr. whaley. Thank you, Council Member. A lot more speakers. Thanks, roy. Anybody else have a question for mr. whaley?

No wait till you get there and we ask you back. Our next speaker is richard gra -- sorry if i mispronounced that. Richard wanted to speak. How about elizabeth yavich? Elizabeth yavich? How about gardner summer? All these folks signed up wishing to speak. How about -- we've heard from roy. How about steven tite? Well, cut you off, sorry. Steven title then to be followed by fred schmitt.

Steve tittle, I'm a property owner along the river. Glad to see all of you again. There have been many eloquent speakers this evening and I believe we are trying to strike a balance, and there are a couple points I'd like to bring out. I'm not -- I'm not for or against, but I need to speak to a few items concerning this, and it has to do with notification of the property owners. There's a significant number of property owners that have not been notified, and this does represent a significant change in the zoning. I talked with robert hale. If I get the name incorrectly I apologize, and he mentioned something about the base zoning and the maximum zoning, maximum zoning changing and therefore only notifying the community groups, that sort of thing. Of course I don't know the law well enough to get into that stuff. But anyway, there's approximately 200 property owners that have not been notified of a significant zoning change. Next, I've also learned in the last couple of years when the city Council is speaking to advisory boards and tasks force, invariably there's not enough representation of property owners. There seems to be every community group assigned to those but there doesn't seem to be a true representation for property owners, and i would ask that the city Council establish a 10 to 20% ratio when you elect a task force or a board. Next I'm going to speak to the merits of the plan. I believe it's incomplete. I believe -- one Council Member talked about what happened in '86. '86 When the bonus provisions and the --

bonus provisions and the clear benefit to the community wasn't established, and that concerns me that it will just keep getting pushed forward and that -- that that won't be addressed. So I would like city Council to do just that. You're tasked with doing that, not putting it to another board for another six-month delay. That pud's, concession bonuses -- concessions and benefits should be established and not put off for another six months, another year. Who knows? And lastly, concerning the territory, you may hear tonight that the waterfront overlay goes all the way to the frost bank, you know, significant distance from the waterfront. I'd also say -- well, I'd say that that's too far, but I'd also say that there's a significant territory that isn't represented that has to do with the water itself, what the city chooses to build on top of the water or in the water or islands within the water are not addressed on the waterfront overlay, you know, task force or this plan. Should the city decide to build a bridge or an amusement park on bird island, this board and regulations wouldn't address that at all. So I ask you consider to changing the territories of this zoning. All right. Thank you. thank you, steve. Welcome -- Council Member martinez?

Mayor, I wanted to ask how to come up and speak a little bit to the issue of noticing property owners, because my understanding is this is not a zoning change but an overlay, and so in other instances such as vmu, we didn't notify property owners or adjacent property owners who were being affected by this because it's simply an overlay. It doesn't change their zoning category.

That is correct. This is an overlay and it is co-change and similar to the university neighborhood overlay, for example, we notified all registered community organizations, be they neighborhood associations, business groups, anyone that's on the community registry, and we followed our other requirements of posting them on-line and in the newspaper, but we did not send individual notifications to property owners nor to renters as we would in a zoning case.

Mayor wynn: thank you. Let's see, fred schmitt, welcome, and let's see, is brandon still here? Brandon schmitt wanted to donate time to you, fred, so you'll have up to three minutes --

he's got election duty. He's manning voting machines.

You'll have three minutes, to be followed by shelly meyer. Welcome.

Thank you. My name is fred schmitt. I am a lady bird lake waterfront property prorn and resident 500 east riverside driver in the travis heights subdivision. We are a residential complex of 142 individually owned affordable condominium units built in 1971, immediately next door to greg miller's proposed 96-foot tall cws pud redevelopment project. While there are -- while there are numerous things about this ordinance that i agree with and can celebrate, there are also many problems that exist with it as written, and its attempted implementation here today, which absolutely requires and justifies opposition to it. Specifically in the case of river walk condominiums, we are zoned I lake commercial 200-foot base heights and have been so zoned for 37 years, since 1972. This waterfront overlay ordinance would reduce our aerial rights from those 200 feet to a maximum of only 45 feet, just like that. That represents a seizure of more than 75% of our current and long-standing height entitlement for potential and future redevelopment. Now, that's not to say that we would actually propose to 2 build 200-foot tall



skyscrapers someday on our five acre parcel but it does represent valuable things to negotiate future things of benefit should the opportunity arise. I acquired my existing home at river walk with that knowledge and expectation among the reasons for my purchase. If we are restricted to only 4545 feet of height, which is slightly more than our existing roof lines today, then river walk would be completely unable to develop to a higher and better quality project in the future if that opportunity presented itself, whether voluntarily or as a result of natural disaster. Now, here is the bitter irony, janette, scOtt, Council. Without the ability to go higher, that means aws austin would never see the potential removal of four buildings now in the 100-foot primary waterfront setback zone, where a town lake trail extension, not a board walk, might one day run through there on land from the cws property next door, maybe even with deeding of that property to the city, like cws has done. You would never see reduced impervious cover. You would never see mixed use and ground floor retail along riverside drive or the granting of some roadway easement for the urban rail project and bike lanes trying to come through there before long. These consequences are in direct contradiction to the very purposes of the waterfront overlay mission. It is clear this legislation is faulty as written, and i ask you to not approve this ordinance until its many problems are fully and properly addressed. Thank you. thank you, fred. Shelly meyer, welcome.

Mayor, I'm sorry. Council Member martinez.

Because I've been involved with this all along, there's additional information when some of the speakers make comments. The particular property on 500 east riverside driver it is I zoned, and under I zoning you can go to 200 feet of height, but there's something we have in place called compatibility, and because of the proximity of single-family homes across the street on riverside -- on the south side of riverside drive, this particular tract would never be able to go to 200 feet of height without a board of adjustment variance, and a board of adjustment variance cannot be granted based on things like making it more aesthetically pleasing or providing public right-of-way. So I just want to make sure we have all of the information out there so that we can have a complete and full conversation. Thanks. thank you, Council Member. Let's see, shelly meyer, welcome. Shelly, you'll have three minutes to be followed by lindsey davis.

Hi, I too am one of the 142 homeowners and I'm a board member at river walk condominiums, 500 east riverside drive. We're indeed part of that heil sort of indicated are not that big of a deal because it's not very much in comparison to everything else, and everything else that it covers is pretty much already developed, and that we do have constraints that would property not allow us to use the full benefits of I zoning and we realize that, but nonetheless, being down zoned from 200 feet to 44 feet is a pretty significant and big deal for all of us. We're perplexed regardless, as your legal people read that it isn't necessary for you to notify us, but we feel that we should have been notified, whether you call it an overlay or a zoning change is irrelevant. It's a -- it's a big change, and we feel we should have been directly notified. We haven't had the due process or input as owners on any of these commissions so there's been some public hearings and things. We were not asked to serve on any of these boards and we have had no direct input. It is a taking of our aerial rights, which does preclude us to some degree, debatable, as to what and how much, but we are losing some negotiation tools, and some of the negotiations could be for things that would benefit the greater good of austin. Should we need to redevelop in the future. Right now, just to visualize where we sit, we have cws on the west side of us

with a planned height of 96 feet. The bluffs of Travis Heights are that high at least on the south side of us and we are sitting at a light rail choke point that during all the meetings and the mapping of light rails on Riverside they agreed something has to happen there because it's just the only place on Riverside where it's too narrow for cars and light rail to go. I don't think you can take the bluffs out underneath Travis Heights homes, so it's probably going to impact our property there too. You've approved routing of a boardwalk trail over the top of our most treasured resource, pinning us in on the north side, and that's capped off across the lake with a 332-foot legacy project directly across from us. So the canyon effect is already here. We feel we deserve more careful consideration of what the height should be for our property. We're asking you to not accept the waterfront ordinance as written because it needs more work on the details, and the planning commission agreed that the devil was in the details Tuesday night. To give us the respect and consideration to develop a proper height allowance that reflects what was needed now for this property. It's not 1986 anymore. The deals and allowances that the city has made with developers of neighboring property have forever changed the lake and our parcel and we don't feel that 44 feet is appropriate. Thank you. Thank you, Ms. Meyer. Welcome, Lindsay Davis. You too will have three minutes to be followed by Jim Shishler.

Mayor and City Council. I'm the president of the HOA at the River Walk Condominiums. You've heard from a few of us now. I'm here to share my concerns and our residents' concerns. As Fred mentioned, we have 142 residents, 142 people who have invested money in their property, and that's a great concern. As an advocate for our homeowners, we have a lot of concern about this ordinance you are voting on today, specifically for four we have not received any direct notification of this proceeding. You know as well as we do that this is not right. Our city government is not set up to run this way. Denial of due process. Our HOA board is comprised of five volunteers, and we've had less than a week to prepare our opposition to what you guys are voting on today. We have heard that you guys, of course, for 11 months, this waterfront overlay task force has been hard at work, but until recently we were not even aware that it was going to affect our property so drastically. And the fourth area of concern here is the severe economic impact upon all 142 landowners. No one thinking of big developers to buy out and buy a big condominium here. We weren't excited about CVS doing that next door anyway. We're not seeking out any sort of opportunity there, but we do have a responsibility to protect our home and our investment. Should a catastrophe occur in the 78704 area, we'll all want to see those residences rebuilt and the losses to our community and the economy mitigated. You're making that near impossible for us to do if you approve this ordinance today. We respect overall intention of the proposal -- of the ordinance and training to rein in the development of our beautiful waterfront, but the unintentional consequences of your actions is that it will throw 142 private citizens of Austin under the bus. We are pleading with you to remember and respect our rights as landowners in this great city. Thank you. Thank you, Ms. Davis. Our next speaker is Jim Shishler. Welcome, Gem. You too will have three minutes to be followed by Peter Cicero.

Thank you, member and Council Members. I have a couple points I'd like to bring up. I think the approval of the waterfront overlay at this point would conflict with the comprehensive plan for which the Council just recently hired a consultant to develop. The waterfront overlay would limit the level of development allowed in this vital area of downtown and promote urban sprawl. The revitalization of downtown and South Congress should be allowed to extend within a reasonable distance from the lake. I

attended a presentation to the congress on new urbanism by members of the task force, and the biggest contention was the height restrictions that were in the ordinance. And during that discussion one of the members of the task force stated that they had requested that cross sections of the waterfront be prepared and given to them by the city staff, and that never occurred, and so their fallback position was to go back to the 1986 height restrictions. And so what I've done is I've had some of my staff put together some cross sections of downtown, a couple at congress avenue and one at first street, and looking at them I saw that on the south side, the district called the south shore central, extends 2,000 feet from the shore of lady bird lake, and it restricts the height limit to 96 feet in this instance, within those areas. And if you're familiar with that area, there is some single-story restaurants, couple mid-rise buildings, four or five stories, but that area has a lot of potential to be redeveloped. Just to let you know, I'm a civil engineer and I don't have any projects or any clients with property in those areas, but I can just foresee that that is an area that could use some revitalization. It seems that for some reason it was skipped over and there are developments occurring further south on south congress. So I would -- I would be willing to prepare some cross sections of -- for the whole waterfront overlay district, you know, pro bono for the staff -- the task force to look at and maybe get a better idea of the impact of the height restrictions would have 2,000 feet from the shores of the lake. I would agree with some earlier comments that i don't think all the goals that were set forth for the task force to accomplish have been -- have been accomplished at this time. The bonus provisions have not been identified, and i think the task force should continue to fulfill its obligations. Thank you. thank you, mr. shishler. Peter, welcome. You too will have three minutes to be followed by steve metcalf.

Mayor, Council Members, my name is peter cicero, and I'm here tonight with the real estate Council of austin. I just wanted to follow up with a letter that we sent to you this afternoon and just kind of emphasize three points in sort of requesting a balance regarding this ordinance. We would like for the bonuses which were a task force recommendation to be included in this ordinance before it's approved on the final reading. These bonuses represent the community benefits and the chance to have good design, address green building, affordability components, while encouraging good projects along the lakefront. The second item that i wanted to clarify is that we think planned unit developments should be excluded from these ordinances. Both existing planned unit developments and pud's that are coming in the future. Pud's are kind of a separate animal, if you will, under the city code, and they're negotiated agreements with the city, and if someone comes in to tweak an existing pud, let's say to add a new type of environmental quality controls and they would have to go through this ordinance and go through this process, in a sense it would be renegotiating an already agreed upon arrangement. And that, I think, is a bad precedent for austin and a concern that we don't want to have. The last item that I think is an issue is, as we've heard tonight from several of the river walk condo owners, is the lack of notice given to the property owners, and I think if this ordinance is passed with these height limitations, i think that one of the incentives or one of the community benefits should be a way for the people whose height has been reduced to get some of that height back, whether addressing community concerns or incorporating green building or other incentives into the ordinance. And I think that's why it's important to have the incentives in this ordinance the first time that it's voted on. It seems that this is something that should go in an overall planning process for the city of austin to address our long-term goals and to address kind of our plans for this part of the city. I'd be happy to answer any questions. thank you, peter. Questions

for mr. sicero? Welcome, mr. metcalf. Couple of folks wanted to donate time to you. Is susan gull here? Welcome, susan. And how about amanda swor? Welcome. So steve, you have up to nine minutes and you'll be followed by steve drenner.

I don't need it. So we'll go. Thanks, Mayor, Council Members. I first want to see that i don't take any issue with what the task force did and I think that task force did a good job at what it was asked to do, which it was asked to go back and look at the 1986 ordinance and compare it to the changes in 19 -- in 1999. They did that, but what that doesn't take into account is that just figuring out what happened with that ordinance doesn't solve the real problem or the real issues here, and that's what I want to talk about. In 1986 austin had 400,000 people. 2009 We have over 800,000 people. In 2029 we're expected to have a million six. Austin keeps growing. And part -- austin is a different city than it was in 1986. A lot of the things that were really important to austinites in 1986 are still important today, but there's things today that are totally different, and one of the things -- some of the things I'd point out were back in 1986 affordability, sustainability, green building, none of that stuff was part of the '85 or the '86 ordinance. Those are really important things to austin today. And so anything we do on a going-forward basis ought to look forward and focus on what the important issues are to austin today, not necessarily what was in 1986. But in 198 -- a 1985 study itself that the '86 ordinance was based on -- I'm going to scroll through this, I'm not going to read it all. But that was a really good study and the goals were really good. Now, I don't think the 1986 ordinance has accomplished those things, but if you look at what the goals of '85 study were you find a consistent theme. You talk about superior planning, des mixing of land uses, cooperative land uses, something elinor kinney was talking about, extraordinary urban design, encourage pedestrian access and use of the corridor. If you go and look at the developments that have happened to date on the river, especially on the south side, have they accomplished these things? Is there access? Are they good developments? Is there pedestrian activity? That side of the lake has hardly any activity going on. I mean, the goals are valid, but the implementation has never happened. Pursuit of excellence in waterfront design. Now, one thing I do want to 7, because elinor McKinney mentioned this and others about town lake being a park and a jewel. I don't think anybody is going to argue that town lake is not a crown jewel. Not a question. No one is going to come up here and tell you that. It certainly is. And as far as park goes, i can have staff verify this, it's my rough calculations, 46% of the area in the overlay is parkland already, will never be developed. It's parks. So there's a lot of parkland out there that's never going to be touched in this overlay. I mean, austin, over half -- or almost half of that area right now is never going to be developed. Rich buried central environment in the corridor, dear to all age-groups, culture educations and expressions. I really don't think that's happened. So what I would suggest and what I would like to see is not just bringing back the 1986 ordinance, but coming and figuring out how we're going to move forward and how we're going to create the kind of developments there that we want to create. Pardon the -- part of the confusion I think has been what is the waterfront, and I think everybody can have a different definition. It's hard to define it exactly. I guess it's one of those things you know it when you see it. But I'm hard-pressed to believe that things that are a quarter mile from the lake or things that are a half mile from the lake are really part of the waterfront, because if you look at it from the downtown perspective -- but if you look at this this will show you that in a lot of those subdistricts we do have things that are a quarter mile or half mile from the lake that have height limitations on them. Well, we've talked about and we've heard about canyon effects. I think if you

walk the north shore, you do not feel that canyon effect. You go stand in front of the four seasons and look at up here, it's 340 feet from the river. Do you feel it? I mean, do you feel -- do you feel that you're walled in there? Look at the building -- look at the building, frost tower. It's 1500 feet, 1400 feet from the lake. So if you come down to the south side and you look at some of these developments, sure, no one is talking about developing any setbacks. Look at the hyatt. It's 60 feet. Sure, it feels right on the waterfront, but you start pulling back and you don't feel walled in. If you -- if you look at that riverside and congress intersection and you -- and you look at these points we're measuring, some of that -- some of the property, 786 feet away, some 1100 feet, some 284 feet, if you look at building a building, which is the first place you can build it according to the waterfront overlay, which would be on the statesman tract, it would be 150 feet away and it would be 35 feet tall. If you draw a visual plane off of that, you can see how the building heights graduate, and I think that's what they should do. I mean, if you get away from the waterfront, whatever you want to define that as, building heights should graduate. So in following up on a couple of these things, it was mentioned that -- it was mentioned that a poll was done. Okay? Well, the poll really raises the whole question of what is the waterfront. Things were asked of people like, the town lake -- should we have more development close to the river? Should town lake be protected? Well, those are broad questions that have no detail to them. I mean, the real question is what are we talking about? How high? How deep? How far, and that planning hasn't been done. There was no professional planning involved with the task force and I would urge you guys to take a look at this and not approve these height limits until the task force has been able -- or the waterfront advisory board has been able to do its job coming up with a bonus system. I'd be happy to answer any questions. thank you, mr. metcalf. Questions for steve, Council? Thank you, sir. Our next speaker is steve drenner. Welcome. Steve. Let's see, some folks wanted to donate time to you. Is dale guthrie here? Hello, dale. How about michelle houseman? Hello, michelle. So steve, you'll have up to nine minutes if you need it and you'll be followed by dale glover.

I'll be much briefer than that, Mayor. Mayor and Council Members, as you've heard others, i really don't think that there is any dispute about the priority that the waterfront should hold from a planning standpoint. It is -- it is clearly the centerpiece of the city and needs to be protected and it needs to be protected, frankly, to a greater degree than probably what has been done in the past. Much good work has been done, including by the task force, and I really want to thank you for refocusing our attention on this issue. I think it certainly merits that attention. When this process started and during the consideration, the work by the task force, I did two things that were particularly illuminating to me. One was to read and reread the 1985 task force report, and it's really a remarkable document to have been prepared in '85 and to be as valid as it is today I think reflects the careful work that was done. metcalf mentioned, perhaps you could update some of the goals and policies to include things that weren't mentioned at that point, including sustainable development, energy efficiency, affordability, but the basics, I believe, are as valid today as they were in '85. The second thing that I did was to try to go back and to understand, given those goals and policies, how did we come up with the '86 ordinance, and looking at that as objectively as we could, trying to understand if that '86 ordinance did a good job in achieving those goals and policies. One of the things that we did in connection with that was to go back and try to find some of the planners who worked on the task force back in '85, and one in particular, the planner who led that effort, was particularly enlightening. That was dan residentlaw whodrend law who

is now the community organizer 12 miles outside of portland, and to talk with him about what was the vision in '85, opinions about the pros and cons with 20/20 hindsight of the '86 ordinance and where we are today, help me form my opinions about what was good and bad about the '86 ordinance and where we ought to go and how we ought to move forward. One of those things has been hit repeatedly tonight, but let me give it to you with a little -- with his spin, if I can accurately reflect that conversation. And his suggestion was that one of the things that the '86 ordinance did in error was be too rigid, that it did not allow enough flexibility, it didn't allow the flexibility that was intended by the task force to do things better when you found a unique situation, and that included accessibility for citizens to get to the water, it included better tree preservation, it included it included having more compatible uses on the waterfront. So I think as we look at these restrictions and reexamine them, I would suggest to you that we don't want to make that same mistake again, that we want to have the flexibility to do it better, not to have a different priority other than protecting and improving the waterfront, but to eliminate tools that would allow you to do that i think would be a mistake. So I would suggest to you that retaining pud's and retaining the ability of pda's to modify the terms of the waterfront overlay ordinance to better achieve the community goals, including the community goals that are key to the waterfront is a tool that you should retain and that you should have a high standard for allowing those pud's and pda's to move forward. But I still think it's a tool that you should have in your toolbox to improve the -- to improve the waterfront. Those tools might allow you to do a better job with a slightly taller building rather than a wider building to maintain treasured trees. It may allow you to have vistas that allow you to say down to the water rather than to have the water block the views. It may allow you to say, yes, I like that design so much better than what i would get if I just have a rigid standard, and it may allow you more compatibility with other things that are happening on the waterfront. So I would suggest again that that's -- that that discretionary tool that only you can exercise is a tool that you should retain. Let me close just in saying again that there is no debate about the importance of the waterfront. I think this Council has -- has done a good thing in refocusing our attention on the waterfront, and as you move forward toward a final action I would suggest to you that you keep drentlaw's comments in mind and allow flexibility, flexibility again that you can exercise to improve the waterfront as we look forward to future generations of aught austinites and their ability to enjoy that waterfront. Thank you. thank you, mr. drenner. Let's see, dale glover? Dale glover signed up wishing to speak. Welcome. Let's see. Is greg anderson here? Hello, greg. So dale, you'll have up to six minutes if you need it and you'll be followed by ed norton.

I emailed this to you ... First of all, thank you for your time and allowing us to have this public comment. I'm -- my name is dale glover and I'm speaking on behalf of the congress for new urbanism, central texas chapter. Our membership is comprised of people active in the fields of urban planning, architecture, engineering, sustainable development, green construction and other real estate services. Cnu shares many of the common goals with the task force, mainly protection of the waterfront environments, greater public enjoyment of the waterfront through access, open space and public amenities and also ensuring high-quality urban form on the waterfront and adjacent lands. If you read through that all letter you'll also see that within the 1985 golden policies they're written in, there are some that we pulled out to just accentuate, but that's not really what I'm here to talk about. We understand that in its current form this ordinance includes only the first days of the task force recommendations, which are basically the restrictions. Without the second phase or the bonus

provisions or the sweet stuff, we just -- i guess our ask is that you expedite the establishment of the advisory board and include the bonus provisions, either before or after the advisory board is put into place. In regards to the bonus provisions, we're advocating for form-based code to achieve benefits and goals of our community desires, with its focus on setting clear perspectives and parameters on building and on architectural form. It's far superior regulating tool that uses -- been a use of bonus methodology or matrix, as it can better protect neighborhood distinctiveness, secure predictability of developments and objectively guide the formation of our public spaces, and I know that there's other planning initiatives that are happening and in progress, so congress new urbanism, central texas chapter will continue to advocate for the city's adoption of form-based codes, but also, to conclude, and finally the last thing that we have to say is the addition of the administrative site plans within the current code, we would ask that -- that there would be a modification to reduce the regulatory burdens and costs and pull that from the current code that you have written in your documents, just the administrative site plans, and that's all. Questions? thank you, mr. glover. Questions for dale, Council? Thank you, sir. Let's see. And I think ed norton will be our final speaker. Welcome, ed. You too will have three minutes.

Thank you, Mayor. Thank you, Council Members, also, for letting me speak tonight. I'm a co-owner of the property at 512 east riverside, which is next door to the condos that have been spoken about this evening. And I don't -- I have a lot of the same points, but i think -- I think that you ought to send this back to the task force and ask them to notify us as property owners and include us. I think it's the right thing to do. And I think we ought to do the right thing, and I heard about the rules, that it's an overlay, but basically it is going to take away from 200 feet down to 45 feet, which by the way, is lower than any compatibility standards. They're higher than 45 feet. So this does lower it below the current compatibility restrictions in the neighborhood. And so I think that's even more restrictive than it should be, but I think that we ought to be involved in the process. We're property owners and we bought the property hoping to, you know, maintain the value of our -- of the property that we bought. We bought it a few years ago, and we ought to be involved in this process, and we should be invited to be involved and included in it. I think it's the right thing to do, so I would ask you to send it back to the task force and ask them to involve the property owners in the process. I think it's fair, because it is reducing our height below even compatibility restrictions, and if those restrictions are in place and they govern this property, then so be it. They're there so long as those single-family residences are on the southern part of riverside. And we accept that. They may not be there someday and it will be a different story. And in terms of fairness, i think that we shouldn't be reduced below -- if you do decide to reduce it from 200 to 96, then I think we should be at 96 feet as well, and if we're held to a lower height due to compatibility, then so be it, we are. But I think that the fair thing to do is to make all the tracts subject to 96 feet, if that's the new standard that everybody feels that we need to do, then we shouldn't be lowered down to something below a compatibility standard, and I don't think it's -- i don't think it's fair and i don't think that's, you know, equitable for us as property owners. So otherwise, I think everybody else has made all the other points that I've made, but I think that -- i don't see any reason that this has to be rushed through without thoughtful planning. I think we should be included and we should be part of the planning process, and -- you know, and for the condo owners and us, we don't have any -- we're still improving our property and making it nicer for us and for our neighbors, and we don't have any interest to run sell it and for somebody to build a high rise. So I don't see what the emergency is to not include all of us in the

process. Did you have a question. thank you, mr. norton. Mr. martinez?

I wanted to clarify -- i wanted to clarify, the mention of I zoning at 200 feet of height. I realize your subdistrict drops you down to 45 feet, but it was mentioned that I zoning granted 200 feet of height, and all I was saying was that compatibility would limit you to 60, and i believe 80, about halfway across your tract.

Which -- but I'm just saying this ordinance takes it down 45. I understand and I think when you hear the deliberation that's about to take place with Council, some of your comments and concern are well noted and I hope we will be able to address them and maybe we won't move forward tonight completely without some notification of property owners and things of that nature.

We just thought -- I just think we ought to be treated equally with the other properties that are affected by this ordinance. I appreciate it. appreciate it. Council Member shade, do you have a question? well, my question was what would the compatibility -- what would that mean for your property. So instead of 200 you acknowledge it would be less than that, but it would be 60, as Council Member martinez said, or 80, which is still lower than 96 but higher than 45, which is what your subdistrict would -- which I think the point is that that makes it really hard to have the incentive to do as the folks said earlier, whether you're trying to get, you know, to 60 or to -- I mean, you don't have any room to go if you're below -- if you're below what your entitlement would have otherwise been.

Yes, I agree. you have nothing to play with. I understand that.

But I'm just saying, it doesn't seem like the overlay ought to be more restricted than compatibility.

Because it takes away the opportunity for negotiation.

Yes.

Shade: right. I understand. I want you to know we understand that point. I get that and I see that there's a problem with that. Thank you.

That's great. Thank you. thank you, mr. norton. Council, that's all the folks who signed up to give us testimony in this public hearing, item no. 64. Comments? Questions of staff? Or anybody else? Council Member martinez? well, Mayor, i just -- first of all, I want to thank everybody for coming tonight. I want to thank everybody for all the work they've done. It's been a year of hard work. I want to thank staff for being at every one of the meetings, for the volunteers dealy for chairing the task force. I want to thank my aide andy moore to attended every single meeting as well. I think what we have in front of us today is better than what we're operating under today, and, you know, I believe that the work that has been done is going to provide an ordinance that speaks to a lot of the values that we have as a community, and I'm prepared to make a motion to begin discussions, Mayor, if that would be appropriate.

Mayor wynn: sure. I'll entertain a motion. I would like to move that we adopt the planning commission's



recommendations with one change. heil, are you writing this down? It would basically just be adopting the planning commission's recommendation, 715, section a, part 2, where it begins "review of administrative site plan," i would like to incorporate staff's recommendation of administrative site plans are not required to be reviewed, et cetera. Do you have the -- both sets of the ordinance in front of you? Or should I read the whole thing for legal purposes? Okay. The staff recommendation is under section a, part 2, is administrative site plans are not required to be review waterfront -- what is that acronym?

Wpab. yeah, what is the acronym? What's the p? Waterfront planning advisory board. Thank you -- copies of all administrative site plans will be forwarded to the waterfront to allow them to maintain a comprehensive understanding of all development activity within the waterfront overlay. And that's the staff recommendation. And then -- and my motion there is just for first reading tonight. I believe that we still have some work to do. There were some issues that were brought up this evening that we can still address. Under part 7, I just need to ask a point of clarification because there's a staff recommendation under section a, part 1 that's approval of site plan variance by land use commission is required if the applicant requests a waiver from a requirement of this part under section 25-2-713. What I'm trying to understand is if this particular section, part 7 a, says the subsection provides -- this subsection provides requirements for review and approval of site plans, I'm curious as to does -- if they're requesting a variance and therefore it's denied, is the site plan denied at that point as well? Because that's, in my reading of it, that's how i interpret that, is if they deny the variance, then the site plan is denied, because under this subsection it's approval of site plan.

Yes, I believe that is a correct interpretation. If they are requesting a site plan that includes variances and those variances were denied, then the site plan would be denied. and what is -- what is the intention of staff to deny the entire site plan even if just a variance is denied?

The intention is to -- that if the variance is denied, then that would indicate that the site plan would need further evaluation, and could come back for further review and potential eventual approval, potentially with a different variance or without the variance.

So it could still come back. They could amend it and still come back with the site plan.

Yes. And I'll get clarification on that point. I appreciate it. And then last I wanted to add to it that -- first of all, I wanted to ask, what do we think it would cost the city to notify the 200 or so property owners, and can we do that within our notification budget?

What would it cost to notify 200 property owners?

I don't know exactly how many it is. If it's 200.

If we were to only identify those property owners within -- whose base zoning is higher than the waterfront subdistricts, i think that would be a fairly minimal cost. I think that another approach might be -- so to notify all the property owners in the waterfront would be a higher cost. As to what -- how that would fit into the exact notification budget, I don't know. The notification budget is in part driven by fees,

so when you apply for zoning, a zoning change, you put in money to defray the cost of those. Since this is city initiated, that money is not there, but I can't really speak to how much money is in the budget of the notification section. how about we just -- how about we move forward with notification before second reading of property owners who are losing entitlements because of the reenactment of the '86 height limits?

That is certainly something we could do, or we could also notify -- there are a number of options. let's start there and see where we end up.

Okay. Mayor, can I ask -- that's my motion. I wanted to ask Council Member martinez for a friendly amendment. well, let's get a second first.

Cole: I'm sorry. we have a first reading motion by Council Member martinez, planning commission recommendation noting -- however the staff's recommendation on the appropriate section 25-2-715 2, with further instruction regarding notification of property owners whose entitlements will be decreased.

Martinez: yes. I'll second that for discussion. Council Member Cole? I'm sorry, but we -- you didn't have any estimates on the cost of notification to all the property owners as opposed to just those whose height limits had been decreased? I'm wondering if you could possibly get that information to us and -- well, I don't know, can we make a subsequent decision to notify all the property owner -- or just go ahead -- okay. Let's notify all the property owners. so we have a friendly amendment accepted that includes notification of all property owners in the waterfront overlay. Council Member leffingwell? yeah, this may be a question for legal, I don't know, but we have certain requirements -- certain situations where notification is required, so if we do -- if we begin the process of doing notifications where they are not required, does that establish a precedent for just random notification, whenever we feel like it or whenever somebody asks for it or does that mean we're going to have to notify for everything we do?

Our process does already include some courtesy notifications. For example -- so there are -- there are plenty of times in public discussions where we do courtesy notifications. For example, when someone first applies for a zoning case we send out a courtesy notice. It's not required by state law. Also throughout our neighborhood planning process we send out numerous notifications that are designed to keep the community informed and let them know of public meetings but are not necessarily required by state law. So I think that the -- that this would be in keeping with past city practices. As to whether that establishes a legal precedent, I would -- I'll defer that.

Greg guernsey, direct of neighborhood planning and zoning. There was back at a time in the '90s we did something called an east austin overlay, and it was a time before we did neighborhood plans and down zoned many properties in east austin. And the overlay, when it was put in place, we did a courtesy notice to the area affected by the east austin overlay, which was pretty much east of 35 and north of lady bird lake, and it would have been west of airport boulevard, and we did that as a courtesy notice, because Council pretty much asked. And it did affect properties because we required a conditional use permit if you're building in li or cs or some of the more intensive commercial and industrial districts. But it was a courtesy notice. And so we did that. But it's not done all the time, and we recently approved the

large house ORDINANCE, the McMansion ordinance, we didn't notify every property owner within the core of our city that was affected by the McMANSION ORDINANCE, YOU Know, if they wanted to redevelop their property, they might be subject to a tent or height might have dropped from 35 to 32 feet. That's not to say we couldn't have done a courtesy notice at that time. We could have done that too. That received a lot of attention. The east austin overlay received a lot of attention, and so at the time that these items have come up, it was at the discretion of Council, and we can certainly provide a notice and send that to the property owners that are within the waterfront overlay, if that's what your desire is. I don't think we can do it by the 14th but I think we could probably do it by the 21st of may, if that's your desire. But it would be a courtesy notice. It's not something that's required by code. So we can do that if that's your desire. thank you,. so I guess being a courtesy notice it wouldn't be a big deal if someone thought they were entitled to notification didn't get it? yeah, let's say if there was an error in the notice, for some reason, it's still a courtesy notice that we're providing. I think there's a lot more attention now, tonight, and especially those property owners that are affected, if you're only doing first reading, there is certainly opportunity for those people to provide additional comments and analysis that they have before they come back after we do the courtesy notice as well, if that's your desire.

Leffingwell: okay. One more question for the maker. You did not close the public hearing with this motion or -- or did you? I didn't, but I'm okay with closing the public hearing as well. I think we've had enough public discussion and i think it will continue whether or not it's through a public hearing. So I'll add that to the motion as well and just for clarification purposes, it will be a courtesy notice. and I accept that as a recharacterization of the motion. Leaf I would like to suggest a friendly amendment that we leave the public hearing open. why didn't you just say that the first time?

[Laughter] that's fine, Mayor. I'm okay with it.

Mayor wynn: all right. I'll accept it. you won't be here.

[Laughter] with any luck at all I won't. So public hearing will remain open, first reading only motion by Council Member martinez that I'll second. Planning commission staff recommendation with the one -- planning commission recommendation with the one city staff recommendation, including a courtesy notice for all property owners in the waterfront overlay. Council Member Morrison? I want to speak just a minute to the whole issue of whether or not pud's would be exempted from this and the heights could go higher. There's been a lot of discussion about that, and for me I think it's really important in looking at that issue to realize that for the vast majority of what we're looking at, property is going to be able to increase the height that it is in its base zoning district by, say, 50% or something. So it feels like we're just not only pushing the envelope there but wanting to maintain some way to go even beyond that once it's already been done, that expanded significantly. And I think our community, what I hear overwhelmingly from the community and from the task force, that those maximum heights are a community value. Too many times I've seen -- I've seen heights and other giveaways in the name of community values where there is real serious discussion one way or another and disagreement about whether that's really community value, and I think that the community has spoken quite clearly here that limiting the height is very, very important in that -- excuse me pud's would just allow for a loophole for that. Now, we may feel like we have good sense and judgment and when we can judge the community

as it stands now, but I'm not sure we would always be right by any means, and if we don't institutionalize it and put it into the rules that they can't be -- thank you -- that they can't be exceeded, I think we're just going to see it used as a loophole and a lot of disagreement in the community about that. So I wish that we would not exempt pud's, and I'm loathe to suggest it as a friendly amendment because I don't believe it would be accepted. So what I would like to do instead is suggest an amendment that asks the waterfront and planning advisory board to make some recommendations that we can consider adopting to set a higher bar than normal in a pud if, in fact, it's going to exceed the maximum height in the waterfront overlay. I can think of a couple. I'm not sure that we could come to consensus on these. One, for instance, to require a super majority vote on a pud if it exceeds the waterfront overlay maximum height, or something that I don't feel would be very strong, but it's sort of the other end of the spectrum, and that would be to put adhering to the maximum heights in the tier 1 requirements for the pud, for -- just to put a little bit of a standard. So what my recommendation -- my request here is -- as a friendly amendment is that we direct the waterfront planning advisory board to bring to Council some recommendation on alternative for setting a higher bar when a pud would exceed the maximum height. I'm fine with that too, Mayor. so I guess technically, then, Council Member, I guess if we look at maybe the second page of 12, it starts to list all of the -- yes -- -- recommendations to be provided by the board, and, you know, some of them are -- I mean, some of them are -- I would characterize as quite specific. Some of them are sort of, you know, goals, and so --

martinez: like add a k? well, that -- if we studied this long enough we'd probably see where it would insert itself into an existing line item or we could just -- just -- 2 of 12.

Mr. howe?

Mayor wynn: yes, please.

With your allowance, I've got a suggestion there. The very last provision -- part 24, the city manager is directed to process code amendments necessary to do the development bonuses.

That basically directs staff to start working with the waterfront planning advisory board to develop the bonus provisions, and that might be the most natural place for including develop the bonus provisions and develop recommendations for how pud's in the waterfront overlay could be handled.

So that's on the very last page of the ordinance.

I can see -- I can see that that could make sense because those are sort of set up recommendations.

So that's in part 24.

well, as the second on the motion, I see that that's, you know, very appropriate part of -- i mean, frankly, I'm a little frustrated that -- in a perfect world, of course i think we all would recognize we'd like to see -- I think we'd like to see the bonus provisions established as part of this dialogue.

It's a little unusual, unorthodox, seems to me, to -- you know, to have the makings of the ordinance and then just acknowledge that there's going to be -- the other half -- the other side of the coin, that is, you know, the bonus provisions, will come later.

So just recognizing that that's just sort of the structure of this format, it seems to me that within that, that is, the work that still needs to be done on the bonus provisions, pud's -- I mean, the whole concept of pud's in theory is you have a superior product.

There's something that allows, you know, that scale of a project to be considered superior, and so I could see how as part of, you know, developing the -- acknowledging the existence of the pud's and the usefulness of a superior product, you know, ultimately we have to try to define what's superior, just like we're trying to define what are the positive elements of the bonus provisions.

Martinez: It also allows for more density in the urban core.

I think that while this may not be an absolute for some of the I-zoned properties, are and may not be an absolute for someone that, but it is what the Council's values are and it is codified in this language.

But I guess for me I've always taken the approach that I really don't believe one size fits all in every single case.

I just don't.

We can always do better.

We can always get better.

So if there's an opportunity to get better, if there's an opportunity to make a project more compatible and more in line with our values, then I think we should afford ourselves that opportunity.

I really appreciate all the work that's been done, but i 's a loophole, it's a planning tool.

request is made, this Council knows exactly what it is.

And I don't see it as something that's going to be so detrimental to the work that we've done in the waterfront overlay.

Mayor Wynn: Council Member Morrison.

Morrison: Just two things.

First I want to acknowledge the leadership that this Council showed last year before Council Member

shade and I were on it in terms of supporting community and working out that cws deal.

That was really a great step for the community.

Also, I wanted to mention that the planning commission had made the recommendation that the -- that we appoint the new board within two months and then asked that their recommendations come back to us on the bonus provisions and I guess on the alternatives for higher standards to consider within six months.

I think that's the timing that the planning commission recommended.

Commissioner dealy is nodding her head.

So I don't know if that would go in the ordinance also, but I think we might want to consider having that direction.

Martinez: I'm okay with appointing the waterfront planning advisory board within two months, but i want to keep in mind that as of august 1 all our appointments sunset and there may be some changes.

It may not be the same folks.

So we may consider waiting until august 1 as opposed to within two months appointing an advisory board that on august 1 may drastically change depending on the makeup of the Council.

I don't know that -- I just want to have consistency.

I want us to have the best, brightest folks because this will be a very difficult conversation.

But I don't want 30 days after that conversation starts for three or four board members to change.

Morrison: Could we ask commissioner dealy if they thought about that, when they made their recommendation that there could be a change of two to five or commissioner anderson also.

Mayor Wynn: They're SHAKING THEIR HEADS NO.ngwell: I think that will be about two months.

I mean, this -- it says within two months of the adoption of the ordinance.

So in june and july and then AUGUST 1st.

Mayor Wynn: Council Member shade.

Shade: There were several other items that the board asked that this board study and I'm reading from that.

Where are those?

The very first one is how to handle p.u.d.'s.

The first one is whether to tweak 1986 limits and whether or not to create a height variance process.

There were several questions that were raised at the planning commission from Dave Sullivan, the chair.

He asked about whether to require 3-d renderings of projects with site plans.

There were several things that were asked for and I was under the impression that those had somehow -- that those were somehow part of the charge of this advisory board when it was put in place.

And I'm just wondering how does that happen procedurally?

Is that in here and I'm just missing it?

Robert Hylegin.

Those were not included as part of the changes to the ordinance.

Those were additional recommendations from the planning commission.

And in your own amendment review sheets, which includes all the comments on the boards and commissions on the last page, there is a list of the subjects that the planning commission asked the waterfront overlay advisory board.

So they approve it had with changes and separately they made a recommendation that once the waterfront overlay advisory board convenes that had they look at the list of subjects.

Those are included in the code.

Shade: I want to make sure we don't lose those, especially over the summer and with changes, etcetera.

And particularly with respect to this discussion that we've been having about the Riverside place and these places where clearly some of the height limits and tweaking with some of the districts needs to be examined.

And I also just want to make a comment, which is to say that I feel like it's really a loophole.

I think that the challenge for us is to come up with how to work to make sure that we're providing the right incentives.

I mean, loophole is -- it's a great word to imply sir cum vengs and getting around a rule and there was a lot of discussion I thought that was thoughtful in what mary arnold read of sandra kirk's comments at the planning commission, which I watched with great interest on tuesday night.

But I think it's really important to recognize that ordinance, which was amended pretty significantly before I got on to the Council, the whole intent was to -- was to actually incent better development.

And I think that to forget that, I mean, if we need to -- it's an incentive, not a loophole.

I agree we need to set the bar high.

I want to acknowledge and thank the people who have worngd on this.

I want to make a public thanks to the people who served on the taskforce and the people who have most leent reently been working on it.

But I want to acknowledge as mary alluded to that there have been years and years and years of people doing this.

And not only was there the '85 group, but we have the town lake waterfront overlay district discussions that happened in 2002. We have the town lake waterfront overlay advisory board that existed and worked with larry spec.

I mean, there's a lot of information out here.

And I think that what that suggests is that there are a lot of people for the last 20 plus years that have been trying to figure out how to incent the right mix of buildings.

And parks and structures and open space, etcetera.

And I think that to not acknowledge that and to only be talking about height limitations is very limiting.

And I just -- just one other thing.

I want people to realize that between first and second reading that I think there needs to be some additional work and I'm very committed to doing it.

But it is not in any way because of a lack of passion and support for this Council jewel.

I think it's absolutely because we have to get the incentives right.

Because it is the crown jewel.



All the more reason why the incentives have to be right.

And my last comment on it is something that I dug up that was what lady bird Johnson said at the very beginning when this town lake, the trail was set up in the first place is she said i urge you to look long at this river today and pull all the imagination I know you have and visualizing how it can become a river for all seasons and for all people.

And I think that's absolutely critical as well.

And I don't think we're quite there the question.

There -- I don't think we're quite there yet.

Mayor Wynn: We have a motion and a second on the table, first reading only, public hearing remaining open.

Further comments?

And with the additional direction of a courtesy notification of all property owners.

And it seems like staff's estimate of that was that just because -- just based on that I'm sure there are other things you all will be considering, but that may 21st seemed like a reasonable time.

May 21st would allow us to assemble the list, get the notice out and give people reasonable time for notice of the meeting.

Mayor Wynn: Council Member shade.

Shade: I forgot I had one friendly amendment that I wanted to ask did b. too.

I forgot about that.

This has been in many discussions that I've had with people who served on the taskforce and with staff to explicitly state that in this discussion about 's that property that's located in a p.u.d.

Existing on the date of this ordinance is not subject to this ordinance as long as the property remains in the p.u.d. I think that the law department has suggested that that would be important to explicitly state and so i would like to make that amendment.

Mayor Wynn: I think that's inherent in the ordinance, but yes.

Shade: And I purposely took pda out. Is that right?

Mayor Wynn: Motion and a second on the table. First reading only.

Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on vrs reading only on a vote of seven to zero. Thank you all very much.

Actually, Council, that only leaves us now with our -- the final piece of our closed session agenda, that being the performance evaluation of our city manager. So with that pursuant to 074 of the open meetings act, we will go take up item 41 in closed session, so that ends our public agenda for this evening. I would guess that we're going to be in closed session for the next 45 minutes or so, perhaps. And at some point I will come out to formally adjourn the meeting. We are now in closed session. Thank you.

**End of Council Session Closed Caption Log**