

DAVID J. LISS, M.D.

544 NORTHWEST MARLBOROUGH AVENUE • PORTLAND, OREGON • 97210

PHONE: 401-447-3877

dliss@jhu.edu

December 28, 2012

Dear Committee Members and the Portland Development Commission,

I want to thank you for your time listening to the concerns of all parties and for your efforts to understand. Unfortunately, various appellants have emphasized differing aspects of the planned structure. The most reasonable solution and compromise for all parties involved is to deny the height adjustment.

I appreciated Sylvia Cate's diagram showing how moving the structure back, mitigates the visual effect of the height adjustment. While one might argue the effect is an optical illusion, it is true that the angle at which a pedestrian standing on the sidewalk, facing the structure would need to extend his or her neck to view the top would be less acute with a greater setback. Unfortunately, the converse is true for those living next door to or behind the structure. The further it is set back, the more acute the angle is to neighbors to the north and south and those living in Westover Terraces. There is no setback that ameliorates this problem, so it is logical that the height adjustment be denied.

Below is a communication from Mr. Sufuentes to appellants' counsel, Kelly Hossaini:

Kelly Hossaini

Miller Nash llp

From: Joaquin Sufuentes

[mailto:joaquin_sufuentes@yahoo.com] Sent: Thursday,
December 13, 2012 2:15 PM **To:** Hossaini, Kelly **Subject:** Re:
Appeal of your height adjustment

Hi Kelly,

Thanks for helping us understand the pivotal issues. Allow me to offer the following formula for your consideration.

The setback of the home is influenced by the driveway slope and desire to have the profile not be overly prominent on the street relative to the neighborhood. As such, if your clients are less concerned with the height profile, it affords flexibility in moving the house forward by a ratio of 3 to 1 (3 ft forward for

each additional 1 ft over the current adjustment). This means that your clients would need to support a higher height adjustment than was granted. The deck footprint may also be modified from the current, but it will need to face city views, given it is the central purpose for having a deck; to enjoy such views. We would be able to start the deck from the edge of the landing and extend to the back of the home.

Let me know if you think this model for a compromise is acceptable.

Thanks

Mr. Sufuentes appears to be concerned about ensuring he has views of the city, which is understandable in a neighborhood like ours. However, it was well established and confirmed by Mr. Sufuentes and his builder at the hearing that a rooftop deck is not needed to have such panoramic views. As such, there seems to be no rationale for granting a height exemption, as it does not provide additional benefit over what would be enjoyed by adhering to code. Actually, while offering no advantage over code adherence, the height exemption has definite detrimental effects on the privacy, light, and livability of neighbors and surrounding structures. The height adjustment should be denied.

Some on the committee had requested the dimensions of the deck at the rear of my 544 NW Marlborough Avenue home. While the relevancy of this could be questioned, since this is a pre-existing structure, which was approved by the city of Portland years ago (LU 06-128624 AD) and complies entirely with code, I am happy to provide its dimensions. To be sure, it is a behemoth structure, much larger than I would have designed, had I built the house de novo. It is 36' 3" long by 36' 10" wide and it sits 18' below street level. This subterranean positioning protects and respects the privacy of all neighbors as much as possible. In fact, the deck itself is afforded very little privacy, given its low elevation, and neighbors may easily peer down into it. Of course, that is the nature of such spaces – by being outdoors, they are understandably afforded much less privacy than space indoors. The rooftop deck proposed by Mr. Sufuentes and Mr. Olsen, by virtue of being elevated above the homes of its closest neighbors, would be given extraordinary privacy protection, at the expense of those neighbors whose privacy indoors would be violated. Unless the setback was markedly reduced and the length of the Sufuentes' home restricted, this deck would afford direct views into the bedrooms and bathrooms of neighboring homes. Since these aspects of the setback and home length are not subject to code restrictions, it does not make sense to limit them. The solution, again, is to deny the height exemption, as it is not necessary and comes at the expense of neighbors.

Please do not hesitate to contact me if you have any questions or concerns, or if you feel photos from my deck will be helpful in your deliberations.

Yours very sincerely,

David Liss

Exhibit H.17